

## LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

**Standing Orders Committee** 

# REPORT OF THE STANDING ORDERS COMMITTEE ON A RECOMMENDATION THE ASSEMBLY ADOPT NEW STANDING ORDERS

August 2015



## Report of the Standing Orders Committee on a Recommendation the Assembly Adopt new Standing Orders

## **Background**

On 23 October 2012 the Legislative Assembly appointed the following Members to the Standing Orders Committee:

- Hon. John Elferink MLA
- Hon. Kezia Purick MLA
- Mr Gerry Wood MLA
- Mr Michael Gunner MLA
- Mr Ken Vowles MLA
- Mr Gary Higgins MLA

At the first meeting held on 1 November 2012, the Attorney-General, Mr Elferink was elected as Chair of the Committee.

Ms Lauren Moss replaced Mr Ken Vowles on a resolution of the Assembly as of the 9<sup>th</sup> meeting. Ms Natasha Fyles replaced Mr Michael Gunner on a resolution of the Assembly from the 10<sup>th</sup> meeting.

#### **Consideration and Consultation Timeline**

At the second meeting of the Committee held on 29 November 2012 the Committee agreed to consider options for proposed amendments to Standing Orders.

At the fourth meeting of the Committee held on 28 March 2013 the Secretary provided a status report on the review of Standing Orders advising that a first draft review of the Standing Orders had been undertaken and the Committee agreed that a report of progress would be provided at the following meeting.

At the fifth meeting of the Committee held on 28 August 2013 the Secretary briefed the Committee on a paper prepared on the proposed options for the process for reviewing the Standing Orders. The Committee agreed to ongoing consideration of re-drafts of the Standing Orders with progress reports at forthcoming meetings.

At the sixth meeting of the Committee held on 27 November 2013 the Committee considered a paper prepared by the Secretary on the review of Standing Orders which included a proposed re-arrangement of chapters, some proposed deletions and the first 50 proposed Standing Orders for consideration by the Standing Orders Committee.

The Committee accepted the proposal that this process was an opportunity to modernise the wording and clarify the language used to make the Standing Orders more user friendly.

The draft paper proposed that the Standing Orders be grouped differently so that a new *Part One* contains Standing Orders for everyday procedural guidance and *Part Two* contains those Standing Orders related to the first sitting of the Assembly after an election, the officers of the Assembly and to the committees.

The Committee determined to appoint an informal subcommittee to work closely with the Secretary to consider reforms in detail. The subcommittee was comprised of Mr Higgins and Mr Gunner.

The subcommittee convened separately on 20 February 2014 and again on 14 May 2014 to consider the proposed new structure and text in detail. The subcommittee on both occasions considered draft recommendations and endorsed content for the consideration of the Standing Orders Committee at its seventh and eighth meetings.

At the seventh meeting of the Committee held on 26 March 2014 the Committee resolved to consider drafted proposed Standing Orders in detail and determined that those not discussed in detail would be allowed to stand for further consultation.

At the eighth meeting of the Committee held on 27 August 2014 the Committee noted that the Secretary had produced a further draft proposed Standing Orders document and determined that the draft proposed Standing Orders would be circulated to all parliamentary Members, the Committee Secretary would be tasked to brief Members at parliamentary party meetings, the Standing Orders Sub-committee would discuss feedback received from Members and the Standing Orders Committee would then consider all draft proposed Standing Orders at its next meeting.

The Committee further determined to consolidate a number of Sessional Orders into the Standing Orders.

At the ninth meeting of the Committee held on 25 February 2015 The Secretary provided the Committee with a copy of the new Standing Orders with substantial changes to Standing Orders highlighted in red text to alert Members to the changes. The Secretary advised that briefings on the draft Standing Orders had been offered to all Members and by that date provided to the Member for Arnhem and all Opposition Members.

The Committee noted the review of Standing Orders includes re-written text and some innovations and deletions and an opportunity for more innovative processes such as streamlining or deleting the 'Committee of the Whole'.

The Opposition Members of the Committee advised that they would consider proposed new Standing Orders again at their party caucus meeting in March.

The Committee agreed that the Secretary would prepare a further report with an executive summary and recommended changes to Standing Orders for the Committee to consider at the next meeting ahead of tabling a report in the Assembly.

At the tenth meeting of the Committee on 29 April 2015 the Committee considered a draft proposal to replace the giving of notice with presentation of a bill separate from second reading and after discussion resolved to retain the existing procedure for inclusion in the new draft Standing Orders.

The Committee endorsed the proposed Standing Orders as circulated at the meeting, subject to reverting to the existing notice provisions for bills and then determined to circulate the draft to Members for further feedback to be considered at the meeting in June 2015.

At the eleventh meeting held on 17 June 2015, the Committee noted that there had been no further submissions or feedback by Members during the final consultation period and the Committee agreed that the proposed new Standing Orders be tabled in a Report to the Assembly during the August sittings for debate in the September sittings with the Secretary to prepare a short tabling statement.

#### **Significant Changes**

The Committee proposes reducing the Number of Standing Orders from the existing 306 to 255. To achieve this, a number of deletions have been agreed by the Committee.

In addition to deletions, a number of existing Sessional Orders are now included as Standing Orders after being in use over many Assemblies.

Examples of significant changes include the reordering of the chapters and the abolition of the Committee of the Whole to replace it with 'Consideration in Detail'.

This approach will permit flexibility for the Speaker or Deputy Speaker to convene this aspect of the debate with a free flowing discussion on clauses of the bill where the Assembly feels it is warranted. The Speaker or Deputy Speaker will usually preside from the chair or with the leave of the Assembly may convene the sitting from the table between the Clerks. There will be no need to remove the mace or for reporting back.

Annexure B of this report contains annotated Standing Orders which provides policy analysis of the change compared with the existing (soon to be replaced or redundant) standing order.

That document provides the rationale for the decisions made by the Committee which are recommended for adoption as the final Standing Orders as contained in Annexure A.

#### Recommendation

The Legislative Assembly adopt the Standing and Sessional Orders at Annexure A of this Report, to replace all prior Standing and Sessional Orders, and to take effect on the first sitting day in December 2015.

John Elferink Chairman



## LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

## **STANDING ORDERS**

(ADOPTED XX XXXXX 2015)

DRAFT STANDING ORDERS AS AT 10 AUGUST 2015

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## **PART ONE**

FREQUENTLY USED PRACTICE AND PROCEDURE

## **CHAPTER ONE**

## **GENERAL RULES, DEFINITIONS AND APPLICATIONS**

#### **STANDING ORDER 1**

#### General Rule about Application and Interpretation

Rulings and interpretation of these Standing Orders is the responsibility of the Speaker or Member presiding in the chair, guided by previous rulings and the practices of the Assembly and, if required, the most recent edition of the House of Representatives Practice.

#### **STANDING ORDER 2**

## Definitions and Application of Standing Orders

#### **Definitions**

In these Orders unless the contrary intention appears:

"Session" means the series of sittings —

- (1) from the calling together of the Assembly after a general election until the Assembly is prorogued, or
- (2) from the calling together of the Assembly after a prorogation until the Assembly is next prorogued.

"Sitting day" means a meeting of the Assembly from the ringing of the bells at the appointed time until the adjournment of the Assembly.

"An Assembly" means the series of sittings comprised of one or more sessions from the calling together of the Legislative Assembly after a general election until it is prorogued prior to the next general election or the holding of an extraordinary general election.

"Chief Minister" means the Minister designated as Chief Minister by the Administrator.

"Minister" means a Member appointed to a ministerial office by the Administrator with such designation as the Administrator from time to time determines.

"Speaker" means the Member elected to be Speaker pursuant to Standing Order 232 and in the absence of that Member means the Deputy Speaker. Where the words "Presiding Officer" or "Chair" occur these words mean the same as "Speaker" who is the principal office holder in the Assembly.

"The Assembly" means the Legislative Assembly of the Northern Territory of Australia constituted by the Northern Territory (Self-Government) Act.

"The Chamber" means the area within the walls enclosing the Speaker's Chair, the Table and Members' seats but does not include areas specifically set aside for visitors or seating allocated to advisors.

"The Administrator" means the person for the time being acting as Administrator of the Northern Territory.

## **Application**

These Standing Orders are the rules of the Assembly made under the power granted by section 30 of the *Northern Territory (Self-Government) Act.* They are of continuing effect and apply until changed by the Assembly.

## CHAPTER TWO

## SITTING DAYS, QUORUM AND ADJOURNMENT

#### **STANDING ORDER 3**

## Meetings of the Assembly

Unless otherwise ordered the Assembly meets each year in accordance with a program of sittings provided to the Assembly for that year.

#### **STANDING ORDER 4**

## Changes to the Scheduled Meetings of the Assembly

When the Assembly is meeting, a Minister may move a motion without notice at any time to set the next meeting or a future meeting or meetings of the Assembly and when the Assembly is not meeting, the Speaker may set an alternative time for the next meeting and will advise all Members of the change.

#### **STANDING ORDER 5**

#### Quorum at Time of Meeting

If there are not ten Members present by five minutes after the appointed meeting time on any given day, then the meeting of the Assembly is adjourned until the next scheduled day or suspended by the Speaker to a time later the same day.

## **STANDING ORDER 6**

#### Member not to leave the Chamber at Commencement

No Member may leave the Chamber within the first five minutes of the commencement of a meeting of the Assembly unless a quorum of ten Members is present.

#### **STANDING ORDER 7**

#### **Prayers**

Prayers are conducted by the Speaker or a nominee at the commencement of each day in accordance with an order of the Assembly.

## **STANDING ORDER 8**

## Quorum Not Present for a Division

If there is no quorum present after a division has been called, no vote of the Assembly will be recorded and the Speaker will adjourn the Assembly either:

- (1) to the next meeting day, or
- (2) if the Speaker considers that a quorum will be present at a later time on the same day the Speaker will nominate that time and the Assembly will be suspended until that time. If when that time is reached there is still no quorum, the Assembly will be adjourned to the next scheduled meeting.

## Member calling a Lack of Quorum

- (1) If a Member states that a quorum is not present in the Assembly, the Speaker will count the Members present and if there are fewer than 10 Members (including the Speaker or Member presiding) the bells will be rung for three minutes or until a quorum is present, whichever comes first.
- (2) If after three minutes there are still not 10 Members present, the Speaker will adjourn the Assembly either:
  - (a) until the next meeting day, or
  - (b) if the Speaker considers that a quorum will be present at a later time on the same day, the Speaker will nominate that time and the Assembly will be suspended until that time. If when that time is reached there is still no quorum, the Assembly will be adjourned to the next meeting day.

## **STANDING ORDER 10**

## Recommencement of Proceedings

If proceedings have been interrupted because of a lack of a quorum and the meeting of the Assembly has been suspended to later the same day or adjourned to the following day, proceedings may only recommence at the point they were interrupted by a motion being moved after notice has been given.

#### **STANDING ORDER 11**

#### Member not to leave the Chamber during Ringing of the Bells for a Quorum

When a Member has called attention to the lack of a quorum no Member may leave the Chamber until either a quorum is present or three minutes have passed.

## **STANDING ORDER 12**

#### Adjournment Motion

The Assembly may adjourn on the motion of a Minister moved at any time without notice or amendment.

## **CHAPTER THREE**

## **RULES OF DEBATE**

## **STANDING ORDER 13**

#### Order Maintained

The Speaker is responsible for maintaining order in the Assembly.

#### **STANDING ORDER 14**

## Speaker Standing

If the Speaker stands, any Member speaking or seeking the call must sit and the Assembly will be silent.

#### **STANDING ORDER 15**

#### Respect for the Chair

When entering or leaving the Chamber, or when passing across the Chamber a Member will bow to the Speaker.

#### **STANDING ORDER 16**

## Movement Restricted when Question being put

When the Speaker is putting a question, no Member may walk out of or across the Chamber.

## **STANDING ORDER 17**

## Moving around in the Chamber

No Member may move or stand between the Speaker and any Member who is speaking.

#### **STANDING ORDER 18**

## Seeking the Call and Addressing the Speaker

A Member seeking the call to speak will stand up to seek recognition from the Speaker. If recognised, the Member addresses the Speaker.

#### **STANDING ORDER 19**

## Speaking While Seated

If a Member is unable to stand the Speaker may permit the Member to speak while seated.

## No Interruption of Debate

When a Member is speaking other Members must not make any noise or disturbance.

## **STANDING ORDER 21**

#### Member Called and Member to be Heard

When two or more Members are seeking the call, the Speaker calls upon the Member who in the opinion of the Speaker stood up first. Any Member may move that a Member who has sought the call but not received the call 'be now heard'. The question must be put immediately and decided without amendment or debate.

#### **STANDING ORDER 22**

## One Speech Only

No Member may speak twice on a question before the Assembly except in explanation or reply when a reply is permitted.

#### **STANDING ORDER 23**

## Explanation of Speech

A Member who has already spoken on a question may again be briefly heard to explain some material part of his or her speech which has been misquoted or misunderstood but cannot introduce any new matter or debate the matter again or interrupt any Member already speaking.

#### **STANDING ORDER 24**

## Reply

A Member may speak in reply if the Member has moved a substantive motion, a motion that a bill now be read a second time or a motion that a bill now be read a third time. The reply must be confined to matters raised in debate and no reply is permitted for a Member who has moved an amendment.

#### **STANDING ORDER 25**

### Reply Closes Debate

The reply of the mover of the original question closes the debate.

## Personal Explanation

A Member may, with the leave of the Speaker when there is no question before the Assembly, explain how he or she has been misrepresented or explain another matter of a personal nature. The explanation should be succinct and may not be debated.

## **STANDING ORDER 27**

#### Decision is Final

No Member may speak on a question after it has been decided.

#### **STANDING ORDER 28**

#### References to Other Debates

A Member must not refer to debates of the same session unless the reference is relevant to the matter under discussion.

#### **STANDING ORDER 29**

#### Reflection on Previous Vote

A Member may not reflect adversely on a vote of the Assembly except during debate on a motion that a vote be rescinded.

#### **STANDING ORDER 30**

#### Respect for Head of State

No Member may refer to the Australian Head of State or their representative in the Commonwealth, a State or a Territory in a disrespectful manner or in a manner intended to influence Members during a debate.

#### **STANDING ORDER 31**

## Offensive or Disorderly Words

A Member must not use offensive words against the Legislative Assembly or a Member of the Assembly, another Australian Parliament or Member of that Parliament, or a Member of an Australian or the Northern Territory Judiciary.

All imputations of improper motives to a Member and all personal reflections on other Members will be considered highly disorderly unless discussed during moving of and debate on a substantive motion alleging misconduct by that Member.

The Speaker may rule that highly disorderly words not be published in the Parliamentary Record.

#### Speaker to Intervene

When the Speaker hears offensive or disorderly words the Speaker will intervene to ensure order.

## **STANDING ORDER 33**

## Speaker to Determine whether words are Disorderly

When the Speaker's attention is drawn to specific words the Speaker will determine whether or not the words are offensive or disorderly.

#### **STANDING ORDER 34**

#### Member not to be referred to by Name

A Member must refer to other Members by their title of office or by the name of their electorate.

## **STANDING ORDER 35**

## Relevance to Subject

A Member may not digress from the subject being debated or discussed. This will not apply to the Address in Reply, a motion to adjourn the Assembly, or an Appropriation or Supply Bill where matters relating to public affairs may be debated.

#### **STANDING ORDER 36**

## Anticipation of Matter listed on Notice Paper

A Member may not anticipate the discussion of any subject which appears on the Notice Paper which in the opinion of the Speaker is likely to be debated within a reasonable timeframe. However the Speaker should not prevent an incidental reference to a matter on the Notice Paper.

#### **STANDING ORDER 37**

#### When Interruption is Allowed

A Member may only interrupt another Member who is speaking as follows:

- (1) to call attention to a point of order
- (2) to call attention to a matter of privilege suddenly arising
- (3) to call attention to the lack of a quorum
- (4) to call attention to the presence of strangers

- (5) to move "that the question be now put"
- (6) to move "that the Member be not further heard"
- (7) to move that the discussion be concluded.

## Irrelevance or Tedious Repetition

If the Speaker has called a Member's attention to engaging in irrelevance or tedious repetition and they persist, the Speaker may direct the Member to cease speaking. The same Member may then request the Speaker put the question that they be further heard. That question will then be put to the Assembly immediately without amendment or debate.

#### **STANDING ORDER 39**

## Matters Not Open to Debate

- (1) Except where a Member moves a motion (j) "that the debate be adjourned", where they may briefly state their reasons for so moving and one other Member may speak briefly in rebuttal, the following questions are not open to debate and are put without debate or amendment:
  - (a) that a Member "be now heard" (SO 21)
  - (b) that a Member "be further heard" (SO 38)
  - (c) that a Member "be not further heard" (SO 45)
  - (d) that a Member "be granted an extension of time" (SO 43)
  - (e) "that the question be now put" (SO 44)
  - (f) "that the business of the day be called on" or "discussion be concluded" (SO 66)
  - (g) "that the ruling of the Chair be dissented from" (SO 48)
  - (h) that a Member "be suspended" (SO 51)
  - (i) "that strangers or visitors be ordered to withdraw" (SO 244)
  - (i) "that the debate be adjourned" (SO 40)
- (2) Should any of these questions be negatived, no similar proposal will be received if the Speaker is of the opinion that it is an abuse of the Orders or practice of the Assembly, or it is moved for the purpose of obstructing business.

## Procedure for Adjourning a Debate

A Member who has not spoken to the question or who has the right of reply may move the adjournment of a debate. The question is put immediately and determined without amendment or debate.

Subject to the provisions of Standing Order No 39, if the question is resolved in the affirmative, the debate is adjourned. If no motion for the resumption of the debate is moved, the resumption of the debate becomes an order of the day for the next meeting of the Assembly and the Member on whose motion the debate was adjourned may speak first on the resumption of the debate.

If the motion for the adjournment of debate on a question is negatived, the Member moving the motion may speak at a later time in the debate.

#### **STANDING ORDER 41**

## Question of Adjournment and Resumption

When a debate is adjourned, a motion may be moved immediately without notice to appoint a time for the resumption of the debate on either the same day or another day. Debate on this guestion is restricted to the proposed date and time of the resumption of the debate.

#### **STANDING ORDER 42**

## Member Speaking - Leave to Continue Remarks Later

A Member may not adjourn the debate on which they are speaking but may seek the leave of the Assembly to continue their remarks later.

If leave is granted, the debate is adjourned. If the Member does not then move pursuant to Standing Order 41 to appoint a time and date for resumption of debate, the debate will be called on after the last order of the day listed on the Notice Paper for consideration that day.

The Member who was granted leave may speak first on the resumption of the debate.

#### **STANDING ORDER 43**

#### Speech Time Limits

The maximum period for which a Member may speak on any subject indicated in this Standing Order and the maximum period for any debate, will not, unless otherwise ordered, exceed the period specified in the following schedule:

Election of Speaker or appointment of Chair	
Each Member speaking	5 minutes
Address in Reply	
Each Member	30 minutes

Mover in reply	20 minutes
Discussion of a matter of public importance	
Whole discussion not to exceed	2 hours
Proposer	20 minutes
Member next speaking	20 minutes
Any other Member	15 minutes
Bills	
second reading	
Mover	45 minutes
Member next speaking	45 minutes
Any other Member	30 minutes
Mover in reply	30 minutes
Consideration of a Bill in Detail	
For each question under consideration:	
Member in charge of a bill	unlimited
Other Members (more than one speech is permitted on each question)	Each speech not to exceed 10 minutes
Bills third reading	
Mover	10 minutes
Member next speaking	10 minutes
Any other Member	5 minutes
Mover in reply	10 minutes
Motion to Suspend Standing Orders	
Mover	10 minutes
Member next speaking	10 minutes
Any other Member	5 minutes
Motion to set a time and date to resume an adjourned debate	
Mover	5 minutes
Member next speaking	5 minutes
Any other Member	3 minutes
Ministerial Statements and Tabling Statements	
Minister	unlimited
Member next speaking	30 minutes
Any other Member	20 minutes
Condolence Motions	

Each Member speaking	unlimited
Debates not otherwise provided for	
Mover	30 minutes
Member next speaking	30 minutes
Any other Member	20 minutes
Mover in reply	20 minutes
Motion for adjournment of the Assembly to close the business of	
the day	
Each Member	10 minutes

On motion, determined without debate and agreed to by the Assembly, a Member may continue a speech interrupted by this Standing Order for one period of 10 additional minutes, except in the instances of:

- (1) a discussion of a Matter of Public Importance
- (2) any debate with a time limit of 10 minutes or less
- (3) a Censure Motion, or
- (4) a Motion expressing a Want of Confidence.

#### **STANDING ORDER 44**

## Closure – Motion to put the Question

When debate has commenced on any question either in the Assembly or in Committee, a Member may move without notice (whether or not another Member is addressing the Chair) "that the question be put". The motion is put immediately and decided without amendment or debate. If the question is negatived the debate is resumed where it was interrupted and the time taken in deciding the question "that the question be now put" is not taken from the time allotted to the Member whose speech was interrupted.

#### **STANDING ORDER 45**

## Motion - Member no Longer to be Heard

A motion may be moved that a Member who is speaking, except a Member giving a Notice of Motion or formally moving the terms of a motion allowed under the Standing Orders, "no longer be heard" the question is put immediately and decided without amendment or debate.

#### **STANDING ORDER 46**

## Point of Order

Any Member may at any time raise a point of order with the Speaker, which, until disposed of, suspends everything else.

## Member to Resume Seat and Speaker to Rule

When a point of order is raised, the Member interrupted resumes their seat and, after the question of order has been stated to the Speaker by the Member, the Speaker rules.

## **STANDING ORDER 48**

## Dissent from Ruling

If a Member objects to a ruling of the Speaker, the objection must be expressed immediately and a motion of dissent must be submitted in writing and then moved by the Member who expressed the objection.

The terms of the written motion must be seconded by another Member when submitted.

The Member seconding the motion may next speak to the motion and the remaining debate on the motion will proceed immediately, taking precedence over all other business of the Assembly until disposed of.

## **CHAPTER FOUR**

## DISORDER

#### **STANDING ORDER 49**

#### Member Excluded for One Hour

- (1) If the Speaker considers the conduct of a Member is disorderly, the Speaker may order the Member to leave the Assembly immediately for a period of one hour. The requirement to leave is final, not subject to dissent and cannot be debated.
- (2) If a Member fails to leave the Chamber immediately when ordered to do so, the Speaker may name the Member pursuant to the process described in Standing Orders 50 and 51.
- (3) After leaving the Assembly Chamber the Member may only attend during the one hour period of exclusion for the purpose of voting in any division or being counted for a quorum, but must depart when the vote has been declared or a quorum formed.

## **STANDING ORDER 50**

## Naming of a Member

The Speaker may name any Member who has -

- (1) persistently and wilfully obstructed the business of the Assembly
- (2) been guilty of disorderly conduct
- (3) used objectionable or disorderly words, which they have refused to withdraw
- (4) persistently and wilfully refused to conform to any Standing Order, or
- (5) persistently and wilfully disregarded the authority of the Speaker

#### **STANDING ORDER 51**

#### Suspension after Naming

If a Member has been named by the Speaker, the Speaker immediately puts the question: *That the Member for ... be suspended from the service of the Assembly.* No amendment, adjournment or debate is allowed.

## Periods of Suspension

- (1) A Member who has been named and excluded from the Assembly under Standing Order 50 and Standing Order 51 is suspended as follows:
  - (a) For 24 hours if it is the first occasion in the calendar year.
  - (b) For the second occasion in the same calendar year, they are suspended for a period of two meeting days in addition to any period on the day of suspension being ordered.
  - (c) For the third and any subsequent occasion they will be excluded for three meeting days in addition to any part of the day of the suspension being ordered.
- (2) For the purposes of this Standing Order, any suspension in a previous session of the Assembly during the same calendar year is disregarded.

Should any period of suspension prevent a Member from attending the Legislative Assembly for three or more consecutive meeting days, for the purposes of section 21(2)(c) of the *Northern Territory (Self-Government) Act*, the Member is deemed to have been granted the permission of the Assembly to be absent.

## **STANDING ORDER 53**

#### Extreme Disorder by a Member

When the conduct of a Member is so highly disorderly that the procedure in Standing Order 52 would be inadequate to ensure the urgent protection of the dignity of the Assembly, the Speaker orders the Member to leave the Chamber immediately and once the Member has departed, the Member is named by the Speaker and the question for the suspension of the Member is put immediately. If the question for the suspension of the Member is resolved in the negative, the Member may return to the Chamber.

#### **STANDING ORDER 54**

#### Effect of a Suspension and Exclusion from the Chamber

A Member suspended from the service of the Assembly is excluded from the Chamber and its galleries and may not attend any meetings of Assembly committees.

## **STANDING ORDER 55**

## Severe Disorder

In the case of severe disorder occurring either in the Assembly or in its galleries, the Speaker may adjourn the Assembly without a question being put, or may suspend any meeting for such time to be advised to Members or until the ringing of the bells to indicate a resumption of the meeting.

#### Disobedience of a Member

A Member who disobeys an order of the Assembly may be ordered to attend to answer for their conduct and a motion to this effect can be moved without notice.

## **STANDING ORDER 57**

#### Arrest of Unauthorised Persons

If any person other than a Member disturbs the operation of the Chamber or a Committee, any authorised officer pursuant to s.5 of the *Legislative Assembly (Security) Act* may immediately remove the person or take the person into custody.

## LEGISLATIVE ASSEMBLY (SECURITY) ACT - SECT 5

#### Authorised persons

- (1) The following persons are authorised persons for the purpose of this Act:
  - (a) the Clerk within the meaning of the Legislative Assembly (Powers and Privileges) Act
  - (b) the Deputy Clerk within the meaning of the *Legislative Assembly (Powers and Privileges) Act*
  - (c) the Clerk Assistant within the meaning of the *Legislative Assembly (Powers and Privileges) Act*
  - (d) the Serjeant at Arms of the Assembly
  - (e) a member of the Police Force
  - (f) a person, employed by a security firm within the meaning of the *Private Security Act* that is engaged to provide the services of crowd controllers in relation to the Assembly precincts, who:
    - (i) is directed by the security firm to provide the services of a crowd controller in relation to the Assembly precincts, and
    - (ii) holds a crowd controller's licence within the meaning of the *Private Security Act* (not being a crowd controller's transitional licence or a crowd controller's provisional licence within the meaning of that Act).
  - (g) a person appointed under subsection (2).
- (2) The Speaker may, in writing, appoint an employee within the meaning of the *Public Sector Employment and Management Act* to be an authorised person.

## Dealing with Removed Persons

When any person is removed under Standing Orders 56 or 57 their removal is reported to the Assembly by the Speaker without delay; and the Assembly determines the consequences.

## **CHAPTER FIVE**

## BUSINESS OF THE ASSEMBLY AND ORDERS OF THE DAY

## **STANDING ORDER 59**

#### Conduct of Business

Any motion connected with the Assembly's conduct of business may be moved by a Minister at any time without notice.

## **STANDING ORDER 60**

## Routine of Business

The Assembly conducts its business on each meeting day according to a Sessional Order as adopted by the Assembly from time to time.

The Sessional Order for the 12<sup>th</sup> Assembly is:

- (1) Tuesday and Thursday
  - 1. Prayers
  - Government Business Second Reading of Bills, Notices of Motions, and Orders of the Day
  - 4. At 2pm

**Notices** 

Petitions

Questions

- 5. Government Business
- 6. Ministerial Statements
- Papers
- 8. Consideration of Committee Reports, Auditor-General's Reports and Government Responses
- 9. Discussion pursuant to Standing Order 66 (Matter of Public Importance)

## (2) Wednesday

- Prayers
- Government Business Second Reading of Bills, Notices of Motions, and Orders of the Day
- 4. At 2pm

Notices

**Petitions** 

Questions

- 5. Government Business
- 6. Ministerial Statements
- 7. Papers
- 8. Consideration of Committee Reports, Auditor-General's Reports and Government Responses
- 9. Discussion pursuant to Standing Order 66 (Matter of Public Importance)
- 10. General Business Notices and Orders of the Day 5.30pm to 9pm

#### Precedence of Business of the Assembly

When occurring, 'Business of the Assembly' will always appear first on the Notice Paper and be dealt with prior to any other business before the Assembly.

Business of the Assembly is:

- (1) a motion concerning the qualification of a Member
- (2) a motion to disallow, disapprove or declare void and of no effect any instrument or part of any instrument made under the authority of any Act which provides for the instrument to be subject to disallowance or disapproval by the Assembly
- (3) an order of the day for the presentation of a report from any committee of the Assembly
- (4) a motion or order of the day for the appointment or membership of any committee of the Assembly
- (5) business related to any message from the Administrator to the Assembly. Messages from the Administrator will also be considered Business of the Assembly.

#### **STANDING ORDER 62**

## Presentation of Papers and Reports from Committees

Notwithstanding Sessional Orders outlining the routine of business pursuant to Standing Order 60, reports of any Assembly Committee or any papers to be presented may be presented whenever there is no other business being considered by the Assembly.

### **STANDING ORDER 63**

#### Order and Precedence of Government Business

The Chief Minister, Leader of Government Business or a Minister acting on behalf of the Chief Minister, may arrange any business introduced by a Minister on the Notice Paper as Government Business as required which will take precedence over General Business except where the Sessional Orders provide otherwise.

#### **STANDING ORDER 64**

#### Order and Precedence of General Business

Members with General Business listed on the Notice Paper may re-order and postpone their own Notices and Orders of the Day so long as their re-reordering or postponement does not alter the ranking of another Member's item on the Notice Paper to move that Member further down the ranking of Notices or Orders of the Day unless that other Member agrees.

Notification of re-arrangement of Notices or Orders of the Day will be advised by the relevant Whip and/or Independent Member and any affected Member to the Clerk, the counterpart

Whip or Whips and any other Independent Member by the close of the meeting on the day immediately preceding the General Business day.

#### **STANDING ORDER 65**

## Consideration of Committee Reports, Auditor General's Reports and Government Responses

Where on any meeting 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 then at the time allocated in the Sessional Order for consideration of such reports, they will be called on for consideration in the order in which the respective reports or government responses were presented.

#### **STANDING ORDER 66**

## Discussion of a Matter of Public Importance

(1) A Member may propose to the Speaker that a matter of public importance be submitted to the Assembly for discussion.

The Member proposing the matter must present the proposal in writing to the Speaker at least two hours before the time fixed for the meeting of the Assembly, and on the day for presentation.

If the Speaker determines that it is within the competence of the Assembly and it is otherwise in order, the proposal is communicated to a Minister and to the Leader of the Opposition as soon as possible.

At the allocated time, the Speaker will read the proposal to the Assembly. The proposed discussion must be supported by four Members, including the proposer, rising in their places. The Speaker then calls upon the Member who proposed the matter to speak.

- (2) At any time during the discussion, a motion may be made by a Member "that discussion be concluded". Such a motion must be put immediately and decided without amendment or debate and, if agreed to, Business proceeds according to the Routine of Business on the Notice Paper. A motion under Standing Order 44 (closure of question) or Standing Order 40 (adjournment) will not be in order.
- (3) In the event that more than one matter is presented for the same day, priority is given to the matter which, in the opinion of the Speaker, is the most urgent and important and no other proposed matter is read to the Assembly on that day.

#### Precedence of a Censure Motion

A motion which is moved without notice during the course of Question Time, and prior to the Leader of Government Business asking further Questions to be placed on the written question paper, which seeks to censure the Government or a Minister, may be accepted by the Government and given precedence over all other business. Once accepted, the motion will be moved and a copy circulated. If not accepted to take precedence, then the normal routine of business will prevail and notice may be given at the usual time.

#### **STANDING ORDER 68**

#### **Motion of No Confidence**

Where a Member wishes to move a Motion of No Confidence in the Government the Member must give notice of the motion three clear days prior to the Motion of No Confidence being called on and debated.

A Minister may give precedence for notice to be given ahead of any other business at any time there is no question before the Chair.

After the lapse of three clear days, the Motion will be given precedence over all other business and be listed on the Notice Paper as the first item in the category: *Business of the Assembly*.

The form the Notice will take will be to express that: The Assembly, pursuant to section 24(1)(a) of the Electoral Act, expresses that the Government no longer possesses the confidence of the Assembly. Any reasons may be expressed in the remainder of the motion.

If the Speaker receives a letter signed by an absolute majority of Members of the Assembly requesting a special meeting in order for the Notice of a Motion of No Confidence to be given before the already scheduled meeting, and a subsequent meeting day to take place three days later for the Motion to de debated, the Speaker will convene a special meeting of the Assembly as soon as possible.

#### **STANDING ORDER 69**

#### Seeking leave of the Assembly

A Member who has the call may seek the leave of the Assembly. Leave must be unanimous and granted without any dissent.

## **CHAPTER SIX**

## **NOTICES OF MOTIONS AND MOTIONS**

#### **STANDING ORDER 70**

#### Giving Notice of a Motion

Motions require notice, unless otherwise provided in Standing Orders or the Assembly grants leave.

When a Member wishes to give notice that they will move a motion, they will provide a signed copy of the notice to the Clerk stating the day the motion is proposed to be moved and the terms of the motion in the form of a succinct and concise proposition. The Member will, when Notices are called on, rise and orally give their notice.

Only a Minister may give two or more notices consecutively unless no other Member has any notice to give.

#### **STANDING ORDER 71**

## Giving Notice of Motion by Proxy

A Member may give notice of a motion on behalf of a Member who is absent and the notice of motion will be signed by the originating Member stating the name of the Member acting on their behalf, and the notice must also satisfy the requirements of Standing Order No 70.

#### **STANDING ORDER 72**

#### Amending a Notice of Motion

A Member may amend their notice by providing an amended signed notice to the Clerk and notifying the Assembly during the time set aside for notices where they will present their amended notice. The amended notice must be given prior to the calling on of the original notice.

#### **STANDING ORDER 73**

## Withdrawing a Notice of Motion

A notice of motion may be withdrawn by the Member by notifying the Assembly at any time when there is no other question before the Chair.

#### **STANDING ORDER 74**

## Order of Notices on the Notice Paper

Notices will appear on the Notice Paper and have precedence over each other in the order in which they are received by the Clerk at the Table.

A Member may postpone their motion or the motion of another Member with the permission of that Member by moving a motion without notice whenever there is no other question before the Chair.

#### **STANDING ORDER 75**

## Notice may be Divided if it Covers Unrelated Topics

If a notice of motion is given which contains matters not relevant to each other, the Speaker may instruct the Clerk to divide the notice.

#### **STANDING ORDER 76**

## Language and Content of a Notice of Motion

A notice of motion may not contain unparliamentary language or content which contravenes any Standing Order. Such a notice may be ordered by the Speaker to be amended or withdrawn from the Notice Paper.

#### **STANDING ORDER 77**

#### Change of Day for Moving Motion

A Member who has given notice of a motion may change the day proposed for moving the motion to a later day by notifying the Clerk in writing prior to the calling on of the motion. Upon receiving this advice the Clerk will advise the Members of the Legislative Assembly as soon as possible through the most convenient available channel.

#### **STANDING ORDER 78**

#### Notices must be for Another Day

Except for a notice of motion given and accepted by a Minister under Standing Order No 67, or as otherwise provided in these Standing Orders, notices of motion must be for a day subsequent to the day when notice is given.

#### **STANDING ORDER 79**

#### Motions Not Dealt With

If, at the adjournment of the Assembly, any motions on the Notice Paper have not been called on, such motions will be set down on the Notice Paper for the next meeting day.

#### **STANDING ORDER 80**

#### Motions of Thanks or Condolence

A motion for a vote of thanks of the Assembly or of condolence will generally be given precedence as a matter of courtesy.

#### Notice will Lapse if Member is not Present or Fails to Rise

If a Member is not in their place or fails to rise when the notice of motion they have given is called on, it will be withdrawn from the Notice Paper. If the Member is absent, another Member may, at their request, either move the motion or postpone the motion to a later time or date.

#### **STANDING ORDER 82**

#### Possession of a Motion

After a motion has been moved it is in the possession of the Assembly and cannot be withdrawn without leave.

#### **STANDING ORDER 83**

## A Motion which Anticipates Business already on the Notice Paper

A matter already on the Notice Paper must not be anticipated by giving Notice of a Motion covering the same matter unless it is a more effective form of proceeding. When deciding whether the matter proposed is or is not in order on the ground of anticipation, the Speaker will consider the probability of the matter anticipated being called on for consideration by the Assembly on the same or next meeting day.

#### **STANDING ORDER 84**

## Repeating the Same Motion if Withdrawn

A motion which has been withdrawn from the Notice Paper before being decided may be moved again during the same session.

#### **STANDING ORDER 85**

#### Question or Questions to be put at the end of Debate

As soon as debate on a motion has concluded, the Speaker puts the question to the Assembly for decision. If any Member requests the Speaker to divide a complicated question then the Speaker may order that a complicated question is divided into parts to be put to the Assembly for decision part by part.

#### **STANDING ORDER 86**

## Decision on a Question Before the Assembly

A question being put is resolved in the affirmative or negative by the majority of voices "Aye" or "No".

## Speaker to State Opinion on Result of a Question being Put

The Speaker states whether in their opinion the "Ayes" or "Noes" have it. If this opinion is challenged, the question is decided by a division. A call for a division must be supported in accordance with the rule in Standing Order No 125.

#### **STANDING ORDER 88**

## Limit on Repeating the Same Question

Except by leave of the Assembly no question or amendment may be proposed which is the same in substance as any question which the Speaker considers has recently been resolved in the affirmative or negative, unless the order, resolution or vote on such question or amendment has been rescinded. This Standing Order does not operate to prevent any proposal for the disallowance of or disapproval of an instrument of a legislative or administrative character substantially the same in effect as one previously disallowed or disapproved during the same session.

#### **STANDING ORDER 89**

#### Rescission of Vote, Order or Resolution

An order, resolution or other vote of the Assembly may be read and rescinded subject to the following rules:

- (1) A rescission requires seven days' notice
- (2) If the rescission is to correct a mistake or irregularity then one day's notice will be sufficient
- (3) The Assembly may grant leave for a mistake or irregularity to be rectified immediately, and
- (4) If 12 months have elapsed since the order, resolution or other vote was made or taken, one day's notice is sufficient.

## **CHAPTER SEVEN**

## AMENDMENTS TO MOTIONS AND QUESTIONS

#### **STANDING ORDER 90**

#### Amending Motions and Questions

A question having been proposed may be amended:

- (1) by omitting certain words only
- (2) by omitting certain words in order to insert or add other words, or
- (3) by inserting or adding words.

#### **STANDING ORDER 91**

#### Amendments to be in Writing

An amendment to any motion before the Assembly must be in writing and signed by the mover.

#### **STANDING ORDER 92**

## Amendments must be Relevant

Every amendment must be relevant to the question which it proposes to amend.

#### **STANDING ORDER 93**

## Speaker's words when putting a Question to Omit Words

When the proposed amendment is to omit certain words, the Speaker or Chair puts the question "that the words proposed to be omitted, be omitted".

## **STANDING ORDER 94**

## Speaker's words when putting a Question to Omit in order to Insert or Add Words

When the proposed amendment is to omit words in order to insert or add other words, the Speaker or Chair puts the question "that the words proposed to be omitted, be omitted", which, if resolved in the negative, disposes of the amendment; but if in the affirmative, the next question is: "that the words proposed to be inserted (or added) be inserted (or added)".

## Speaker's words when putting a Question to Insert or Add Words

When the proposed amendment is to insert or add certain words, the Speaker or Chair puts the question "that the words proposed to be inserted (or added) be inserted (or added)".

## **STANDING ORDER 96**

#### Speaker's use of Alternative words Permitted

If no Member objects, the Speaker or Chair may put the question "that the amendment be agreed to" in place of the question or questions stated in Standing Orders 93, 94 and 95.

#### **STANDING ORDER 97**

#### No Inconsistent Amendments Allowed

No amendment may be moved which is inconsistent with a previous decision on the question.

#### **STANDING ORDER 98**

## Order of Moving must be Sequential

No amendment may be moved to any part of a question after a later part has been amended, or after a question has been proposed on an amendment, unless the proposed amendment has, by leave, been withdrawn.

## **STANDING ORDER 99**

#### A Decision Cannot be Subverted

No amendment may be moved to any words which the Assembly has resolved will not be omitted, or which have been inserted in, or were added to a question, however the addition of other words may be permitted if they do not change the meaning of the decision.

#### **STANDING ORDER 100**

## Order of Disposal of Amendments

An amendment proposed is to be disposed of before another amendment to the original question can be moved.

#### **STANDING ORDER 101**

## Withdrawal of Amendment

A proposed amendment may, by leave, be withdrawn.

## Amendments to Amendments

Amendments may be moved to a proposed amendment as if such proposed amendment were an original question.

## **STANDING ORDER 103**

## **Order of Amendments**

When an amendment is moved to omit words in the main question in order to insert or add other words, no amendment to the words proposed to be inserted or added can be considered until the question "that the words proposed to be omitted, be omitted" has been determined.

## **STANDING ORDER 104**

## Main Question as Amended

When amendments have been made, the main question is put as amended.

#### **STANDING ORDER 105**

## **Original Question**

When amendments have been moved but not made, the question is put as originally proposed.

## **CHAPTER EIGHT**

## QUESTIONS SEEKING INFORMATION

#### **STANDING ORDER 106**

#### Question Time and Questions to Ministers

- (1) Question Time will occur according to the adopted Routine of Business and be conducted in conformity with the Standing Orders.
- (2) The global time limit for Questions is approximately one hour. This period may be increased or decreased at the discretion of a Minister.
- (3) Questions may be put to a Minister relating to public affairs, to proceedings pending in the Assembly, or to any matter of administration for which they are responsible.
- (4) (a) Questions must be succinct, concise and direct and not exceed one minute.
  - (b) One supplementary question may be asked per Question Time by a non-Government Member and it must be asked immediately by the same Member who asked the original question. The supplementary question may not exceed 30 seconds and the answer not exceed one minute.

#### **STANDING ORDER 107**

## Questions to Members who are not Ministers

Questions may only be put to a Member who is not a Minister if the question relates to the timing, procedure or clauses of a bill, motion, or other public matter connected with the business of the Assembly which the Member has charge of.

## **STANDING ORDER 108**

#### Questions to a Chair of Committee

Questions may be put to the Chair of a committee relating to the activities of that committee: provided that —

- (1) unless leave of the Assembly is granted for them to be asked at question time, such questions may be asked only as written questions
- (2) they will not attempt to interfere with the committee's work or anticipate its report, and
- (3) the Chair answers such questions only on the basis that answers are made on behalf of the committee.

## Manner and Form of Questions

The following rules apply to questions —

- (1) Questions cannot be debated.
- (2) Questions should 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) insults, or
  - (f) hypothetical matter.
- (3) Questions should not ask Ministers:
  - (a) for an expression of opinion
  - (b) to announce new policy of the government, but may seek an explanation regarding the policy of the government and its application, or
  - (c) for a legal opinion.
- (3) Questions should not refer to proceedings in Committee not reported to the Assembly.
- (4) Questions may not be asked which reflect on or are critical of the character or conduct of those persons whose conduct may be challenged only on a substantive motion and questions critical of the character or conduct of other persons must be asked in writing.

### **STANDING ORDER 110**

### Answers to Questions Without Notice

- (1) Answers will be concise and directly relevant to the question asked.
- (2) No answer will exceed three minutes.

## **STANDING ORDER 111**

## Repeating Questions Already Answered

A question which has been answered cannot be asked again during the same Question Time period.

## Power of Speaker to Change Language

The Speaker may direct that the language of a question be changed if it is not in conformity with the Standing Orders.

### **STANDING ORDER 113**

## Written Questions for Lodgement on the Question Paper

A Member asking a question on notice will deliver it to the Clerk or to the Table Office. The Question must be in writing and signed by the Member and the Clerk will place the question on the Question Paper in the order received.

### **STANDING ORDER 114**

## Replies to Questions

- (1) A reply to a written question must be delivered to the Clerk. A copy of the reply will be provided to the Member who asked the question; the question and reply will be printed in the Parliamentary Record.
- (2) A Minister should respond to a written question within 30 days of receipt. If a Minister does not answer the question within 30 days the Member who asked the question may at the conclusion of Question Time ask the Speaker to write to the Minister seeking reasons for the delay.

## **STANDING ORDER 115**

# Answers to Questions Asked on the Same or Previous Days and Responses to Matters raised in Adjournment

At the conclusion of Question Time, after the request that 'all further Questions be placed on the Question Paper', Ministers may answer or give supplementary answers to:

- (1) Questions asked on the same day during Question Time
- (2) Questions Asked on previous days during Question Time
- (3) Questions raised during the debate on the motion for the Adjournment of the Assembly.

The total time taken for the giving of all such answers by all Ministers will not exceed 10 minutes.

## Questions to Speaker

A question may be put to the Speaker at Question Time relating to any matter of administration for which the Speaker is responsible.

## **CHAPTER NINE**

## MINISTERIAL STATEMENTS

## **STANDING ORDER 117**

## When A Ministerial Statement May be Made

A Minister may make a statement on:

- (1) government policy
- (2) a government decision
- (3) government action, or
- (4) proposed government action

at any time when there is no question before the Assembly: provided that copies of the statement are available for distribution to Members when the Minister commences the statement.

## **STANDING ORDER 118**

## Motions on Ministerial Statements

When any statement has been made to the Assembly pursuant to Standing Order 117, a Member may move, without notice, either or both of the motions:

- (1) that the statement be printed or made available in an accessible format
- (2) that the Assembly take note of the statement

if the motions are not moved at the conclusion of the statement, either or both may be moved, on notice on another day.

## **CHAPTER TEN**

## **PETITIONS**

## **STANDING ORDER 119**

### **Petitions**

Petitions may be presented to the Assembly by any Member provided that:

- (1) every petition must be respectful and not contain irrelevant statements
- (2) every petition must be neatly written, printed or reproduced by mechanical (or other) process, without interlineation or erasure
- (3) every petition must contain a request or prayer at the end
- (4) every petition must be in the English language, or be accompanied by a translation certified to be correct by the Member who lodges it
- (5) every petition must be signed by at least one person on the sheet on which the petition is inscribed
- (6) every petition must be signed by the parties whose names are on the petition, by their own hand, and by no one else, except in the case of incapacity or sickness. Persons unable to write must affix their marks in the presence of a witness, who also affix their signature. For electronic petitions see (9) below
- (7) every signature must be written upon the petition or upon sheets containing the prayer of the petition, and not pasted or otherwise transferred upon. For electronic petitions see (9) below
- (8) no letters, affidavits or other documents may be attached to any petition
- (9) any petition signed by electronic means or which claims to have been electronically endorsed by petitioners will be certified by the presenting Member that to the best of his or her knowledge the petition has been endorsed by the number of petitioners claimed
- (10) a petition for presentation to the Assembly can be lodged with the Clerk only by a Member, but a Member cannot lodge a petition from themselves
- (11) every Member lodging a petition with the Clerk for presentation to the Assembly will affix their name at the beginning, and
- (12) every petition must be lodged with the Clerk at least two hours prior to the time of the meeting of the Assembly on the day on which it is proposed to present it, and when presented the petition must bear the Clerk's certificate that it conforms with the Standing Orders.

## Motion on Petition

Where any petition has been presented in accordance with Standing Order 119 any Member may move that the petition be read and, in moving confines their remarks to a brief statement of the persons from whom the petition comes, of the number of signatures attached to the petition, of the material allegations contained in the petition, and the meaning or substance as contained in the request or prayer. If the motion is carried, a Clerk reads the petition.

## **STANDING ORDER 121**

## **Action on Petition**

On presentation of a petition, no debate upon or relating to it is allowed. It is laid upon the Table of the Assembly and a Member may move, without notice, a motion to refer the petition to a committee of the Assembly and may also move "that the petition be printed".

### **STANDING ORDER 122**

### Terms of Petition referred to Minister

A copy of the terms of every petition lodged with the Clerk and received by the Assembly will be referred by the Clerk to the Minister responsible for the administration of the matter which is the subject of the petition.

## **STANDING ORDER 123**

## Response to a Petition

A Minister must respond to a petition forwarded by the Clerk within 12 meeting days of it being sent. The response will be lodged with the Clerk for presentation to the Assembly. The response will be announced at the end of the time for presentation of petitions. There is no requirement for a Minister to respond to a petition which is in similar terms to a petition previously presented to the Assembly and which has been responded to.

## **CHAPTER ELEVEN**

## **DIVISIONS**

## **STANDING ORDER 124**

## Calling a Division

When the Speaker states that the "Ayes" or the "Noes" have it, the Speaker's statement may be challenged by Members calling for a division.

### **STANDING ORDER 125**

## Division to be Supported by Two Members

More than one Member is required to call for a division. If only one Member calls for a division, that Member may inform the Speaker that they wish their dissent to be recorded in the Minutes of Proceedings and in the Parliamentary Record and their dissent will be recorded.

A division called by the Chief Minister or Leader of the Opposition does not require the Speaker to hear a second voice of support.

### **STANDING ORDER 126**

## Call for a Division Withdrawn after Leave Granted

At any time before the tellers begin to count the Members voting in a division, if leave is granted, a call for a division may be withdrawn and the division will not proceed.

## **STANDING ORDER 127**

## Voting in Divisions Not to Change

Every Member must vote in a division in accordance with how they called the vote on their voice. Where a Member calls "Aye" or "No", their vote in the division must be the same and be recorded as such in the Minutes of Proceedings.

### **STANDING ORDER 128**

### Member who Calls a Division Must Remain to be Counted

A Member calling for a division may not leave the Chamber and must vote with those who, in the opinion of the Speaker, were in the minority when the Speaker's decision on the voices was given.

## Bells Rung to Signal a Division is in Progress

- (1) Before a division is taken, the Clerk rings the division bells and the doors will not be closed until after the lapse of three minutes.
- (2) When successive divisions are taken and there has been no intervening debate after the first division, the bells for the ensuing division are rung for one minute only.

### **STANDING ORDER 130**

### Members Present to be Counted

After the lapse of three minutes from when the bells commenced ringing no Member may enter or leave the Chamber until after the completion of the division.

### **STANDING ORDER 131**

## **Assembly Divides**

When all Members are in their places, the Speaker states the question to the Assembly, and then directs the "Ayes" to proceed to the right of the Chair and the "Noes" to the left.

### **STANDING ORDER 132**

### Members Present Must Vote

The Members supporting the call for a division and every other Member present in the Chamber must vote, except the Speaker (or Member presiding) for whom voting is optional. Once the Members are on their respective sides the Whips act as the Tellers. If the Whips are not present, the Speaker appoints a Teller for each side.

### **STANDING ORDER 133**

## Recording the Count

The tellers count the Members voting and the Clerks record the vote of each Member present.

### **STANDING ORDER 134**

## Result of Division Declared

The Speaker declares the result of the division to the Assembly.

## If Only One Member on a Side During Division

If only one Member appears on a side in a division, the division will be cancelled and the Speaker declares the decision of the Assembly. The one Member may inform the Speaker that they wish their dissent to be recorded in the Minutes of Proceedings and in the Parliamentary Record and their dissent will be recorded.

## **STANDING ORDER 136**

## Question of Order arising During Division

While the Assembly is dividing Members may speak to a question of order arising out of or during the division.

## **STANDING ORDER 137**

## **Divisions Recorded**

Lists of divisions will be recorded in the Minutes of Proceedings and in the Parliamentary Record.

## **STANDING ORDER 138**

## Confusion or Error During Division

Where there is some confusion or an immediately discernable error in relation to the numbers recorded, the Speaker may consult the Whips and if the error cannot be resolved, then the question will be put again and a further division will take place.

### **STANDING ORDER 139**

### Record of Division Corrected

If a complaint is made to the Assembly that a division has been inaccurately reported, the Speaker may have the Clerk correct the record.

### **STANDING ORDER 140**

## Casting Vote

If the Speaker or Member presiding exercises a casting vote pursuant to section 27(2) of the *Northern Territory (Self Government) Act*, the reasons stated will be entered in the Minutes of Proceedings and into the Parliamentary Record.

## **CHAPTER TWELVE**

## **BILLS – INTRODUCTION AND PASSAGE**

## **STANDING ORDER 141**

### Notice and Introduction of Bills

- (1) Before introducing a bill a Member must give notice of their intention to present a bill on the next or another sitting day.
- (2) A notice of intention to introduce a bill is a document which must specify the short title and the serial number of the bill, the day for presentation and signed by the Member.
- (3) A Member must give notice by stating its terms to the Assembly when Notices are called on in the Routine of Business and delivering a copy to the Clerk at the Table.
- (4) Except by leave of the Speaker, a Member may not give notice of intention to introduce a bill which has not been printed.
- (5) A Member who has given notice may alter its terms by notifying the Assembly and delivering to the Clerk an amended notice, either on the same day or on any day prior to that for introducing a bill, or the Member may withdraw the notice by notifying the Assembly.
- (6) On the calling on of the notice to present a bill a Member will present to the Assembly a printed copy of the bill with their signature appended.
- (7) The Standing Orders apply as if a notice of intention to present a bill were a notice of motion.

## **STANDING ORDER 142**

### Title and Contents of a Bill

Every clause of a bill presented to the Assembly must come within the title of that bill being relevant to the subject matter and purpose of the bill.

### **STANDING ORDER 143**

## First Reading of a Bill

On the presentation of a bill by a Member it will be read a first time without question being put.

## Only Title of Bill to be Read

When the Speaker calls the Clerk to read a bill, on each occasion only the long title will be read.

## **STANDING ORDER 145**

## Second Reading of a Bill

When a bill has been read a first time and is called on for presentation of the second reading, the Member in charge of the bill will move either

- (a) "that the bill be now read a second time"; or
- (b) "that the second reading of the bill be made an order of the day for a later hour (or day)".

### **STANDING ORDER 146**

## Explanatory Statement to be Tabled

Unless the bill is the Appropriation Bill, when a Member concludes their second reading speech they will table a signed Explanatory Statement.

### **STANDING ORDER 147**

## Time Restriction on Passage of a Bill

A period of one month must elapse between the giving of the second reading speech of a bill and the Assembly considering the question "that the bill be now read a second time".

### **STANDING ORDER 148**

## After Second Reading of a Bill

Immediately after the bill has been read for a second time the Assembly will proceed to consider the bill in detail, However if the Assembly agrees to forego this then:

- (1) a motion may be moved by a Minister or the Member in charge of the bill, that the consideration in detail stage be deferred to another either specified or unspecified time or
- (2) a motion may be moved "that the bill be referred to a committee" or
- (3) leave may be sought "that the bill be now read a third time".

## Limits on Third Reading Debate

Debate on the question a bill be read a third time is limited to consideration of the content of the clauses in the bill at that stage and may not introduce new material or canvass matters already considered during the second reading debate or the consideration in detail stage.

## **STANDING ORDER 150**

## Resumed Consideration in Detail upon Report Back From Select Committee

When a bill has been referred to a select committee pursuant to Standing Order 148 (2) and the report of the select committee has been presented in the Assembly the bill in the context of the report delivered will then be considered in detail either immediately or on motion as an order of the day for a later hour.

## **CHAPTER THIRTEEN**

## **BILLS - AMENDMENTS AND CONSIDERATION IN DETAIL**

## **STANDING ORDER 151**

## Long Title during Consideration in Detail

In the Consideration in Detail Stage of a bill, the title and preamble of a bill are postponed without a question being proposed and the clauses are considered in order with a question being proposed by the Speaker on each clause, "that the clause stand as printed". The words of enactment at the head of the bill are not considered.

## **STANDING ORDER 152**

### Order of Consideration in Detail

- (1) A bill will be considered in the following order:
  - (a) clauses, as printed and proposed clauses, in their numerical order
  - (b) schedules, as printed and proposed schedules in their numerical order
  - (c) postponed clauses (not having been postponed until after certain other clauses)
  - (d) preamble, and
  - (e) title.
- (2) When reconsidering a bill or a bill upon report back from a select committee, the same order will be followed as far as possible.
- (3) When considering an Appropriation or Supply Bill, any schedule expressing the services for which the appropriation is to be made will be considered before the clauses and, unless the Assembly otherwise orders, that schedule will be considered by proposed expenditures in the order in which they are shown.
- (4) When considering a bill to impose taxation, any schedule must be considered before the clauses.

### **STANDING ORDER 153**

## Amendments Consistent with Bill

An amendment may be moved to any part of a bill provided it is within the title or relevant to the subject matter of the bill and conforms to the Standing Orders.

## Amendments to be in Writing

Except by leave of the Assembly, no amendment may be proposed unless

- (1) it is in writing and signed by the mover, and
- (2) copies of it are immediately available for circulation to Members.

### **STANDING ORDER 155**

### Discussion Confined to Question

The discussion is confined to the clause or amendment being considered in detail.

## **STANDING ORDER 156**

## Postponement of Clauses

A clause, or a clause which has been amended, may be postponed.

### **STANDING ORDER 157**

### Clause as Amended

If a clause is amended, the further question to be proposed is "that the clause stands as amended".

### **STANDING ORDER 158**

## No Repetition

No amendment or new clause or schedule may be moved if it is substantially the same as one already negatived, or which is inconsistent with one that has been already agreed to, unless it is being considered on a re-committal of the bill.

## **STANDING ORDER 159**

### Amendment of Title

If any amendment has been made to the bill not coming within the original title, the title will be amended and a question put, "that the title, as amended, be the title of the bill".

## **STANDING ORDER 160**

### Conclusion of Consideration in Detail

When the detail stage has been completed, the question will be put immediately "that the bill (or the bill as amended) be agreed to" and determined without amendment or debate.

## Report to Assembly Required before Assembly takes Notice

The Assembly takes no notice of any proceedings of a select committee on a bill, until such proceedings have been reported to the Assembly.

## **STANDING ORDER 162**

## Reconsideration of a Bill

At the conclusion of Consideration in Detail stage of a bill, a Member may move that the bill be reconsidered either in whole or in part.

## **STANDING ORDER 163**

## Third Reading

At the conclusion of Consideration in Detail after the Assembly has agreed to the question that the bill (as amended) be agreed to, it may be moved that the third reading of the bill be taken later or a motion may be moved and the question put "that the bill be now read a third time".

## **STANDING ORDER 164**

## Completion and Disposal of a Bill

After the third reading no further question will be put, and the bill is a proposed law with the title agreed to in the consideration of the bill.

## **STANDING ORDER 165**

## Subsequent Amendments Permitted

Amendments falling within any of the following classes of amendments may be made, by the Clerk acting with the authority of the Speaker, to proposed laws, before they are presented for assent:

- (1) amendments of a formal nature necessary or desirable to any of the long title, the short title, and the method of citation
- (2) amendments correcting clerical, numerical, grammatical or typographical errors and other amendments of a verbal or formal nature, and
- (3) amendments to the citation of an Act.

## Presentation for Assent

After a bill has been passed to be a proposed law it will be certified by the Clerk as a true copy and be presented to the Administrator for assent.

## **CHAPTER FOURTEEN**

## **MESSAGES FROM THE ADMINISTRATOR**

## **STANDIING ORDER 167**

## Messages to be Announced to Assembly

A message from the Administrator will be announced to the Assembly by the Speaker at the first available opportunity on a meeting day taking precedence over other matters, but not be announced during a debate or interrupting a Member who is speaking.

## **CHAPTER FIFTEEN**

## PROCEDURES FOR APPROPRIATION AND SUPPLY

## **STANDING ORDER 168**

## Financial Proposals: Announcement of Message from the Administrator

A message from the Administrator recommending an appropriation of revenue or moneys for the purpose of a bill will be announced before the bill to which it relates is presented.

## **STANDING ORDER 169**

## Administrator's Recommendation to Amend to Appropriate Moneys

A message from the Administrator recommending an appropriation of revenue or moneys for the purposes of an amendment to be moved to a bill will be announced before the amendment is moved.

### **STANDING ORDER 170**

## Appropriation Bill must be recommended by Administrator

A proposal for the appropriation of public moneys must be recommended to the Assembly by a message from the Administrator received in the same session of the Assembly as the bill is introduced. No amendment of the same proposal to increase, or extend the objects and purposes or alter the destination of the recommended appropriation is possible unless a further message is received.

## **STANDING ORDER 171**

## Supply Bills, Appropriation Bills and Taxation Proposals Do Not Require Notice

An Appropriation or Supply Bill or a bill or proposal dealing with taxation may be presented to the Assembly by a Minister without notice.

### **STANDING ORDER 172**

## Taxation Proposals made by a Minister Only

A proposal for the imposition, increase, or alleviation, of a tax or duty, or for the alteration of the incidence of a tax or duty may only be made by a Minister. Only a Minister may move an amendment to increase, or extend the incidence of, the charge defined in that proposal unless the charge increased or the incidence of the charge increased does not exceed that already existing under any law of the Territory.

# **PART TWO**

OTHER PRACTICE, PROCEDURE, COMMITTEE AND ADMINISTRATIVE MATTERS

## **CHAPTER SIXTEEN**

## COMMITTEES OF THE ASSEMBLY

## **STANDING ORDER 173**

## Standing Orders Committee

- (1) A Standing Orders Committee will be appointed at the commencement of each Assembly to inquire into and report on the Standing Orders and procedures of the Assembly and its committees.
- (2) The Committee must consist of the Speaker and at least four other Members, but no more than five other Members.

### **STANDING ORDER 174**

## Committee of Privileges

- (1) A Committee of Privileges must be appointed at the commencement of each Assembly to inquire into and report on complaints of breach of privilege which may be referred to it by the Assembly and act as the Committee of Members' Interests pursuant to s.3 of the Legislative Assembly (Disclosure of Interests) Act.
- (2) The Committee will consist of five Members.

## **STANDING ORDER 175**

## House Committee

- (1) A House Committee must be appointed at the commencement of each Assembly to advise the Speaker on matters relating to the operation of Parliament House and its precincts including:
  - (a) building operations
  - (b) repairs, renewals, and alterations to the Parliament House and all fittings and furniture
  - (c) information technology services for the Assembly and Members
  - (d) the library services provided to the Assembly and Members
  - (e) allocation of rooms
  - (f) catering for Parliament
  - (g) maintenance and upkeep of gardens, parking areas and associated roadways, and
  - (h) any other matter referred to it by the Speaker or the Assembly.
- (2) The committee will consist of the Speaker and four other Members.

## Subordinate Legislation and Publications Committee

- (1) A Subordinate Legislation and Publication Committee must be appointed at the commencement of each Assembly to examine and report upon all instruments of a legislative or administrative character and other papers which are required by statute to be laid upon the Table.
- (2) The Committee must consist of five Members.
- (3) The Committee will, with respect to any instrument of a legislative or administrative character which the Legislative Assembly may disallow or disapprove, consider:
  - (a) whether the instrument is in accordance with the general objects of the law pursuant to which it is made
  - (b) whether the instrument trespasses unduly on personal rights or liberties
  - (c) whether the instrument unduly makes rights and liberties of citizens dependent upon administrative and not upon judicial decisions
  - (d) whether the instrument contains matter which in the opinion of the Committee should properly be dealt with in an Act
  - (e) whether the instrument appears to make some unusual or unexpected use of the powers conferred by the statute under which it is made
  - (f) whether there appears to have been unjustifiable delay in the publication or laying of the instrument before the Assembly and
  - (g) whether for any special reason the form or purport of the instrument calls for elucidation.
- (4) The Committee, if it is of the opinion that an instrument should be disallowed or disapproved:
  - (a) will report that opinion and the grounds thereof to the Assembly before the end of the period during which any notice of the motion for disallowance of that instrument may be given to the Assembly and
  - (b) if the Assembly is not meeting, may refer its opinion and the grounds thereof to the authority by which the instrument was made.
- (5) The Committee, if it is of the opinion that any matter relating to any paper which is laid upon the Table of the Assembly should be brought to the notice of the Assembly, may report that opinion and matter to the Assembly.
- (6) The Committee will inquire into and report, from time to time, on the printing, publication and distribution of publications or such other matters as are referred to it by the Speaker or the Assembly.
- (7) For the purposes of this Standing Order, "instrument of a legislative or administrative character" has the same meaning as that defined in the *Interpretation Act*.

### **Public Accounts Committee**

- (1) Public Accounts Committee will be appointed at the commencement of each Assembly and have the following duties:
  - (a) to examine the accounts of the receipts and expenditure of the Northern Territory and each statement and report tabled in the Legislative Assembly, pursuant to the *Financial Management Act* and the *Audit Act*
  - (b) to report to the Legislative Assembly with such comments as it thinks fit, any items or matters in or arising in connection with those accounts, statements or reports, or in connection with the receipt or disbursement of the moneys to which they relate, to which the committee is of the opinion that the attention of Parliament should be drawn
  - (c) to report to the Legislative Assembly any alteration which the committee thinks desirable in the form of the public accounts or in the method of keeping them or in the method of receipt, control, issue or payment of public moneys
  - (d) to inquire into and report to the Legislative Assembly on any question in connection with the public accounts of the Northern Territory
    - (i) which is referred to it by a resolution of the Assembly or
    - (ii) which is referred to it by the Administrator or a Minister
  - (e) to inquire into and report to the Legislative Assembly on any matters within the executive authority of Ministers of the Territory to which the committee is of the opinion that the attention of the Assembly should be drawn.
- (2) The Committee will consist of six Members.
- (3) The Committee must take care not to inquire into any matters which are being examined by a Select Committee of the Assembly especially appointed to inquire into such matters and any question arising on possible overlap may be referred to the Assembly for determination.
- (4) The Committee will elect a Government Member as Chair.
- (5) The Committee will have power to appoint sub-committees and to refer to any such sub-committee any matter which the Committee is empowered to examine.
- (6) The Committee will provide an annual report of its activities to the Assembly.

## Legal and Constitutional Affairs Committee

- (1) A Legal and Constitutional Affairs Committee will be appointed at the commencement of each Assembly to inquire into and report on such constitutional and legal matters as may be referred to it by:
  - (a) the Attorney-General, or
  - (b) a resolution of the Assembly.
- (2) The Committee will consist of 5 members.

## **STANDING ORDER 179**

## Appointment of Membership of Committees

The Assembly may appoint committees by motion moved on notice and Members will be appointed to or discharged from a committee by motion moved on notice.

### **STANDING ORDER 180**

## Appointment of Select Committees

A motion to appoint a Select Committee must specify the day for the reporting of the committee's proceedings to the Assembly. The Member chairing the committee will present the final report of the committee on or before that day, unless the Assembly grants an extension of time.

## **STANDING ORDER 181**

## Membership when Assembly not meeting

If the Assembly is not meeting, the relevant Whip or non-party aligned Member may nominate the appointment or discharge of a Member of a committee in writing to the Speaker. The change in membership must take effect from the time the Speaker receives the nomination. At the next meeting, the Speaker will report the change to the Assembly.

### **STANDING ORDER 182**

## Speaker and Deputy Speaker on Committees

The Speaker and Deputy Speaker may only be appointed to a committee if a Standing or other Order requires the appointment, or if they consent.

## Member with Pecuniary Interest not to sit on Inquiry

No Member may sit on a committee if that Member has a particular direct pecuniary interest in a matter under inquiry by the committee. If the eligibility of a Member to sit on a committee is challenged, the committee may report the matter to the Assembly for resolution.

## **STANDING ORDER 184**

### Quorum

- (1) A quorum for a committee is three members, unless the Assembly orders otherwise. If at any time a quorum is not present, the Member chairing will suspend the proceedings until a quorum is present, or will adjourn the committee.
- (2) If a quorum is not present within 15 minutes from the time appointed for the meeting of a committee, any Member present may depart after recording their name with the Secretary, who will convene a meeting for another time.

## **STANDING ORDER 185**

## Convening Meetings

Notice of meetings will be given by the Secretary for the committee:

- (1) if there is no Chair of the committee, at the direction of the Clerk
- (2) pursuant to resolution of the committee
- (3) at the direction of the Chair of the committee, or
- (4) upon a request by a majority of the committee.

### **STANDING ORDER 186**

## **Committee Chairs**

- (1) Each committee will have a Chair and a Deputy Chair.
- (2) The Deputy Chair will act as the Chair during the absence of the Chair during a meeting or during a vacancy in the position of Chair.
- (3) The Member chairing a meeting will have both a deliberative and a casting vote.
- (4) If the position of Chair or Deputy Chair is vacant, the committee will elect a Member by ballot to fill the vacancy before conducting further business.
- (5) If neither the Chair nor Deputy Chair is present at a meeting, the members present will elect another Member to act as Chair at the meeting.

## **Subcommittees**

- (1) A committee may appoint subcommittees of three or more of its members and may refer to a subcommittee any matter which the committee may examine.
- (2) A committee will appoint the Chair of each subcommittee, who will have a deliberative and a casting vote. If the Chair of a subcommittee is not present at a meeting of the subcommittee, the members of the subcommittee present will elect another member of that subcommittee to act as Chair at the meeting.
- (3) A guorum of a subcommittee is two of its members.
- (4) Members who are not members of a subcommittee may participate in the public proceedings of the subcommittee but may not vote, move any motion or be counted for the purpose of a quorum.

### **STANDING ORDER 188**

## Records of Proceedings and Documents

- (1) The Secretary records the proceedings of the committee or subcommittee in the Minutes of Proceedings. The minutes are then confirmed by the committee or subcommittee and signed by the Member chairing.
- (2) Documents presented to the committee or subcommittee will be recorded in the Minutes of Proceedings.
- (3) The Speaker may permit any person to examine and take extracts from evidence submitted to, or documents and records of, committees of the former Legislative Council, and/or the Legislative Assembly, which are in the custody of the Legislative Assembly and which have been in its custody for at least 5 years: provided that such evidence was not taken in camera or that such documents and records are not of a confidential or restricted nature; and the Speaker reports to the Assembly each disclosure of evidence and or documents and records permitted taken and the name of the person or persons to whom disclosure has been made.

## **STANDING ORDER 189**

### Proceedings and Meetings of a Committee

- (1) A committee or subcommittee may conduct proceedings using any means approved by the Assembly and in the following manner
  - (a) in private meeting
  - (b) by hearing witnesses, either in public or in private and
  - (c) in the form of any other meeting, discussion or inspection conducted under the practice of committees of the Assembly.
- (2) A committee may conduct proceedings using audio-visual or audio links with members of the committee or witnesses not present in one place. If audio-visual or

- audio link is used, committee members and witnesses must be able to speak to and hear each other at the same time regardless of location.
- (3) A committee or subcommittee may conduct proceedings at any time or place as it sees fit, except that it will not meet during meetings of the Assembly except by order of the Assembly.

### Power to Call for Witnesses and Documents

- A committee or subcommittee may call for witnesses to attend and for documents to be produced.
- (2) The Member chairing a committee or subcommittee will direct the Secretary of the committee or subcommittee to invite or summon witnesses pursuant to Standing Order 202 and section 18 of the Legislative Assembly (Powers and Privileges) Act and to request or require documents to be produced as determined by the committee or subcommittee.

## **STANDING ORDER 191**

## Power to Make Use of Records of Previous Committees

A committee or subcommittee may consider and make use of the evidence and records of similar committees appointed during previous Assemblies.

## **STANDING ORDER 192**

## Examination of Committee Witnesses

- (1) The examination of witnesses before a committee will be conducted by the Members of the committee in accordance with procedures agreed to by the committee and subject to the rules of the Assembly.
- (2) The examination of witnesses will be recorded in a transcript of evidence.

## **STANDING ORDER 193**

## Admission to Hearings

- (1) When a committee is examining witnesses, visitors may be admitted but must withdraw if requested by the Member chairing the committee or any Member of the committee and must withdraw when the committee is deliberating.
- (2) A Member of the Assembly, although not a member of a committee, may participate in the committee's public sessions and question witnesses, unless the committee orders otherwise, but may not vote and must withdraw when the committee is deliberating or taking evidence in camera.

## **Publication of Evidence**

- (1) A committee or subcommittee may authorise publication of evidence given before it or documents presented to it.
- (2) A committee's or subcommittee's evidence, documents, proceedings and reports may not be disclosed or published to a person (other than a Member of the committee or a parliamentary employee assigned to the committee) unless they have been:
  - (a) reported to the Assembly, or
  - (b) authorised for publication by the Assembly, the committee or the subcommittee.
- (3) A committee may resolve to:
  - (a) publish media releases, discussion papers or other documents or preliminary findings, or
  - (b) divulge evidence, documents, proceedings or reports on a confidential basis to persons for comment.
- (4) A committee may resolve to authorise a Member of the committee to give public briefings on matters related to an inquiry. An authorised Member may not disclose evidence, documents, proceedings or reports which have not been authorised for publication. The committee determines the limits of the authorisation.
- Evidence taken by, documents presented to, minutes of proceedings and reports of a committee that have not been reported to the Assembly may not, unless authorised by the Assembly or the committee, be disclosed or published by any Member of such committee or by any other person.

### **STANDING ORDER 195**

## Power to Report from Time to Time

A committee may report to the Assembly from time to time.

## **STANDING ORDER 196**

## Draft Report Considered

- (1) The Chair of a committee will prepare a draft report and present it to the committee at a meeting convened for report consideration.
- (2) The report may be considered at once if copies have been circulated in advance to each member of the committee. The report will be considered paragraph by paragraph. When consideration of the chapters of the report is completed, the appendices are then considered in order.

- (3) After the draft report has been considered, the whole or any paragraph may be reconsidered and amended.
- (4) A Member objecting to any portion of the report may vote against it or move an amendment when the particular paragraph or appendix is under consideration.
- (5) A Member protesting about the report or dissenting from all or part of it may add a protest or dissenting report from the main report.

## Alternative Draft

If any Member, other than the Member chairing the committee, submits a draft report to the committee, the committee first decides which report will proceed.

## **STANDING ORDER 198**

## Adoption of Report

When a committee has settled consideration of a draft report, it will adopt the report.

### **STANDING ORDER 199**

## **Endorsement of Report and Papers**

- (1) Every report of a committee will be signed by the Member chairing the committee.
- (2) Any papers laid before the committee will be endorsed by the Secretary of the committee.
- (3) Any protest or dissenting report must be signed by the Member or Members dissenting.

## **STANDING ORDER 200**

## **Tabling of Report**

- (1) A Member of a committee will table the Committee's report together with the minutes of proceedings in the Assembly.
- (2) The Member tabling a report may make a Tabling Statement.
- (3) Upon tabling of a report and the conclusion of any tabling statement, any Member may move, without notice, "that the report be noted" or "that the report be adopted.
- (4) If the Assembly is not meeting, the Chair of the Committee may send the report to the Speaker or Deputy Speaker if the Speaker is unavailable. When the Speaker or Deputy Speaker receives the report its publication is deemed to be authorised by the Assembly. A Member of the committee must then table the report in the Assembly as soon as possible.

## Government Responses to Committee Reports

- (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 relevant Minister(s), who must within six months of a report being tabled, report to the Assembly 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 Minister seeks to report to the Assembly, the Assembly is not meeting, 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 tabled and its publication authorised by the Assembly
  - (b) reported to the Assembly at its next meeting.
- (4) If a Government response to a committee report has not been tabled within six months of the report being tabled, the relevant Minister (or Minister representing the Minister) will:
  - (a) present to the Assembly at the next available opportunity a signed statement stating the reasons for the delay in presentation of the response, and
  - (b) make themselves available to appear at the next reasonably available opportunity following a request by the relevant committee to answer its questions on that statement.
- (5) The Speaker is to provide a report to the Assembly twice each year on the status of Government responses to committee reports.

## **CHAPTER SEVENTEEN**

## **WITNESSES**

## **STANDING ORDER 202**

### Summons

The Assembly or a committee may order a witness, not being a Member, to attend before it or to produce papers to it by summons issued pursuant to section 18 of the *Legislative Assembly (Powers and Privileges) Act*. The Clerk, or in the case of an order from a committee either the Clerk or the Secretary of the committee, will issue the summons so ordered.

### **STANDING ORDER 203**

#### Non-Attendance of Witness

If a witness fails or refuses to attend or to give evidence, the Assembly will be advised and deal with the matter.

## **STANDING ORDER 204**

## Assembly Examining Members

When the attendance of a Member is ordered by the Assembly for examination by the Assembly they will be called by the Speaker to attend in their place.

### **STANDING ORDER 205**

## Committee Examining Members

If a committee desires the attendance of a Member as a witness, the Chair will, in writing, request them to attend; but should they refuse to attend, or to give evidence or information as a witness to the committee, the committee informs the Assembly, and will not request the Member to attend the committee again.

## **STANDING ORDER 206**

## Committee Receiving Allegations Against Members

- (1) Only the Privileges Committee may inquire into or make findings about the conduct of a Member, unless the Assembly directs another committee to review the conduct of a Member.
- (2) If a committee (other than the Privileges Committee) receives information or an allegation about a Member, the committee must inform the Member and give the Member an opportunity to make a submission about the matter. Unless the committee considers the matter is without substance, it will report the matter to the Assembly and wait for its directions.

### Protection of Witnesses

All witnesses examined before the Assembly, or any committee, are entitled to the protection of the Assembly in respect of anything that may be said by them in their evidence.

## **STANDING ORDER 208**

## Examination of witnesses

- (1) A Member giving evidence to the Assembly will be examined in his or her place.
- (2) A witness (other than a Member) must be examined at the Bar, unless the Assembly otherwise orders.
- (3) The Speaker examines the witness, and questions by Members are taken to be asked through the Speaker.
- (4) A witness before a committee or subcommittee is examined according to the procedure agreed on by the committee.

## **STANDING ORDER 209**

## Officers giving Evidence about Proceedings

No officer of the Assembly or person employed to record or transcribe evidence before the Assembly or any committee of the Assembly may give evidence elsewhere in respect of any proceedings or examination of any witness without the leave of the Assembly.

## **STANDING ORDER 210**

## Procedures to be followed by Assembly Committees for the Protection of Witnesses

Unless otherwise ordered the following procedures will be followed by Committees of the Assembly when dealing with witnesses and prospective witnesses:

- (1) a witness will be invited to attend a Committee meeting to give evidence: A witness will be summoned to appear (whether or not the witness was previously invited to appear) only where the Committee has made a decision that the circumstances warrant the issue of a summons.
- (2) where the Committee desires that a witness produce documents relevant to the Committee's inquiry, the witness will be invited to do so, and an order that documents be produced will be made (whether or not an invitation to produce documents has previously been made) only where the Committee has made a decision that the circumstances warrant such an order.
- (3) a witness will be given reasonable notice of a meeting at which the witness is to appear, and supplied with a copy of the Committee's terms of reference, a statement of the matters expected to be dealt with during the witness's appearance, and a copy of these procedures: where appropriate, a witness may be supplied with a transcript of relevant evidence already taken.
- (4) a witness will be given an opportunity to make a submission in writing before appearing to give oral evidence.

- reasonable opportunity must be available for a witness to raise any matters of concern to the witness relating to the witness's submission or the evidence the witness is to give before the witness appears at a meeting.
- (6) a witness will have reasonable access to any documents that the witness has produced to the Committee.
- (7) a witness will be offered, before giving evidence, the opportunity to make application, before or during the hearing of the witness's evidence, for any or all of the witness's evidence to be heard in private session, and will be invited to give reasons for any such application. If the application is not granted, the witness will be notified of reasons for that decision.
- (8) the Committee may table in the Assembly or publish evidence given in private session after consideration of the circumstances and deliberating that the circumstances are so extraordinary as to warrant such disclosure. Before giving any evidence in private session, a witness will be informed that it is within the power of the Committee to authorise publication of such evidence and that the Assembly also has the power to order the production and publication of such evidence.
- (9) a Member, in a protest or dissent added to a report, may not disclose evidence taken in camera unless so authorised by the Committee.
- (10) should the Committee consider it essential that evidence given or information received in private session is published or that it is essential that such evidence or information be included in the Committee's report the Chairman or Secretary of the Committee must make every effort to discuss the matter with the relevant witness in an effort to minimise any potential damage to the witness which may flow from that publication or usage.
- (11) the Chairman will take care to ensure that all questions put to witnesses are relevant to the Committee's inquiry and that the information sought by those questions is necessary for the purpose of that inquiry. Where a Member of the Committee requests discussion of a ruling of the Chairman on this matter, the Committee will deliberate in private session and determine whether any question which is the subject of the ruling is to be permitted.
- where a witness objects to answering any question put to the witness on any (12)ground, including the ground that the question is not relevant or that the answer may incriminate the witness, the witness will be invited to state the ground upon which objection to answering the question is taken. Unless the Committee determines immediately that the question should not be pressed, the Committee will then consider in private session whether it will insist upon an answer to the question, having regard to the relevance of the question to the Committee's inquiry and the importance to the inquiry of the information sought by the question: If the Committee determines that it requires an answer to the question, the witness will be informed of that determination and the reasons for the determination, and will be required to answer the question only in private session, unless the Committee determines that it is essential to the Committee's inquiry that the question be answered in public session; and where a witness declines to answer a question to which the Committee has required an answer, the Committee will report the facts to the Assembly.
- (13) where a Committee has reason to believe that evidence about to be given may reflect adversely on a person, the Committee will give consideration to hearing that evidence in private session.
- (14) where a witness gives evidence reflecting adversely on a person and the Committee is not satisfied that that evidence is relevant to the Committee's

- inquiry, the Committee will give consideration to expunging that evidence from the transcript of evidence, and to forbidding the publication of that evidence.
- (15) where evidence is given which reflects adversely on a person and action of the kind referred to in paragraph (14) is not taken in respect of the evidence, the Committee will provide reasonable opportunity for that person to have access to that evidence and to respond to that evidence by written submission and appearance before the Committee.
- (16) a witness may make application to be accompanied by counsel and to consult counsel in the course of a meeting at which the witness appears. In considering such an application, the Committee will have regard to the need for the witness to be accompanied by counsel to ensure the proper protection of the witness. If an application is not granted, the witness will be notified of reasons for that decision.
- (17) a witness accompanied by counsel will be given reasonable opportunity to consult counsel during a meeting at which the witness appears.
- (18) an officer of a department of the Territory or of the Commonwealth may not be asked to give opinions on matters of policy and be given reasonable opportunity to refer questions asked of the officer to superior officers or to a Minister.
- (19) reasonable opportunity will be afforded to witnesses to make corrections of errors of transcription in the transcript of their evidence and to put before the Committee additional material supplementary to their evidence and
- (20) where the Committee has any reason to believe that any person has been improperly influenced in respect of evidence which may be given before the Committee, or has been subjected to or threatened with any penalty or injury in respect of any evidence given, the Committee will take all reasonable steps to ascertain the facts of the matter: Where the Committee considers that the facts disclose that a person may have been improperly influenced or subjected to or threatened with penalty or injury in respect of evidence which may be or has been given before the Committee, the Committee will report the facts and its conclusions to the Assembly.

## **CHAPTER EIGHTEEN**

# PROCEDURE FOR THE FIRST MEETING AND THE OFFICERS OF THE ASSEMBLY

### **STANDING ORDER 211**

## Meeting of a New Assembly after a General Election

On the first meeting day of the session of the Assembly after a general election, Members will assemble at the time appointed and the following procedure will occur:

- (1) The Clerk reads the notice calling the Assembly together.
- (2) The Administrator or the Deputy to the Administrator will be introduced by the Serjeant at Arms to the Assembly Chamber and proceed to the Chair.
- (3) The writ of the election will be laid upon the Table by the Clerk, and Members will make and subscribe the oaths or affirmations of allegiance and of office, in the form set forth in the schedule to the *Northern Territory (Self-Government) Act* and the Administrator will sign the oaths/affirmations.
- (4) The Administrator or the Deputy of the Administrator will then announce his/her departure for the Assembly to elect a Speaker.
- (5) The Clerk will act as Chair of the Assembly to officiate over the election of a Speaker.
- (6) Upon election, the Speaker assumes the Chair and suspends the meeting of the Assembly to present him/herself to the Administrator and introduce all Members to the Administrator.
- (7) The Assembly resumes with the Speaker announced by the Serjeant at Arms and the Speaker then taking the Chair to inform the Assembly that the Administrator will attend to declare the causes of calling the Assembly together.
- (8) The Serjeant at Arms then announces the arrival of the Administrator and conducts the Administrator to the Chair; the Speaker leaves the Chair to sit to the right of the Administrator.
- (9) The Administrator declares the causes for calling the Assembly together.
- (10) The Administrator then provides a copy of the speech to the Speaker and withdraws from the Chamber.
- (11) After the Administrator has withdrawn, some formal business demonstrating the independence of the Assembly may be transacted or the Assembly may instead proceed directly with ordinary business.
- (12) The Speaker then reports to the Assembly the receipt of a copy of the Administrator's Speech.

(13) The Speech having been reported by the Speaker, a motion for an Address-in-Reply will be moved by a Minister and seconded and each Member wishing to speak will be called to speak in reply.

## **STANDING ORDER 212**

## Presentation of Address in Reply

The Address-in-Reply, as adopted by the Assembly, will be presented to the Administrator by the Speaker, accompanied by any Members who wish to attend, and the Speaker will report the Administrator's response to the Assembly.

## **STANDING ORDER 213**

## Meeting for New Sessions after Prorogation

On the first day of the session of the Assembly after prorogation, Members assemble at the time appointed by the Administrator, the Clerk reads the Notice calling the Assembly together and the Assembly proceedings follow the routine in Standing Order 211 where relevant.

### **STANDING ORDER 214**

## Election of a Speaker

The election of a Speaker will be conducted in the following manner.

- (1) At the opening of an Assembly, after the Members have been sworn in or made an affirmation or at any time the office of Speaker is vacant then an election will be conducted by the Clerk acting as Chair.
- (2) A Member will be called by the Clerk to nominate a Member who is present to be elected as Speaker by saying; I nominate the Member for X to be the Speaker of this Assembly.
- (3) The motion must be seconded.
- (4) The Clerk will ascertain if the nominee accepts the nomination or not.
- The Clerk then asks is there any further proposal? If there is no further proposal, the Clerk will say the time for proposals has expired. No Member may then address the Assembly or propose any other Member, and the Clerk will, without a question being put, declare the Member so proposed and seconded to have been elected as Speaker, and the Member will then be conducted to the Chair by their proposer and seconder, and take the Chair of the Assembly as Speaker.
- (6) If more than one Member is proposed the Clerk will, after the second proposal and after each subsequent proposal (if any) is made and seconded, ask is there any further proposal?, and if there is no further proposal the Clerk will say the time for proposals has expired.
- (7) When the time for proposals has expired, Members may debate the nominations.
- (8) No Member may speak for more than five minutes.

- (9) At any time during the debate a motion may be moved that the question be put. The Clerk will then put the question, without debate. In the event of the numbers being equal, the question is decided in the negative. Upon the carrying of the question or upon the cessation of the debate otherwise, the election proceeds.
- (10) Before the Assembly proceeds to a ballot the bells must be rung for three minutes.
- (11) Each Member present will deliver to the Clerk a ballot paper in writing, containing the name of the candidate for whom he/she votes and the votes will be counted by the Clerks at the Table; and the candidate who has the greater number of votes and the majority of the votes of Members present will be the Speaker and conducted to the Chair.
- (12) The Member who has the greatest number of votes is elected Speaker, provided it is a majority of the votes of the Members present; but if no candidate has a majority, the name of the candidate having the least number of votes will be excluded from subsequent ballots, and a fresh ballot must take place; and this will be done as often as necessary, until one candidate is declared to be elected as Speaker by a majority of Members present.
- (13) If at any ballot it is impossible by reason of an equality of votes to determine which name is excluded from subsequent ballots, a special ballot must take place at which there is submitted only the names of those candidates who have received equal votes. At a special ballot each Member will write on their ballot paper only the name of the candidate they wish to retain. The candidate whose name appears upon the least number of ballot papers is excluded from subsequent ballots.
- (14) At any time after the result of the first ballot is declared, but before the commencement of the second or subsequent ballot, a candidate may withdraw from the election which proceeds as if they had not been nominated.
- (15) If by reason of an equality of votes a ballot or special ballot is rendered inconclusive; the Clerk declares so and unless by a withdrawal another ballot or special ballot is rendered unnecessary, causes another ballot or special ballot to be taken. If after the counting of votes the equality continues the Clerk declares so. The meeting is then suspended for 30 minutes and when the Assembly reassembles the votes are taken again, unless this is rendered unnecessary by a withdrawal.
- (16) In the event of there still being an equality of votes, the Clerk declares such to be the case, and determines by lot which of the candidates, having the same number of votes, is withdrawn, as though that Member had obtained the lesser number of votes.
- (17) Whenever at any stage a withdrawal leaves only one candidate remaining they are declared elected as Speaker and conducted to the Chair.
- (18) Having been conducted to the Chair, the Member elected gives their acknowledgment to the Assembly for the honour conferred and sits in the Chair and the Mace (which until then lay under the Table) is now laid upon the Table.

#### **STANDING ORDER 215**

## Election of Deputy Speaker

At the commencement of each Assembly, or whenever the office becomes vacant by virtue of a previous Deputy Speaker resigning by informing the Speaker, or by being appointed to Ministerial office pursuant to s.37 of the *Self Government Act*, a Member who is not a Minister will be elected by the Assembly to be the Deputy Speaker.

The Deputy Speaker is the Acting Speaker at any time the Speaker is absent or unable to perform the function of the Speaker in accordance with section 25 of the *Northern Territory (Self-Government) Act*.

The Deputy Speaker is elected in the following manner:

- (1) A motion is moved, without notice, that a Member be elected Deputy Speaker of this Assembly, and the motion must be seconded.
- (2) The Speaker then asks if there is any further motion and, if there is not, will say that the time for motions has expired. No member may then address the Assembly or move any motion for the election of a Member as Deputy Speaker, and the Speaker, without question put, will declare the Member named in the motion to have been elected Deputy Speaker.
- (3) If more than one motion for the election of the Deputy Speaker is moved and seconded, the Speaker will, after the second motion and after each subsequent motion (if any), ask if there is any further motion and, if there is not, will say that the time for motions has expired.
- (4) When the time for motions has expired, debate may ensue, but it must be relevant to the election.
- (5) No Member may speak for more than five minutes.
- (6) At any time during the debate, a motion without notice may be moved by a Member rising in their place, and whether any Member is addressing the Assembly or not, "that the question be now put", the question is then put and decided without amendment or debate.
- (7) Upon the carrying of the question "that the question be now put", or upon the cessation of the debate otherwise, the election of the Deputy Speaker proceeds as provided in this Standing Order.
- (8) Before the Assembly proceeds to a ballot, the bells must be rung for three minutes.
- (9) When only two motions for the election of Deputy Speaker are moved and seconded, each Member present delivers to the Clerk a ballot paper in writing, containing the name of the Member named in one or other of the motions for whom they vote, and the votes are counted by the Clerks at the Table; and the Member who has the greater number of votes is the Deputy Speaker.
- (10) When more than two motions for the election of Deputy Speaker are moved and seconded, the votes are taken in the same manner, and the Member who has the greatest number of votes is the Deputy Speaker, provided they have a majority of

votes of the Members present; but if no Member has such majority, the name of the Member having the least number of votes is excluded from subsequent ballots, and a fresh ballot takes place; and this is done as often as necessary until one Member has a majority of votes of Members present when they become Deputy Speaker.

- (11) If, after any ballot in which the names of only two Members are submitted, there is an equality of votes, the Speaker must exercise their casting vote and the Member for whom the casting vote is given becomes the Deputy Speaker.
- (12) If, after any ballot in which the names of more than two Members are submitted, it is impossible by reason of an equality of votes to determine which name will be excluded from subsequent ballots:
  - (a) if there is an equality of votes for two Members, the Speaker exercises their casting vote and the name of the Member for whom the casting vote is not given is excluded from subsequent ballots
  - (b) if there is an equality of votes for more than two Members, a special ballot takes place at which there are submitted only the names of those Members who have received equal votes and in which case each Member will write on their ballot paper only the names of the Members they wish to retain. The name of the Member who receives the least number of votes will be excluded from subsequent ballots. If, by reason of a continued equality of votes, the special ballot is inconclusive, then, unless a name is withdrawn, the sitting is suspended for 30 minutes. When the meeting is resumed, the votes are taken again unless this is rendered unnecessary by a withdrawal, and
  - (c) in the event or there still being an equality of votes, the Speaker will declare such to be the case and determine by lot which of the candidates having the same number of votes is withdrawn, as if that Member had the least number of votes.
- (13) At any time after the result of the first ballot is declared, but before the commencement of any subsequent ballot, a Member whose name was submitted in the first ballot may withdraw and all further proceedings will take place as if a motion for their election as Deputy Speaker had not been moved.
- (14) When a withdrawal leaves only one Member in respect of whom a motion for election as Deputy Speaker is before the Assembly, that Member is declared to have been elected Deputy Speaker.

#### **STANDING ORDER 216**

#### Absence of Speaker on a Meeting Day

If the Speaker is absent from a meeting of the Assembly, the Clerk will inform the Assembly at the commencement of the meeting and the Deputy Speaker will take the Chair.

#### **STANDING ORDER 217**

# Absence of Speaker and Deputy Speaker at Same Time

When the Assembly is informed by the Clerk of the absence of both the Speaker and Deputy Speaker, the Members present, if a quorum exists, will proceed to elect an Acting Speaker to take the Chair for the duration of the absence/s.

If a Speaker has not been appointed by the Assembly, the Administrator may appoint a Speaker in accordance with s.26 of the *Northern Territory (Self-Government) Act*.

#### **STANDING ORDER 218**

# Deputy Speaker to take Chair

The Deputy Speaker or an Acting Deputy Speaker may assume the Chair as required.

#### **STANDING ORDER 219**

# Acting Deputy Speakers

From time to time, the Speaker may nominate (and may also revoke a nomination) for a Member or Members to act as Deputy to take the Chair if requested by the Speaker or Deputy Speaker.

# **STANDING ORDER 220**

# Clerk Absent from Meeting of the Assembly

If the Clerk is absent from the Assembly on a day the Assembly meets then the Deputy Clerk will perform the duties of the Clerk. If both the Clerk and Deputy Clerk are absent on a meeting day, the First Clerk Assistant will perform the duties of the Clerk and the next most senior Clerk Assistant will perform the duties of the Deputy Clerk.

#### **STANDING ORDER 221**

#### Office of Clerk Vacant

During any vacancy in the office of Clerk all powers, functions, and duties of the Clerk will be exercised and performed by the Deputy Clerk.

# **CHAPTER NINETEEN**

# ATTENDANCE, SEATING, LEAVE OF ABSENCE, MINUTES, RECORDS AND BROADCASTING

# **STANDING ORDER 222**

#### Member Attendance and Absence Recorded

Member attendance and absence on a day the Assembly meets will be recorded in the Minutes of Proceedings.

#### **STANDING ORDER 223**

# Member Seating in Chamber

Member seating is a matter for determination by the Speaker.

#### **STANDING ORDER 224**

#### Member Absent on Leave

The Assembly may grant a leave of absence for any Member by agreeing to a motion moved which explains the reason and period of absence. If granted, the Member is excused from attending a meeting of the Assembly or any Committee for the duration. Such a motion may be moved without notice at any time when there is no question before the Chair.

#### **STANDING ORDER 225**

#### Leave Forfeited if Member Attends the Assembly

A Member given leave forfeits the remainder of their leave if they attend the Assembly before the leave period expires.

#### **STANDING ORDER 226**

#### Minutes of Proceedings to be Kept

The Clerk will record and make available minutes of each meeting day's proceedings.

#### **STANDING ORDER 227**

#### Custody of all Records

Under the direction of the Speaker, the Clerk has custody of all documents created by and presented to the Assembly and the Speaker has discretion to release any original documents lodged by another party.

#### **STANDING ORDER 228**

# Broadcasting of Assembly and Committee Proceedings

Unless otherwise ordered the Assembly authorises the broadcast, rebroadcast and televising of all or portions of the debates or proceedings of the Assembly or a committee for the purposes of section 23 of the *Legislative Assembly (Powers and Privileges) Act* in accordance with the following provisions:

- (1) Recordings and broadcasts of the Assembly may be made only from the Legislative Assembly system, unless otherwise approved by the Speaker or his or her delegate and in accordance with guidelines determined by the Speaker from time to time.
- (2) Recording and broadcast of sound and vision of committee proceedings are subject to any conditions or restrictions agreed to by that committee.
- (3) Broadcasts of excerpts will be used only for the purposes of fair and accurate reports of proceedings, and will not be used for:
  - (a) political party advertising or election campaigns
  - (b) satire or ridicule or
  - (c) commercial sponsorship or commercial advertising.
- (4) Reports of proceedings will be such as to provide a balanced presentation of differing views.
- (5) Excerpts of proceedings which are subsequently withdrawn may be broadcast only if the withdrawal is also reported.
- (6) Excerpts must be placed in context. Commentators should identify Members by name.
- (7) Events or activity in the galleries are not part of the proceedings and excerpts in relation to such events may not be used.
- (8) Where the audio excerpts of the proceeding are used on television, their use may be that of audio over still frames or overlay material.
- (9) The Speaker is empowered from time to time to make and publish rules and guidelines in a Speaker's Determination which may limit, and /or provide guidance about the reporting of proceedings and the conduct and behaviour of media representatives. Such rules and guidelines will be tabled in the Assembly and made available on the Assembly website.

# **CHAPTER TWENTY**

# **PRIVILEGE**

#### **STANDING ORDER 229**

### Procedure for Consideration of Privilege Motions

A matter of privilege suddenly arising during the course of a meeting of the Assembly may be raised at the time it is alleged to have occurred and all other business will be suspended until the matter is disposed of.

At all other times, a matter of privilege may only be raised by written notification to the Speaker seeking precedence over other matters on the Notice Paper and the following procedure will apply:

- (1) On receipt of a written request outlining the alleged breach of privilege seeking precedence to move the Assembly consider the matter, the Speaker will determine as soon as possible whether the proposed motion relating to the matter should have precedence over all other business.
- (2) When considering whether to grant precedence the Speaker must have regard to the principle that the Assembly's power to adjudge and deal with contempt is only to be used when it is necessary to provide reasonable protection to the Assembly and its Committees and for Members against improper acts which would obstruct them in the performance of their duties.
- (3) Precedence will not be granted if the Speaker takes the view the matter raised is trivial or not requiring the immediate and urgent attention of the Assembly.
- (4) Precedence will not be granted if another remedy exists to deal with the alleged contempt or breach of privilege.
- (5) The Speaker's decision will be communicated to the applicant Member in writing.
- (6) If the Speaker grants precedence, the Speaker will announce to the Assembly that precedence has been granted for a motion to be moved immediately.
- (7) If the motion pertains to alleged behaviour of another Member there is no obligation on the Speaker to forewarn the other Member.
- (8) Until the Speaker responds in writing to the applicant Member, that Member may take no further action in the Assembly on the matter raised with the Speaker.
- (9) If the Speaker determines that the proposed motion relating to the matter should not be accorded precedence, the applicant Member may give notice at the usual time according to the Assembly's adopted Routine of Business of a motion to be moved on a subsequent meeting day.
- (10) Where notice of a motion is given under paragraph (9) and the Assembly is not expected to meet within one week immediately after the day on which the notice is given, the motion may be moved on the same day.

#### **STANDING ORDER 230**

# Motions Concerning a Finding of Contempt

A motion to:

- (1) determine that a person has committed a contempt, or
- (2) impose a penalty upon a person for a contempt

may be moved at least one meeting day after notice of the motion has been given.

#### **STANDING ORDER 231**

Criteria to be taken into account by Speaker in determining whether a motion arising from a matter of privilege should be given precedence of other business.

Unless otherwise ordered, in determining whether a motion arising from a matter of privilege should have precedence of other business, the Speaker will have regard only to the principle that the Assembly's power to adjudge and deal with contempt should be used only where it is necessary to provide reasonable protection for the Assembly and its committees and for Members against improper acts tending substantially to obstruct them in the performance of their functions and should not be used in respect of matters which appear to be of a trivial nature or unworthy of the attention of the Assembly; and the existence of any remedy other than that power for any act which may be held to be a contempt.

#### **STANDING ORDER 232**

#### Procedures for the Protection of Witnesses before the Privileges Committee

In consideration of any matter referred to it which may involve, or gives rise to any allegation of contempt, the Committee of Privileges will observe the procedures set out Standing Order No 210 and the following:

- (1) A person will be informed, in writing, as soon as possible of the nature of any allegations, known to the Committee and relevant to the Committee's inquiry, against the person, and of the particulars of any evidence which has been given in respect of the person.
- (2) The Committee will extend all reasonable opportunity to respond to such allegations and evidence by:
  - (a) making a written submission to the Committee
  - (b) giving evidence before the Committee
  - (c) having other evidence placed before the Committee and
  - (d) having witnesses examined before the Committee.
- (3) Where oral evidence is given containing any allegation against, or reflecting adversely on, a person, the Committee will ensure as far as possible that that person is invited to be present during the hearing of that evidence, and afford

- all reasonable opportunity for that person, by counsel or personally, to examine witnesses in relation to that evidence.
- (4) A person appearing before the Committee may be accompanied by counsel, and be given all reasonable opportunity to consult counsel during the appearance.
- (5) A witness will not be required to answer in public session any question where the Committee has reason to believe that the answer may incriminate the witness.
- (6) Witnesses will be heard by the Committee on oath or affirmation.
- (7) Hearing of evidence by the Committee will be conducted in public session, except where:
  - (a) the Committee accedes to a request by a witness that the evidence is heard in private session
  - (b) the Committee determines that the interests of a witness would best be protected by hearing evidence in private session or
  - (c) the Committee considers that circumstances are otherwise such as to warrant the hearing of evidence in private session.
- (8) The Committee may appoint, on terms and conditions approved by the Speaker, counsel to assist it.
- (9) The Committee may authorise, subject to rules determined by the Committee, the examination by counsel of witnesses before the Committee.
- (10) As soon as practicable after the Committee has determined findings to be included in the Committee's report to the Assembly, and prior to the presentation of the report, a person affected by those findings will be advised of the findings and afforded a reasonable opportunity to make submissions to the Committee, in writing and orally, on those findings. The Committee must take these submissions into account before making its report to the Assembly.
- (11) The Committee may recommend to the Speaker the reimbursement of costs of representation of witnesses before the Committee. Where the Speaker is satisfied that a person would suffer substantial hardship due to liability to pay the costs of representation of the person before the Committee, the Speaker may make reimbursement of all or part of such costs as the Speaker considers reasonable and
- (12) Before appearing before the Committee a witness will be given a copy of this Standing Order.

#### **STANDING ORDER 233**

# Exercise of Freedom of Speech

(1) When speaking in the Assembly or in a committee, Members should take the following matters into account:

- (a) the need to exercise their valuable right of freedom of speech in a responsible manner
- (b) the damage that may be done by allegations made in the Assembly to those who are the subject of such allegations and to the standing of the Assembly
- (c) the limited opportunities for persons other than Members of the Assembly to respond to allegations made in the Assembly
- (d) the need for Members, while fearlessly performing their duties, to have regard to the rights of others and
- (e) the desirability of ensuring that statements reflecting adversely on persons are soundly based.
- (2) Whenever the Speaker considers it is desirable to do so, the Speaker may draw the attention of the Members to the guidance contained in this Standing Order.

# **CHAPTER TWENTY-ONE**

# **BALLOTING**

#### **STANDING ORDER 234**

### Ballot to be Conducted upon Agreement by Assembly

A ballot may be taken whenever the Assembly agrees to conduct a ballot.

# **STANDING ORDER 235**

### Bells to Be Rung to Signify a Ballot is Proceeding

Before the Assembly proceeds to any ballot, the division bells will ring for three minutes.

# **STANDING ORDER 236**

# **Procedure for Conducting a Ballot**

Unless otherwise expressly provided, a ballot will be conducted by the Clerk who will be provided a name or list of names by each Member present. If any list contains a greater or lesser number of names than are to be chosen it is immediately invalid and not counted.

When all the lists are collected, the Clerk will report to the Speaker the name or names of the Members having the greatest number of votes, and these Members are declared as appointed.

In the event of an equality of votes, the names of the Members are submitted to a further ballot. In the event of there still being an equality of votes, the Speaker exercises a casting vote and the Member for whom the Speaker gives a casting vote is appointed.

# **CHAPTER TWENTY-TWO**

# PAPERS AND DOCUMENTS

#### **STANDING ORDER 237**

### Papers and Documents may be Ordered by the Assembly

Papers may be ordered to be laid before the Assembly. The Clerk will convey the order of the Assembly to the Minister concerned and when received the papers will be laid on the Table by the Clerk.

#### **STANDING ORDER 238**

## Form of Address Seeking Documents in relation to the Administrator

Motions for the production of documents or correspondence addressed to the Administrator, or for any information emanating from the Administrator, will be in the form "That an Address be presented to the Administrator", to that effect.

#### **STANDING ORDER 239**

## Presentation of Papers and Documents to the Assembly and Deemed Papers

Papers may be presented in the Assembly by the Speaker, by a Committee Chair furnishing a report from a Committee, by any prior resolution of the Assembly, as required by any statute, by command of the Administrator, or by leave of the Assembly.

Ministers may lay upon the Table a document at any time when they have the call.

Papers may be either presented in the Assembly or may be deemed to have been presented by delivering them to the Clerk, who will record them in the Minutes of Proceedings as *Deemed Papers*.

#### **STANDING ORDER 240**

#### Tabled Papers are Public Documents

Unless otherwise ordered, all papers and documents presented to the Assembly will be considered public and the publication of such documents is authorised.

Papers are available for inspection at the offices of the Assembly by Members and by other persons. Copies of an entire document or in part may be made, and a fee may be levied by the Clerk for the cost of copying any material.

# **STANDING ORDER 241**

# Documents Quoted from may be Ordered to be Tabled

A document which relates to public affairs which is quoted from by a Minister must be tabled upon request by any Member unless the Minister states the document quoted from is confidential.

#### **STANDING ORDER 242**

# Motions on Tabled Papers

When a paper is tabled in the Assembly as provided in this Chapter, a Member may move without notice, or subsequently with notice any of the following:

- (1) that the paper be made available in an accessible format
- (2) that the Assembly take note of the paper
- (3) that the publication of the paper not be permitted.

# **CHAPTER TWENTY-THREE**

# **VISITORS (STRANGERS)**

# **STANDING ORDER 243**

#### Seating of Visitors

The Speaker determines who may sit in the Speaker's Gallery and may admit distinguished visitors to a seat on the floor of the Chamber.

When required, Members may reserve two seats in the public galleries for their visitors by advising the Serjeant at Arms.

#### **STANDING ORDER 244**

# Visitors Ordered to Leave

Any Member may move without notice that visitors must leave any meeting of the Assembly or committee. The question "visitors must immediately leave" will be put by the Speaker and decided without debate. The Speaker may at any time require the departure of visitors.

# **STANDING ORDER 245**

## Chamber access for Members Only

Only Members are permitted on the floor the Chamber during meetings of the Assembly. On other days, the permission of the Speaker is required for a visitor to enter onto the floor of the Chamber.

# **CHAPTER TWENTY-FOUR**

# ADDRESSES TO THE HEAD OF STATE

#### **STANDING ORDER 246**

### Motions to Address the Head of State or Representative

A motion may be moved on notice to present an Address to Australia's Head of State, their representative in either Australia or in the Northern Territory.

#### **STANDING ORDER 247**

# Address of Congratulations or of Condolence to the Royal Family

Addresses of congratulation or condolence to members of the Royal Family may be moved by a Minister without notice.

#### **STANDING ORDER 248**

#### Addresses to Head of State or Royal Family to be via the Administrator

All Addresses made pursuant to Standing Order 246 and 247 will be forwarded to the Administrator of the Northern Territory by the Speaker who will request the Administrator forward the Address for presentation to Australia's Head of State or their representative.

## **STANDING ORDER 249**

#### Presentation of Address to the Administrator

Addresses to the Administrator will be presented in person by the Speaker, unless the Assembly otherwise orders.

#### **STANDING ORDER 250**

# When an Address is Presented by the Whole Assembly

When an Address is ordered to be presented by the whole Assembly, the Speaker, accompanied by Members of the Assembly, will proceed to the place the Administrator appoints and the Speaker will read the Address to the Administrator. The Members who moved and seconded the Address will stand on the Speaker's left.

### **STANDING ORDER 251**

# Administrator's Reply

The Administrator's reply to any Address presented by the whole Assembly is to be reported by the Speaker.

# **CHAPTER TWENTY-FIVE**

# THESE STANDING ORDERS

#### **STANDING ORDER 252**

# Suspension of Standing Orders

When there is no question before the Chair, any Standing or Sessional Order or other Order of the Assembly may be suspended by a vote of an absolute majority of 13 or more Members when a motion is moved without notice.

#### **STANDING ORDER 253**

# Majority Required to Suspend Standing Orders with Notice Given

When a motion for the suspension of any Standing or Sessional Order or Order of the Assembly appears on the Notice Paper, the motion must be supported by a majority of Members present in order to take effect.

#### **STANDING ORDER 254**

## Limitation on Consequence of Suspension of Standing Orders

A suspension of Standing Orders is limited in its operation to the particular purpose for which suspension has been sought.

#### **STANDING ORDER 255**

# Status of Standing Orders

These Standing Orders will continue in force until altered, amended, or repealed.

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# SESSIONAL ORDERS FOR THE 12th ASSEMBLY

# 1. Parliamentary Pairs

Unless otherwise ordered, the existence of a pair arrangement will be noted in the division lists in the Minutes of Proceedings and the Parliamentary Record when the relevant whips or non-party aligned Members have advised the Table Office that a pairing arrangement is in place.

# 2. Right of Reply for persons who are referred to in the Legislative Assembly

- (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;
  - (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 will 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 will 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 will meet in private session.
- (5) The Committee will 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 will 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 will 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, will be succinct and strictly relevant to the questions in issue and will not contain anything offensive in character
  - (b) will 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)
    - (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 will continue in force unless and until amended or rescinded by the Assembly in this or a subsequent Assembly.

# **Procedure and Development of 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.

### **Adopted Guidelines**

- an application must be received within three 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
- 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. Conditions for Incorporation of Material in the Hansard Record

Any written material a Member proposes be incorporated must conform with the Rules of Debate in the Standing Orders.

When considering the giving of leave, the Speaker will consider whether the material proposed for incorporation is in accordance with the rules of debate and does not contravene any of the Standing Orders.

The Speaker will also consider the material in the context of where it is proposed to be incorporated. For example where a member proposes to incorporate a speech which would take 20 minutes to read in the adjournment debate, leave is unlikely to be granted as it gives that member an advantage over other members who have stood twice to deliver that amount of material orally.

The Speaker will not give leave from the chair for the remainder of a speech to be incorporated.

The speaker may give leave from the chair for short lists of names to be incorporated, otherwise the process is:

All material proposed to be incorporated must be delivered electronically to the office of the Speaker at least 24 hours ahead of the time proposed for incorporation. Email the proposed material to la.speaker@nt.gov.au.

The Member will still be required to stand and seek leave from the Speaker to incorporate the material which was delivered as above.

#### 4. Committee of Members' Interests

This Assembly, pursuant to section 3 of the *Legislative Assembly (Disclosure of Interests) Act 2008*, assigns the Standing Orders Committee to act as the Committee of Members' Interests for the purposes of this Act.

# 5. Standing Orders Committee Membership

The membership of the Standing Orders Committee will include one non-party aligned Member of the Assembly in addition to the number of Members specified in Standing Order 173 where the Assembly has a non-party aligned Member or Members.

## 6. Prayers

Pursuant to Standing Order 7 the prayer to be said at the commencement of each sitting day is as follows:

Almighty God we humbly beseech thee to vouchsafe thy blessing upon this Assembly. Direct and prosper our deliberations to the advancement of thy glory and the true welfare of the people of the Northern Territory.

Our Father, which art in heaven, hallowed by 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 them that 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, forever and ever. Amen.

# 7. Routine of Business

Pursuant to Standing Orders 60 and 63 the Routine of Business for the 12<sup>th</sup> Assembly is:

Tuesday and Thursday

- 1. Pravers
- 2. Government Business Second Reading of Bills, Notices of Motions, and Orders of the Day
- 4. At 2pm

Presentation of Bills for First Reading

Notices

Petitions

- 5. Government Business
- 6. Ministerial Statements
- 7. Papers
- 8. Consideration of Committee Reports, Auditor-General's Reports and Government Responses
- 9. Discussion pursuant to Standing Order 94 (Matter of Public Importance)

# Wednesday

- 1. Prayers
- 2. Government Business Second Reading of Bills, Notices of Motions, and Orders of the Day
- 4. At 2pm

Presentation of Bills for First Reading

**Notices** 

Petitions

- 5. Government Business
- 6. Ministerial Statements
- 7. Papers
- 8. Consideration of Committee Reports, Auditor-General's Reports and Government Responses
- 9. Discussion pursuant to Standing Order 94 (Matter of Public Importance)
- 10. General Business Notices and Orders of the Day 5.30pm to 9pm



# **Legislative Assembly of the Northern Territory**

# The Standing Orders Committee's Consideration of Redrafted Standing Orders for the 12<sup>th</sup> Assembly

# **Revision Process - Executive Summary**

These proposed Standing Orders have been circulated to all Members of the Legislative Assembly in previous forms.

This document contains innovations discussed at the February 2015 meeting of the Standing Orders Committee which includes a revised method for presenting bills rather than providing for Notice and the deletion of the Committee of the Whole procedure to instead allow for a Consideration in Detail stage.

This document includes commentary by way of 'Policy Discussion' for each proposed Standing Order.

This document is adapted from previous reports to the Committee and is an annexure to the final Report of the Standing Orders Committee to the Legislative Assembly.

During 2013 the Standing Orders Committee determined to review the Standing Orders for the first compete revision since a report tabled in the Assembly in June 1985.

Members were provided a copy of draft proposed Standing Orders during August 2014 and briefings occurred with interested Members.

The purpose of the review has been to consider:

- Changes to language used in order to ensure clarity of meaning and eliminate ambiguity.
- Provide for consistency throughout
- Question obsolete and never used provisions and provide suggestions or alternatives
- A more logical ordering of the Standing Orders
- Modernising the Standing Orders while respecting Westminster conventions and the requirements of the Self Government Act.
- Reflect the will of the Assembly by making the Standing Orders relevant to everyday procedural practice.

The Committee was advised to exercise caution and diligence on each proposal as all changes should be considered in detail. Only a Member can determine what is most significant for them as a practitioner in the Assembly.

This record allows readers to examine what was considered by the Committee during the revision stages.

# PROPOSED CHAPTER RE-ARRANGEMENT

EXISTING	PROPOSED
	PART ONE Frequently Used Practice and Procedure
Chapter I	Chapter One
General Rule and Definitions	General Rules, Definitions and Applications
See Chapter One	
Chapter II	Chapter Two
Procedure for First Meetings	Sitting Days, Quorum and Adjournment
See Chapter Eighteen	
Chapter III	Chapter Three
Officers of the Assembly	Rules of Debate
See Chapter Eighteen	
Chapter IV	Chapter Four
Standing Committees	Disorder
See Chapter Sixteen	
Chapter V	Chapter Five
Attendance, Seating, Leave of Absence, Minutes and Records	Business of the Assembly & Orders of the Day
See Chapter Nineteen	
Chapter VI	Chapter Six
Sitting and Adjournment of the Assembly	Notices of Motion & Motions
See Chapter Two	
Chapter VII	Chapter Seven
Rules of Debate	Amendments to Motions and Questions
See Chapter Three	
Chapter VIII	Chapter Eight
Privilege	Questions Seeking Information
See Chapter Twenty	
Chapter IX	Chapter Nine
Business	Ministerial Statements
See Chapter Five	
Chapter X	Chapter Ten
Petitions	Petitions

See Chapter Ten	
Chapter XI	Chapter Eleven
Notices of Motion	Divisions
See Chapter Six	
Chapter XII	Chapter Twelve
Questions Seeking Information	Bills – Introduction and Passage
See Chapter Eight	
	Chapter Thirteen
Chapter XIII	Bills - Amendments and Consideration in Detail
Motions	and Procedure for Committee of the Whole
See Chapter Six	
Chapter XIV	Chapter Fourteen
Amendments	Message from the Administrator
See Chapter Seven	
Chapter XV	Chapter Fifteen
Orders of the Day	Procedures for Appropriation and Supply
See Chapter Five	
Chapter XVI	
Divisions	
DIVISIONS	
See Chapter Eleven	
	PART TWO
	Other Practice, Procedure, Committee and Administrative Matters
Chapter XVII	Chapter Sixteen
Bills	Committees of the Assembly
See Chapter Twelve	
Chapter XVIII	Chapter Seventeen
Proposed Laws Returned	Witnesses
Observation and the deletion	
Chapter proposed for deletion	
Chapter XIX	Chapter Eighteen
Committee of the Whole Assembly	Procedure for First Meeting and Officers of the Assembly
See Chapter Thirteen	
Chapter XX	Chapter Nineteen
Financial Procedures	Attendance, Seating, Leave of Absence, Minutes and Records
See Chapter Fifteen	

Chapter XXI	Chapter Twenty
Message from the Administrator	Privilege
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See Chapter Fourteen	
Chapter XXII	Chapter Twenty One
Instructions to Committees	Balloting
See Chapter Sixteen	
Chapter XXIII	Chapter Twenty Two
Disorder	Papers and Documents
See Chapter Four	
Chapter XXIV	Chapter Twenty Three
Strangers	Visitors (Strangers)
-	, , ,
See Chapter Twenty Three	
Chapter XXV	Chapter Twenty Four
Papers and Documents	Addresses to the Queen or Administrator
See Chapter Twenty Two	
Chapter XXVI	Chapter Twenty Five
Ministerial Statements	These Standing Orders
See Chapter Nine	
Chapter XXVII	Sessional Orders and Orders of Continuing
Committees	Effect
See Chapter Sixteen	
Chapter XXVIII	
Witnesses	
See Chapter Seventeen	
Chapter XXIX	
Balloting	
See Chapter Twenty One	
Chapter XXX Addresses to the Queen or Administrator	
Additional to the Queen of Authinistrator	
See Chapter Twenty Four	
Chapter XXXI	
Standing Orders	
See Chapter Twenty Five	

# **PART ONE**

# FREQUENTLY USED PRACTICE AND PROCEDURE

# **CHAPTER ONE**

**GENERAL RULES, DEFINITIONS AND APPLICATIONS** 

#### **STANDING ORDER No 1**

# Existing Standing Order No 1

#### General Rule

In all particular cases not provided for hereinafter, or by sessional or other orders or practice of the Assembly, resort shall be had to the practice of the House of Representatives of the Parliament of the Commonwealth of Australia in force for the time being, which shall be followed as far as it can be applied.

# Policy Discussion

The existing chapter heading is *General Rule and Definitions*. The new chapter heading of *General Rules, Definitions and Applications* is proposed to incorporate additional content at Standing Order No 2 below.

The General Rule contained at existing Standing Order No 1 mirrors the General Rule that was applicable until 2004 in the House of Representatives of the Commonwealth where resort was had to practice of the United Kingdom House of Commons.

With the development of the House's own body of practice, reference to House of Commons practice became rare and has been omitted from House of Representatives Standing Orders. It is arguable that as the Assembly has now developed a body of practice and precedent over nearly 40 years it may be timely to replace the existing General Rule with an order in the same terms omitting any reference the House of Representatives.

The difficulty in this approach is the past practice of filing and retrieval of rulings and precedents in the Northern Territory. There is no single existing rulings database in existence and while work has commenced since the beginning of the 12<sup>th</sup> Assembly to record all decisions from the Chair, previous records are not comprehensive.

When Standing Orders were last changed in 1985, the then Committee sought to increase flexibility by providing for reference to the established practice of the Assembly *before* looking to the *House of Representatives Practice*. This approach is continued and strengthened in the re-written Standing Order without eliminating the reference to *The Practice* altogether.

# Proposed Standing Order No 1

### General Rule about Application and Interpretation

Rulings and interpretation of these standing orders is the responsibility of the Speaker or member presiding in the chair, guided by previous rulings and the practices of the Assembly and, if required, the most recent edition of the House of Representatives Practice.

#### **STANDING ORDER No 2**

# Existing Standing Order No 2

#### **Definitions**

In these Orders unless the contrary intention appears:

"A session" means the series of sittings:

- (1) from the calling together of the Assembly after a general election until the Assembly is prorogued, or
- (2) from the calling together of the Assembly after a prorogation until the Assembly is next prorogued.

"A sitting day" means a meeting of the Assembly from the ringing of the bells at the appointed time until the adjournment of the Assembly.

"An Assembly" means the series of sittings comprised of one or more sessions from the calling together of the Legislative Assembly after a general election until it is prorogued prior to the next general election.

"Chief Minister" means the Minister designated as Chief Minister by the Administrator.

"Minister" means a Member appointed to a ministerial office by the Administrator with such designation as the Administrator from time to time determines.

"Speaker" means the Member elected to be Speaker pursuant to Standing Order 7 and in the absence of that Member means the Deputy Speaker.

"The Assembly" means the Legislative Assembly of the Northern Territory of Australia constituted by the *Northern Territory (Self-Government) Act.* 

"The Chamber" means the area within the walls enclosing the Speaker's Chair, the Table and Members' seats but does not include areas specifically set aside for visitors or 'strangers'.

#### Policy Discussion

This Standing Order provides for the definitions. The proposal is for a minor clarification and changes to reflect the provisions of s.17 of the *Northern Territory (Self-Government) Act* and in accordance with Part 5 of the NT *Electoral Act* the addition of the words 'Extraordinary General Election' is proposed.

The definition of Speaker also covers 'Chair' and 'Presiding Officer' given these terms are often interchangeable and used throughout Standing Orders, although this re-write attempts to standardise the use of the word *Speaker* where possible.

The definition also notes that seating allocated to advisors is not part of the Chamber and therefore advisors are not required to pay obeisance to the Chair as they are not Members or considered to be present in the Assembly Chamber. While strictly speaking advisors are 'strangers' it is useful to clarify the wording to be relevant and readily applicable to the everyday users of the building.

Existing Standing Order No 5 – definition of "Administrator" is also included rather than being a standalone Standing Order.

The footnotes to previous amendments will become superfluous if adopted as new Standing Orders for 2015.

It is also proposed that there be a new subheading called *Application of Standing Orders*. If agreed this would continue under Standing Order No 2 or become a renumbered Standing Order No 3. The purpose of this addition is to provide clarity and guidance about how the Standing Orders operate and how change may occur.

# Proposed Standing Order No 2

### **Definitions & Application of Standing Orders**

#### **Definitions**

In these Orders unless the contrary intention appears:

"Session" means the series of sittings —

- (3) from the calling together of the Assembly after a general election until the Assembly is prorogued, or
- (4) from the calling together of the Assembly after a prorogation until the Assembly is next prorogued.

"Sitting day" means a meeting of the Assembly from the ringing of the bells at the appointed time until the adjournment of the Assembly.

"An Assembly" means the series of sittings comprised of one or more sessions from the calling together of the Legislative Assembly after a general election until it is prorogued prior to the next general election or the holding of an extraordinary general election.

"Chief Minister" means the Minister designated as Chief Minister by the Administrator.

"Minister" means a Member appointed to a ministerial office by the Administrator with such designation as the Administrator from time to time determines.

"Speaker" means the Member elected to be Speaker pursuant to Standing Order 232 and in the absence of that Member means the Deputy Speaker. Where the words "Presiding Officer" or "Chair" occur these words mean the same as "Speaker" who is the principle office holder in the Assembly.

"The Assembly" means the Legislative Assembly of the Northern Territory of Australia constituted by the *Northern Territory (Self-Government) Act.* 

"The Chamber" means the area within the walls enclosing the Speaker's Chair, the Table and Members' seats but does not include areas specifically set aside for strangers or seating allocated to advisors.

"The Administrator" means the person for the time being acting as Administrator of the Northern Territory.

# **Application**

These Standing Orders are the rules of the Assembly made under the power granted by section 30 of the *Northern Territory (Self-Government) Act*. They are of continuing effect and apply until changed by the Assembly.

# **CHAPTER TWO**

SITTING DAYS, QUORUM AND ADJOURNMENT

#### **EXISTING CHAPTER TWO: PROCEDURE FOR FIRST MEETING**

# Policy Discussion

As outlined in the introductory comments, it is suggested that given the first meeting of the Assembly is once each four years that this chapter be relegated to a new *Part Two* section of the Standing orders relating to all matters not for everyday procedural consideration in the operation of the Assembly.

If agreed, existing Standing Order No 3 will become part of Chapter 19 in Part Two as below

### PROPOSED CHAPTER TWO: SITTING DAYS, QUORUM & ADJOURNMENT

This Chapter replaces existing Chapter VI entitled *Sitting and Adjournment of the Assembly* and moves the content to Chapter Two. It is also proposed to replace the quaint and anachronistic Roman numerals throughout the existing Chapter Headings.

#### **STANDING ORDER No 3**

### Existing Standing Order No 31

# Sitting Days

Unless otherwise ordered, the Assembly shall meet each year in accordance with the program of sittings for that year agreed to by the Assembly, and unless otherwise ordered the Assembly shall meet on each day at 10.00 am.

## **Policy Discussion**

Standing Order No 31 as drafted is repetitive and contains superfluous language. The Assembly is in control of its destiny so long as it is in compliance with s. 22 of the *Self Government Act* which specifies the role of the Administrator in appointing days for sessions of the Assembly to commence. The first reference to 'unless otherwise ordered' is retained for flexibility, but the second is deleted.

# Proposed Standing Order No 3

# Meetings of the Assembly

Unless otherwise ordered the Assembly shall meet each year in accordance with a program of sittings presented to the Assembly for that year commencing on each sitting day at 10.00 am.

#### **STANDING ORDER No 4**

# Existing Standing Order No 31 A

# Changes to Days and/or Times of Meeting

The Speaker or a Minister may initiate a change to the days and times of meeting in the following circumstances:

- (a) at any time a Minister may move without notice a motion to set the next meeting of the Assembly;
- (b) a Minister may move on notice a motion to set a future meeting or meetings of the Assembly;
- (c) when the Assembly is not sitting, the Speaker may set an alternative day or time for the next meeting and must notify each Member of any change.

# **Policy Discussion**

The new headings for proposed Standing Orders three and four reflect a consistency of language. Throughout the existing Standing Orders there is a mix of the use of 'meetings' and 'sitting days' to mean the same thing. Standardisation as far as possible is preferable for clear and accurate interpretation. The term 'meeting' has been chosen subject to Committee and Assembly final approval.

# Proposed Standing Order No 4

# Changes to the Scheduled Meetings of the Assembly

When the Assembly is meeting a Minister may move a motion without notice at any time to set the next meeting or a future meeting or meetings of the Assembly and when the Assembly is not meeting, the Speaker may set an alternative time for the next meeting and will advise all Members of the change.

#### **STANDING ORDER NO 5**

# Existing Standing Order No 32

# Quorum at time of Sitting

The Chair shall be taken at the time appointed on every day fixed for the sitting of the Assembly; but if a quorum of Members is not present, and if within 5 minutes, the bells having been rung, a quorum is still not present, the Speaker shall adjourn the Assembly to the next sitting day: provided that if the Speaker is satisfied there is likely to be a quorum within a reasonable time the Speaker shall announce such other time when the Chair is to be taken; but if at that time there be not a quorum the Speaker shall adjourn the Assembly to the next sitting day.

**Note:** The quorum of the Assembly is 10, see s.64 of Northern Territory (Self-Government) Act.

#### Policy Discussion

The existing Standing Order is archaic and unclear in its expression and is appended by a notation. The proposed Standing Order clarifies the language and places the number of the required quorum (10) within the Standing Order rendering the notation obsolete. The word 'meeting' is also used for greater consistency.

# Proposed Standing Order No 5

# Quorum at time of Meeting

The Speaker shall take the Chair at the appointed time for commencement of a meeting. If a Quorum of 10 Members of the Assembly is not present within five minutes of the Speaker taking the chair, the Speaker will adjourn the Assembly until the next scheduled meeting day or, if the Speaker takes the view that a Quorum will become present, then at another time later on the same day.

Or (simplified alternate text)

If there are not ten Members present by 10.05 am (or five minutes after the appointed meeting time on any given day) then the meeting of the Assembly is adjourned until the next scheduled day or suspended by the Speaker to a time later the same day.

# Existing Standing Order No 33

### Member not to Withdraw

A Member shall not be permitted to withdraw from the Chamber within 5 minutes after the time appointed for the sitting of the Assembly unless a quorum be obtained.

# **Policy Discussion**

The use of the word 'withdraw' is ambiguous given it is also used frequently in the context of a Member withdrawing unseemly words. The proposed Standing Order uses clearer titling and content to express the meaning of the existing Standing Order. The word 'sitting' has also been replaced with 'meeting' to continue harmonisation of the usage.

# Proposed Standing Order No 6

### Member not to leave the Chamber at Commencement

No Member may leave the Chamber within the first five minutes of the commencement of a meeting of the Assembly unless a quorum of ten Members is present.

## Existing Standing Order No 34

## **Prayers**

Upon the Speaker taking the Chair each day and if a quorum of Members is present, prayers shall be read as follows:

"Almighty God, we humbly beseech Thee to vouchsafe Thy blessing upon this Assembly. Direct and prosper our deliberations to the advancement of Thy glory, and the true welfare of the people of the Northern Territory.

"Our Father, which art in Heaven: Hallowed be Thy Name. Thy Kingdom come. Thy will be done in earth, as it is in Heaven. Give us this day our daily bread. And forgive us our trespasses, as we forgive them that 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."

### **Policy Discussion**

The proposed Standing Order provides for more flexibility by having the text of the prayer appear in the Sessional Orders, however if preferred, the Standing Order could retain the text of the existing Standing Order.

Some jurisdictions do not have a prayer; the ACT Assembly has a minute of contemplation instead, whereas the Northern Territory adopts a similar approach to the House of Representatives. There has been no call for a change to the prayer in the Northern Territory and thus the proposed Standing Order retains the existing approach.

## Proposed Standing Order No 7

## **Prayers**

Prayers shall be conducted by the Speaker or a nominee at the commencement of each day in accordance with an order of the Assembly.

## Existing Standing Order No 35

### **Division Indicating Lack of Quorum**

If it appears from the result of a division of the Assembly that a quorum of Members is not present, the Speaker shall adjourn the Assembly to the next sitting day; and no decision of the Assembly shall be considered to have been arrived at by such a division: provided that if the Speaker is satisfied there is likely to be a quorum within a reasonable time the Chair shall state that time; but, if at that time there be not a quorum, the Speaker shall adjourn the Assembly to the next sitting day.

### Policy Discussion

As drafted this Standing Order contains internal inconsistencies by referring to the Speaker as the 'Speaker' and as the 'Chair', is long-winded, archaic and obtuse. The heading has also been clarified to reflect the circumstances contemplated when a division occurs and fewer than 10 Members are present, thus making the division invalid.

# Proposed Standing Order No 8

### Quorum Not Present for a Division

If there is no quorum present after a division has been called, no vote of the Assembly will be recorded and the Speaker will adjourn the Assembly either:

- (3) to the next meeting day, or
- (4) if the Speaker considers that a quorum will be present at a later time on the same day the Speaker will nominate that time and the Assembly will be suspended until that time. If when that time is reached there is still no quorum, the Assembly will be adjourned to the next scheduled meeting.

## Existing Standing Order No 36

### Notice Taken of Lack of Quorum

If any Member take notice that a quorum of Members is not present, the Speaker shall count the Assembly; and if a quorum be not present, the bells shall be rung. If a quorum is not obtained within 3 minutes, the Speaker shall adjourn the Assembly until the next sitting day: provided that the Speaker is satisfied there is likely to be a quorum within a reasonable time the Chair shall state that time; but, if at that time there be not a quorum, the Speaker shall adjourn the Assembly to the next sitting day.

### Policy Discussion

This Standing Order suffers from obscure and archaic language. The rewritten standing order borrows its first line from the NSW Assembly SO 41.

## Proposed Standing Order No 9

## Member calling a Lack of Quorum

- (3) If a Member states that a quorum is not present in the Assembly, the Speaker will count the Members present and if there are fewer than 10 Members (including the Speaker or Member presiding) the bells will be rung for three minutes or until a quorum, whichever comes first.
- (4) If after three minutes there are still not 10 Members present, the Speaker will adjourn the Assembly either:
  - (c) until the next meeting day, or
  - (d) if the Speaker considers that a quorum will be present at a later time on the same day the Speaker will nominate that time and the Assembly will be suspended until that time. If when that time is reached there is still no quorum, the Assembly will be adjourned to the next meeting day.

### Existing Standing Order No 37

### Lack of Quorum in Committee

When the Speaker is informed by the Chair of Committees, as a result of a division of the committee, or after counting the committee, that a quorum of Members is not present the bells shall be rung and, if within 3 minutes a quorum be then present, the Speaker shall forthwith leave the Chair and the committee shall resume; but, if after the expiration of 3 minutes there be not a quorum, the Speaker shall adjourn the Assembly to the next sitting day: provided that if the Speaker is satisfied there is likely to be a quorum within a reasonable time the Chair shall state that time; if at that time a quorum be then present the Speaker shall forthwith leave the Chair and the committee shall resume; but, if there be not a quorum, the Speaker shall adjourn the Assembly to the next sitting day.

# Policy Discussion

It is proposed this Standing Order be deleted because Chapter Thirteen covers off on the process for a lack of quorum in a Committee of the Whole which requires a report to the Speaker and the Speaker can then determine if there is a quorum in the Assembly and if not

then the quorum provisions above will apply. See existing Standing Order 223 and proposed 180.

## Existing Standing Order No 38

#### Count Out

If proceedings be interrupted by a count-out followed by an adjournment of the Assembly, such proceedings may, on motion after notice, be resumed at the point where they were so interrupted.

# **Policy Discussion**

Plain English re-write. The term 'count out' is archaic and obscure and while it has contextual meaning in that the Assembly was suspended or adjourned because of the elapse of time and Members not being present, it is not helpful and should be replaced.

A question also arises as to the notice requirement. The practice of giving notice to resume where left off in the House of Representatives has seen the resumption by motion moved pursuant to contingent notice, by motion moved by leave and by motion moved pursuant to notice. See House of Representatives Practice Page 273¹. It is a matter for the Assembly as to whether this perhaps cumbersome notice approach is required.

It is open to the Assembly for this Standing Order to prescribe that the Assembly automatically commence from where it left off, or to permit it commencing at that place on a motion without notice or maintaining the status quo requiring notice.

The below draft maintains the status quo; however it is recommended the Committee consider this matter in further detail.

### Proposed Standing Order No 10

# Recommencement of Proceedings

If proceedings have been interrupted because of a lack of a quorum and the meeting of the Assembly has been suspended to later the same day or adjourned to the following day, proceedings may only recommence where they were interrupted by a motion being moved after notice has been given.

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<sup>&</sup>lt;sup>1</sup> All references to *The Practice* are to the 6<sup>th</sup> Edition.

## Existing Standing Order No 39

#### Member not to Leave

When the attention of the Speaker or the Chair has been called to the fact that there is not a quorum of Members present, no Member shall leave the Chamber until a quorum is present or 3 minutes have elapsed.

# **Policy Discussion**

Plain English re-write. The new heading also lets the Standing Order be considered on its own as the existing heading requires a contextual reference to surrounding Standing Orders.

## Proposed Standing Order No 11

### Member not to leave the Chamber during Ringing of the Bells for a Quorum

When a Member has called attention to the lack of a quorum no Member may leave the Chamber until either a quorum is present or three minutes have passed.

## **Further Policy Consideration**

House of Representatives Practice contains precedent where a Speaker has declined to entertain another ringing of the bells for a lack of quorum and proceeded with the business before the House (as per the House of Representatives Practice at page 272). It however emphasises the overarching principle that it is the duty of the Speaker to order the ringing of the bells when attention has been brought to the 'state of the house'.

The NSW Assembly has adopted Standing Order No 42 which provides for the Speaker's discretion to either proceed with business *or* to order the bells be rung on any second or subsequent quorum call on any one sitting day. It is open to the Northern Territory Assembly to consider further refinement of Standing Orders relating to the management of quorum calls in this manner.

### PROPOSED DELETION OF STANDING ORDERS

## Existing Standing Order No 40

### Doors Unlocked

The doors of the Chamber shall be unlocked whenever the Speaker or the Chair is engaged in counting the Assembly or the Committee.

### Policy Discussion

This Standing Order is unnecessary. Doors are not locked during the ringing of the bells in any case and no question arises in terms of locking the doors as it is not a division in progress and if a Member arrives after three minutes they will not be counted for the purposes of the Standing Orders relating to a quorum. It is proposed the Standing Order be deleted.

### Existing Standing Order No 41

### Adjournment of the Assembly

Except as provided by these Standing Orders the Assembly may be adjourned only by its own resolution.

## **Policy Discussion**

There is no equivalent Standing Order to this in the House of Representatives, however the Senate has Standing Order 53 (1) from where this is likely to originate as the rewrite in 1985 was by the then Clerk who was a former Usher of the Black Rod in the Senate.

In the House of Representatives, the Speaker moves the Automatic Adjournment at appointed times pursuant to their Standing Order 31 or a Minister (not a Member) may move the adjournment at other times. In the Northern Territory there is no automatic adjournment provision for the 12<sup>th</sup> Assembly.

Does the Standing Orders Committee wish to retain this or is it redundant? It is suggested that the Standing Order be deleted. Existing Standing Order 42 (Proposed Standing Order 12) is sufficient. The Sub Committee determined that it could be deleted.

## Existing Standing Order No 42

# **Adjournment Motion**

A motion for the adjournment of the Assembly may be moved only by a Minister. No amendment may be moved to this motion.

# **Policy Discussion**

Minor change to wording and incorporation of existing Standing Order No 43 is proposed to replace this version.

Standing Order No 34 in the NSW Legislative Assembly is instructive as drafted: *The House may appoint, on the motion of a Minister at any time, without notice, the day(s) and time(s) of meeting and adjournment.* A similar approach is proposed in the Northern Territory Assembly as drafted below.

## Existing Standing Order No 43

## Special Adjournment

A motion for the purpose of fixing the next sitting of the Assembly may be moved by a Minister at any time without notice.

# **Policy Discussion**

Proposed Standing Orders 4 and 12 will make the need for the separate Standing Order redundant.

# Proposed Standing Order No 12

### **Adjournment Motion**

On the motion of a Minister at any time without notice or amendment, the Assembly may adjourn.

# **CHAPTER THREE**

**RULES OF DEBATE** 

#### **CHAPTER THREE: RULES OF DEBATE**

In the Existing Standing Orders, the Rules of Debate emerge at Chapter VII, however in keeping with the proposal to place day to day procedural Standing Orders in Part One of the re-write, Chapter Three would see the Rules of Debate being inserted here.

#### **STANDING ORDER No 13**

## Existing Standing Order No 44

## Order Maintained by Chair

Order shall be maintained in the Assembly by the Speaker and in a Committee by the Chair. Disorder in a Committee can be censured by the Assembly only on receiving a report.

### **Policy Discussion**

The Speaker, or the occupier of the chair at the time, is responsible for the maintenance of order at all times. This responsibility and authority is derived from this Standing Order but also from a number of Standing Orders and the practice of the Assembly and traditions of the Houses of Commons and Representatives.

This Standing Order covers two separate matters. A question arises as to whether this should remain one Standing Order or be split, and then whether it is required here or in the newly located chapter on disorder at Chapter Four.

The second part: "Disorder in a committee can be censured by the Assembly only on receiving a report." This is covered in Chapter Thirteen in relation to the Committee of the Whole.

## Proposed Standing Order No 13

### Order Maintained

The Speaker is responsible for maintaining order in the Assembly.

# Existing Standing Order No 45

# Speaker Standing

Whenever the Speaker rises during a debate, any Member speaking or offering to speak shall resume their seat and the Assembly shall be silent so that the Speaker may be heard without interruption.

# Policy Discussion

This is fairly clear; a minor tidy up of the language is recommended. The reference to 'during a debate' is deleted because arguably if the Assembly is discussing an MPI this Standing Order couldn't apply.

# Proposed Standing Order No 14

# Speaker Standing

If the Speaker stands, any Member speaking or seeking the call must sit and the Assembly will be silent.

## Existing Standing Order No 46

#### Obeisence

Every Member shall make obeisance to the Chair when passing to or from their seat and on entering and leaving the Chamber.

# **Policy Discussion**

Obeisence comes from the word 'obedience' and is not in common usage. The Standing Order requires a demonstration that Members respect the Chair and uphold the values of the Chair.

In the House of Representatives this aspect is covered in a broader Standing Order about movement in the Chamber:

SO 62 Members moving in the Chamber

A Member in the Chamber must:

- (a) take his or her seat promptly;
- (b) bow to the Speaker on entering or leaving the Chamber;
- (c) not remain in the aisles; and
- (d) not pass between the Speaker and any Member who is speaking.

In the Northern Territory these matters are covered separately, or in the case of standing in the aisles not at all, as there has been a more informal approach to this with a great deal of tolerance for Members standing in the Chamber and moving about discussing matters while standing at the rear and near the doors to the lobbies.

It is a matter for the Speaker to gauge the level of distraction and disorder and require Members to take their seats or remove themselves if this becomes too disruptive. On the basis that the Standing Orders Committee wishes to continue to retain a short separate Standing Order it is proposed a simple adoption of part (b) of the Representatives approach be reflected in a new draft.

### Proposed Standing Order No 15

### Respect for the Chair

When entering or leaving the Chamber, or when passing across the Chamber a Member will bow to the Speaker.

# Existing Standing Order No 47

# Movement Restricted when Question being put

When the Speaker is putting a question, no Member may walk out of or across the Chamber.

# Policy Discussion

No change proposed.

Proposed Standing Order No 16

# Movement Restricted when Question being put

When the Speaker is putting a question, no Member may walk out of or across the Chamber.

# Existing Standing Order No 48

## Restricted Movement

No Member may pass between the Chair and any Member who is speaking.

# Policy Discussion

The heading of this Standing Order is imprecise and is proposed for change. The word 'pass' could be substituted for 'move or stand'. Similar to the other Standing Order changes and for continued consistency, the word *Speaker* is used instead of *Chair*.

# Proposed Standing Order No 17

# Moving around in the Chamber

No Member may move or stand between the Speaker and any Member who is speaking.

## Standing Order No 49

## Addressing the Speaker

Every Member desiring to speak shall rise and address the Speaker.

## Policy Discussion

The Standing Order as drafted neglects to specify the step of recognition.

It is the practice in some other jurisdictions such as the House of Representatives to bundle this step into a broader Standing Order which covers a number in the Northern Territory Assembly. For example in the House of Representatives the relevant Standing Order is:

### 65 Members wishing to speak

- (a) A Member wishing to speak shall rise and, when recognised by the Speaker, address the Speaker. If a Member is unable to rise, he or she will be permitted to speak while seated.
- (b) When a Member is speaking, no Member may converse aloud or make any noise or disturbance to interrupt the Member.
- (c) If two or more Members rise to speak, the Speaker shall call on the Member, who in the Speaker's opinion, rose first. If the Speaker's selection is challenged, a motion may be moved—

That [Member who was not called] be heard now.

The question must be put immediately and resolved without amendment or debate.

In the Territory we have a separate Standing Order for speaking while seated and not interrupting Members already speaking (existing SO 50 and 51, proposed SO 19 and 20). The practice in the Territory is recommended to continue rather than apply this bundling approach.

## Proposed Standing Order No 18

### Seeking the Call and Addressing the Speaker

A Member seeking the call to speak shall stand up to seek recognition from the Speaker. If recognised, the Member shall address the Speaker.

## Existing Standing Order No 50

# Speaking While Seated

By the indulgence of the Speaker a Member unable conveniently to stand by reason of sickness or infirmity will be permitted to speak sitting.

# **Policy Discussion**

The existing Standing Order specifies 'sickness or infirmity' and requires modernisation. It also refers to *indulgence* which normally refers to an accepted practice or convention not covered in Standing Orders.

Note the House of Representatives (SO 65) does not refer to such infirmity while the NSW Assembly retains this approach (SO 56). The new draft retains a Speaker's discretion. However it might be preferred to insert 'will' instead of 'may'. This is a matter for consideration and decision by the Committee.

# Proposed Standing Order No 19

## Speaking While Seated

If a Member is unable to stand the Speaker may permit the Member to speak while seated.

## Existing Standing Order No 51

## No Interruption

No Member may converse aloud or make any noise or disturbance, which in the opinion of the Speaker is designed to interrupt or has the effect of interrupting a Member speaking.

# **Policy Discussion**

Members may only interrupt another Member to raise a point of order, call attention to the lack of a quorum, move the Member be no longer heard, move the question be put, during discussion on a Matter of Public Importance, move that the business of the day be called on, call attention to a matter of privilege suddenly arising or call attention to strangers.

This Standing Order reflects the text of Standing Orders in the House of Representatives (SO 65). The normal practice is for a Speaker to ignore interjections in the usual cut and thrust of debate until they get so disruptive or upset that they need to be stopped<sup>2</sup>.

Generally, interjections not replied to by the Member with the call, or coming to the attention of the Chair, do not appear in the Hansard. The redraft of the wording reflects the simple requirement not to interject or disturb debate and is similar to Standing Order No 52 in the NSW Assembly.

Proposed Standing Order No 20

## No Interruption of Debate

When a Member is speaking other Members must not make any noise or disturbance.

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<sup>&</sup>lt;sup>2</sup> HoRP page 527

## Existing Standing Order No 52

# Member Called to Speak

When two or more Members rise together to speak, the Speaker shall call upon the Member who, in the Chair's opinion, first rose in their place; but it shall be in order to move that any Member who has risen "be now heard" or "do now speak", and such question shall be put forthwith and determined without amendment or debate.

### Policy Discussion

The only modernisation this Standing Order has had since 1985 is to remove gender specific language. In other jurisdictions the Standing Order permitting a motion that a 'Member be now heard' is separate (NSW LA SO 57). This separation is not required, just worth noting.

Note this matter is addressed in the House of Representatives in the bundled SO 65 as extracted above.

# Proposed Standing Order No 21

### Member Called and Member to be Heard

When two or more Members are seeking the call, the Speaker calls upon the Member who in the opinion of the Speaker stood up first. Any Member may move that a Member who has sought the call but not received the call 'be now heard'. The question must be put immediately and decided without amendment or debate.

# Existing Standing Order No 53

# One Speech Only

No Member may speak twice to a question before the Assembly except in explanation or reply.

# **Policy Discussion**

The only proposed change is to clarify that the reference to speaking in reply is when a reply is permitted by the rules of debate.

# Proposed Standing Order No 22

# One Speech Only

No Member may speak twice on a question before the Assembly except in explanation or reply when a reply is permitted.

## Existing Standing Order No 54

# Explanation of Speech

A Member who has spoken to a question may again be heard to explain some material part of his speech which has been misquoted or misunderstood, but shall not introduce any new matter, nor interrupt any Member addressing the Chair and no debatable matter may be introduced nor may any debate arise upon such explanation.

# **Policy Discussion**

This ability to speak again should only be available very briefly and in limited circumstances as already prescribed. The policy question arises as to the time limit for such a speech.

The Chair will be required to keep the Member to the confines of the Standing Order and the insertion of the word 'briefly' in the re-draft (as it appears in NSW Assembly Standing Order No 65) gives the Speaker this clear role without prescribing a time limit for the speech other than the normal time limit applying to a Member speaking.

The Standing Order also contains gender specific language.

### Proposed Standing Order No 23

## Explanation of Speech

A Member who has already spoken on a question may again be briefly heard to explain some material part of his or her speech which has been misquoted or misunderstood but cannot introduce any new matter or debate the matter again or interrupt any Member already speaking.

# Existing Standing Order No 55

# Right of Reply

A reply shall be allowed to a Member who has moved a substantive motion or the second or third reading of a bill, and the reply shall be confined to matters raised during the debate. No reply shall be allowed to a Member who has moved an amendment.

# Policy Discussion

The proposed draft omits the word *right* in the heading and rearranges the language for greater clarity.

## Proposed Standing Order No 24

## Reply

A Member may speak in reply if the Member has moved a substantive motion, a motion that a bill now be read a second time or a motion that a bill now be read a third time. The reply must be confined to matters raised in debate and no reply is permitted for a Member who has moved an amendment.

# Existing Standing Order No 56

# Reply Closes Debate

In all cases the reply of the mover of the original question shall close the debate.

# Policy Discussion

Do the words 'in all cases' add anything? They are included in Victoria (LA SO 113 but not in NSW (LA SO 68) or in the House of Representatives (SO 71).

Victoria adds 'except during the consideration in detail stage' and the House of Representatives adds 'except during consideration in detail of a bill.' In the Northern Territory the matter has not been questioned in Committee stage.

## Proposed Standing order No 25

## Reply Closes Debate

The reply of the mover of the original question always closes the debate.

## Existing Standing Order No 57

## Personal Explanation

Having obtained leave from the Chair, a Member may explain matters of a personal nature, although there be no question before the Assembly, but such matters may not be debated.

### Policy Discussion

The syntax of this Standing Order is confusing and unclear. The House of Representatives version is clearer:

# 68 Personal explanation

A Member may explain how he or she has been misrepresented or explain another matter of a personal nature whether or not there is a question before the House. The following conditions shall apply:

- (a) the Member must rise and seek permission from the Speaker;
- (b) the Member must not interrupt another Member addressing the House; and
- (c) the matter must not be debated.

NSW Assembly SO 62 and Victoria Assembly SO 123 both differ in that they explicitly require there be no question before the Chair and are also worth considering.

#### In NSW:

A Member may, when there is no question before the Chair and with the leave of the Speaker, explain a matter of a personal nature. A personal explanation shall not be debated and leave may be withdrawn by the Speaker at any time.

# Proposed Standing Order No 26

### Personal Explanation

A Member may, with the leave of the Speaker when there is no question before the Assembly, explain how he or she has been misrepresented or explain another matter of a personal nature. The explanation should be succinct and may not be debated.

# Existing Standing Order No 58

# No Member to Speak after a Decision Given

No Member may speak to any question after the same has been put by the Speaker and the voices have been given in the affirmative or negative thereon.

# **Policy Discussion**

This is a case of unnecessarily complicated language for a simple requirement.

# Proposed Standing Order No 27

### Decision is Final

No Member may speak on a question after it has been decided.

# Existing Standing Order No 59

### Allusion to Earlier Debate

No Member shall allude to any debate of the same session unless such allusion be relevant to the matter under discussion.

## Policy Discussion

This is another case of unnecessarily complicated language for a simple requirement. A question arises as to whether the Assembly and the Committee wish to replicate this Standing Order. It is arguably redundant since the discussion of earlier debate is rarely irrelevant to the matter under discussion. Available for deletion.

# Proposed Standing Order No 28

### References to Other Debates

A Member shall not refer to debates of the same session unless the reference is relevant to the matter under discussion.

# Existing Standing Order No 60

## Reflection on Vote

No Member shall reflect upon any vote of the Assembly except upon a motion that such vote be rescinded.

# **Policy Discussion**

This Standing Order is very similar in all surveyed jurisdictions and only a slight change to wording is recommended which includes the explicit requirement that the reflection be adverse, which was implied anyway, but adds further clarity. This is also the approach taken by SO 74 in the House of Representatives.

# Proposed Standing Order No 29

# Reflection on Previous Vote

A Member may not reflect adversely on a vote of the Assembly except during debate on a motion that a vote be rescinded.

## Existing Standing Order No 61

## Use of Queen's, Queen's Representative or Administrator's Name.

No Member may use the name of Her Majesty, her representative in the Commonwealth, her representative in a State, or the Administrator of the Northern Territory disrespectfully in debate, nor for the purpose of influencing the Assembly in its deliberations.

# **Policy Discussion**

In the House of Representatives this comes under the category subheading of 'Disorder' where Standing Order 88 is as follows:

#### Use of certain names

A Member must not refer disrespectfully to the Queen, the Governor-General, or a State Governor, in debate or for the purpose of influencing the House in its deliberations.

In the Northern Territory the heading of the Standing Order appears to differentiate the Administrator from the Queen's Representative. Solicitor General Advice received by the Office of the Clerk during 2011 indicates that for all intents and purposes the Administrator should be equated with the Queen's representative notwithstanding the Administrator is an appointee of the Commonwealth and has no direct connection to the Crown.

In order to modernise the Standing Orders and recognising that it has been almost 30 years since the last update, the next one should survive the passing of Her Majesty the Queen, thus it is proposed to refer to the position as *Head of State* in the re-drafted Standing Order as below.

## Proposed Standing Order No 30

### Respect for Head of State

No Member shall refer to the Australian Head of State or their representative in the Commonwealth, a State or a Territory in a disrespectful manner or in a manner intended to influence Members during a debate.

## Existing Standing Order No 62

## Offensive or Unbecoming Words

- (1) No Member shall use offensive or unbecoming words against the Assembly or any Member of the Assembly or against any House or Member of another Australian Parliament or against any member of the Judiciary, or against any Northern Territory statute unless for the purpose of moving for its repeal, nor shall a Member attribute directly or by innuendo to another Member unbecoming conduct or motives; and all offensive references to a Member's private affairs and all personal reflections on Members shall be deemed to be highly disorderly.
- (2) Whenever the Speaker rules that words used by any Member are highly disorderly, such words shall not be published in the Parliamentary Record.
- (3) The provisions of this Standing Order relating to unbecoming conduct shall not apply where a substantive motion on notice brings a charge of misconduct against a Member.

### **Policy Discussion**

Proposed Standing Order No 29 above considers reflection on a previous vote and prohibits it except where rescission is being considered. It is worth considering whether it requires repeating in this proposed re-written Standing Order. The recommended policy approach is not to repeat prohibitions and rules where they have already been covered in other Orders.

The Term 'unbecoming' is quaint and out-dated and the word 'disorderly' should be used instead.

The Standing Orders Committee may wish to consider whether it is required for there to be a specific direction not to publish highly disorderly words against a Member or whether that is left to Speaker in the Chair at the time. As drafted below this has been omitted.

Standing Orders 89 and 90 in the House of Representatives are a good guide for how to rewrite these Orders in a clear and concise way. Proposed Standing Order No 31 reflects that approach.

It is suggested that part three of existing Standing Order No 62 (as extracted above) be included in a continuation of the text rather than separated into a different paragraph.

## Proposed Standing Order No 31

## Offensive or Disorderly Words

A Member must not use offensive words against the Legislative Assembly or a Member of the Assembly, another Australian Parliament or Member of that Parliament, or a Member of an Australian or the Northern Territory Judiciary.

All imputations of improper motives to a Member and all personal reflections on other Members will be considered highly disorderly unless discussed during moving of and debate on a substantive motion alleging misconduct by that Member.

## Existing Standing Order No 63

## Speaker to Intervene

When any offensive or disorderly words are used, whether by a Member who is addressing the Chair or by a Member who is present, the Speaker shall intervene.

## Policy Discussion

The House of Representatives Standing Order on this topic also includes the substance of the Northern Territory's existing Standing Order No 66 which will be considered in further detail below.

As Members will be aware, the Speaker intervenes from time to time when the Speaker either hears words or when they are drawn to the Speaker's attention.

As per the existing Standing Order the offensive words may be either by a Member with the call or a Member interjecting or speaking aloud.

## Proposed Standing Order No 32

### Speaker to Intervene

When the Speaker hears offensive or disorderly words the Speaker will intervene to ensure order.

## Existing Standing Order No 64

### Speaker to Determine

When the attention of the Speaker is drawn to words used, the presiding officer shall determine whether or not they are offensive or highly disorderly.

## **Policy Discussion**

The internal inconsistency of language referring to the Speaker and Presiding Officer will be realigned to just refer to 'Speaker'.

The decision as to whether words used in the Assembly are offensive or unbecoming is a matter for the Speaker, and the Speaker's judgment depends upon the nature of the words used and the context in which they are used.

It is well established that a Member cannot use quotes and attribute words to another to get around this rule.

Speakers in the House of Representatives have ruled the request for withdrawal should come from the Member reflected upon and should be done at the time the remarks were made.

In the Northern Territory this is often the case and also when another Member raises a point of order. Does the Committee wish to consider any of these trigger issues in the new Standing Orders?

The withdrawal of words should not be qualified with comments but should be a clear, unequivocal withdrawal. Does the Committee wish to consider this aspect further?

## Proposed Standing Order No 33

### Speaker to Determine

When the Speaker's attention is drawn to specific words the Speaker will determine whether or not the words are offensive or disorderly.

## Existing Standing Order No 65

# Member to Be Referred to By Electorate

No Member may refer to any other Member by name, but only by the name of the electoral division the Member represents.

## Policy Discussion

This Standing Order needs updating to reflect the practice of the Assembly which allows for Members to be referred to by their office.

NSW Assembly Standing Order No 75 is a sound draft precedent: A Member shall refer to other Members by their title of office or by the name of their electorate.

It is also a convention of the Assembly that Members not refer to the presence or absence of another Member. There is no Standing Order prohibiting this and the Committee may wish to consider whether to leave it as a convention or include it in Standing Orders.

### Proposed Standing Order No 34

## Member not to be referred to by Name

A Member shall refer to other Members by their title of office or by the name of their electorate.

## Existing Standing Order No 66

#### Quarrels Not Permitted

The Assembly will interfere to prevent the prosecution of any personal quarrel between Members arising out of debates or proceedings of the Assembly or of any committee thereof within the precincts.

# **Policy Discussion**

In the NSW Assembly and the House of Representatives this aspect of order is contained within the broader disorder category.

For example in NSW it encompasses offensive or disorderly words in Standing Order 74 and states when the Speaker may intervene (note not 'will' or; shall' intervene). In the House of Representatives it is contained within Standing Order 92 as follows:

### 92 Intervention by Speaker

- (a) The Speaker can intervene:
  - (i) to prevent any personal quarrel between Members during proceedings; and
  - (ii) when a Member's conduct is considered offensive or disorderly.
- (b) When the Speaker's attention is drawn to the conduct of a Member, the Speaker shall determine whether or not it is offensive or disorderly.

Standing Order No 66 is oddly drafted in the Northern Territory requiring the 'Assembly' to 'interfere' in a personal quarrel. A question arises as to the role of the Assembly in a personal quarrel and whether or not other Standing Orders serve to prevent the prosecution of a personal argument within the Assembly in any case.

It is also a little strange that this Standing Order applies to Committees within the precinct but not to a Committee meeting outside of the precinct. If it applies to Committees it should apply wherever they are meeting or conducting business.

It is suggested that proposed Standing Order No 32 will suffice or could contain additional wording to ensure coverage if absolutely required.

## Existing Standing Order No 67

### Digression from Subject

No Member shall digress from the subject matter of any question under discussion provided that

- (1) this Standing Order shall not prevent discussion on the Address-in-Reply of any matter;
- (2) on a motion to adjourn the Assembly matters irrelevant thereto may be debated; and

(3) on the motion for the second reading of an Appropriation Bill or Supply Bill, matters relating to public affairs may be debated.

## **Policy Discussion**

The proposed Standing Order includes matters for debate and for discussion (such as MPI) and allows the same limited leniency as the existing Standing Order. It is proposed to change the heading of the Standing Order to 'Relevance to' rather than 'Digression from' to reflect the common usage in the Assembly. The simple version in the NSW Assembly at Standing Order No 76 might also be considered: *A Member speaking shall be relevant to the subject matter of the debate (or discussion)*. The Northern Territory version is similar to the House of Representatives which has a convoluted heading.

76 Exceptions to confining debate to the question

A Member must speak only on the subject matter of a question under discussion. There are three exceptions:

- (a) on the question for the adjournment of the House to end the sitting, or for the adjournment of the Federation Chamber;
- (b) on the debate of the address in reply to the Governor-General's speech;
- (c) on the motion for the second reading of the Main Appropriation Bill, and Appropriation or Supply Bills for the ordinary annual services of government, when public affairs may be debated.

Tedious repetition is covered below at existing Standing Order Mo 70 and proposed Standing Order No 38.

## Proposed Standing Order No 35

## Relevance to Subject

A Member may not digress from the subject being debated or discussed. This will not apply to the Address in Reply, a motion to adjourn the Assembly, or an Appropriation or Supply Bill where matters relating to public affairs may be debated.

## Existing Standing Order No 68

# Anticipation of Subject

No Member shall anticipate the discussion of any subject which appears on the Notice Paper provided that in determining whether a discussion is or is not in order on the ground of anticipation, regard shall be had by the Speaker to the probability of the matter anticipated being brought before the Assembly within a reasonable time.

### Policy Discussion

Anticipation only relates to matters which are on the Notice Paper and will be reached for debate within a reasonable time. There has been no recent dispute about 'reasonableness of time' and few points of order arise about this Standing Order.

To better reflect the intent of the Order it is proposed to change the heading of the Order and streamline the language as below. The role of the Speaker in determining reasonableness is similar to that outlined in NSW Assembly Standing Order No 77.

See also discussion below concerning proposed Standing Order No 84.

### Proposed Standing Order No 36

### Anticipation of Matter listed on Notice Paper

A Member may not anticipate the discussion of any subject which appears on the Notice Paper which in the opinion of the Speaker is likely to be debated within a reasonable timeframe. However the Speaker should not prevent an incidental reference to a matter on the Notice Paper.

## Existing Standing Order No 69

### Interruption of Member

No Member may interrupt another Member speaking except:

- (a) to call attention to a question of order or privilege suddenly arising;
- (b) to call attention to the want of a quorum;
- (c) to call attention to the presence of strangers
- (d) to move a closure motion;
- (e) to move "that the business of the day be called on.

## **Policy Discussion**

It is proposed that the existing Standing Order be slightly reworded to separate the ability to interrupt to raise a point of order as is available under this same Standing Order in the NSW Assembly, the House of Representatives and elsewhere.

The wording in the House of Representatives is particularly descriptive in terms of the guidance it provides.

66 When interruption of Member allowed

A Member may only interrupt another Member to:

- (a) call attention to a point of order;
- (b) call attention to a matter of privilege suddenly arising;
- (c) call attention to the lack of a quorum;
- (d) call attention to the unwanted presence of visitors;
- (e) move— That the Member be no longer heard;
- (f) move— That the question be now put;
- (g) move— That the business of the day be called on; or
- (h) make an intervention as provided in the standing orders.

Proposed Clause (7) below allows for the closure of an MPI as well as Clause (5) permitting the putting of a question during debate.

## Proposed Standing Order No 37

## When Interruption is Allowed

A Member may only interrupt another Member who is speaking as follows:

- (8) to call attention to a point of order
- (9) to call attention to a matter of privilege suddenly arising
- (10) to call attention to the lack of a quorum
- (11) to call attention to the presence of strangers
- (12) to move "that the question be now put"
- (13) to move "that the Member be not further heard"
- (14) to move that the discussion be concluded.

## Existing Standing Order No 70

## Member to Discontinue Speech

The Speaker, after having called the attention of the Assembly to the conduct of a Member who persists in irrelevance or tedious repetition, either of their own arguments or of the arguments used by other Members in debate, may direct the Member to discontinue their speech: provided that such Member shall have the right to require that the question whether they be further heard be put and thereupon such question shall be put without amendment or debate.

#### Policy Discussion

The existing Standing Order heading assumes a continuum of events and consideration by the Assembly under Standing Orders. It is proposed the House of Representatives heading be adopted instead.

75 Irrelevance or tedious repetition

- (1) The Speaker, after having called attention to the conduct of a Member who has persisted in irrelevance or tedious repetition, either of his or her own arguments or of the arguments used by other Members in debate, may direct the Member to discontinue his or her speech.
- (b) The Member may then ask the Speaker to put the question— That the Member be further heard.

The question shall be put immediately and resolved without amendment or debate.

As this is a direction under Standing Orders and not a 'ruling' the decision is with the Assembly as to whether the Member is further heard, should the Member require the question to be put.

It is the Speaker's judgment as to relevance or tediousness. It is submitted that there is no need to specify the tedious repetition is of the Member's own content or repeating that of another; the act of tedious repetition will manifest either way.

#### Proposed Standing Order No 38

## Irrelevance or Tedious Repetition

If the Speaker has called a Member's attention to engaging in irrelevance or tedious repetition and they persist, the Speaker may direct the Member to cease speaking. The same Member may then request the Speaker put the question that they be further heard. That question shall then be put to the Assembly immediately without amendment or debate.

#### Existing Standing Order No 71

#### No Debate Permitted

- (2) The following questions are not open to debate and, except as provided in this Order, shall be put without argument or opinion offered and without amendment
  - (a) question that a Member "be now heard" (SO 52); "be further heard" (SO 70); "be not further heard" (SO 79); FN21 "be granted an extension of time" (SO 77);
  - (b) question "that the question be now put" (SO 78);
  - (c) question "that the business of the day be called on" (SO 94);
  - (d) question "that the ruling of the Chair be dissented from" (SO 220);
  - (e) question "that a Member be suspended" (SOs 240 and 242);
  - (f) question "that strangers be ordered to withdraw" (SO 249);
  - (g) question "that the debate be adjourned" (SO 72);
  - (h) question "that the Chair do report progress" (SO 225); and
  - (i) question "that the Chair do now leave the Chair" (SO 226).
- (2) A Member moving either of the motions "that the debate be adjourned", or "that the Chair do report progress" may briefly state their reasons for so moving and an opportunity to speak briefly in rebuttal may be given to one other Member.
- (3) Should any of these questions be negatived, no similar proposal shall be received if the Speaker or the Chair is of the opinion that it is an abuse of the Orders or practice of the Assembly, or is moved for the purpose of obstructing business.

#### Policy Discussion

It is suggested the above text only slightly change in terms of ordering, syntax and numbering (letters) of the clauses and the references to other Standing Orders contained herein will change only by way of re-numbering under this review process.

On the whole the text otherwise remains fairly contemporary and the limitations are precise for our Assembly. Wholesale adoption of the similar Standing Order in another jurisdiction may not fit the circumstances in the Territory given the practice variations which exist.

## Proposed Standing Order No 39

## Matters Not Open to Debate

(3) Except where a Member moving either of the motions (j) "that the debate be adjourned", or (k) "that the Chair do report progress", where they may briefly state their reasons for so moving and one other Member may speak briefly in rebuttal, the following questions are not open to debate and shall be put without debate or amendment:

- (k) that a Member "be now heard" (SO 21)
- (I) that a Member "be further heard" (SO 38)
- (m) that a Member "be not further heard" (SO 45)
- (n) that a Member "be granted an extension of time" (SO 43)
- (o) "that the question be now put" (SO 44)
- (p) "that the business of the day be called on" or "discussion be concluded" (SO 66)
- (q) "that the ruling of the Chair be dissented from" (SO 48)
- (r) that a Member "be suspended" (SO 50)
- (s) "that strangers be ordered to withdraw" (SO 258)
- (t) "that the debate be adjourned" (SO 40) and
- (u) "that the Chair do report progress" (SO 182).
- (4) Should any of these questions be negatived, no similar proposal shall be received if the Speaker or the Chair is of the opinion that it is an abuse of the Orders or practice of the Assembly, or it is moved for the purpose of obstructing business.

## Existing Standing Order No 72

## Mover of Adjournment of Debate

A Member who has not spoken to the question or who has the right of reply may move the adjournment of the debate, which question shall be put forthwith and determined without amendment or debate, subject to the provisions of Standing Order 71. If the question is resolved in the affirmative, the debate shall be adjourned. If no motion for the resumption of the debate is moved, the resumption of the debate shall be an order of the day for a later hour of the day and such order shall, unless otherwise ordered, be called on after the last order of the day listed on the Notice Paper for consideration that day.

## Policy Discussion

The wording requires some modernisation and the heading should change. Proposed Standing Order 40 also breaks the paragraph up into three more readable paragraphs.

While the proposed Standing Order follows the accepted protocol, what is wrong with the Member speaking or a Member who has spoken already, adjourning off the debate? *House of Representatives Practice* describes the rule (Page 530) but doesn't disclose the historical rationale for the practice. Reasons may include that the Member speaking received the call to speak on the matter not to adjourn it or that another Member who has spoken is trying to prevent those who haven't spoken now speaking on the debate. These reasons are perhaps a little doubtful given that the Assembly decides the guestion when put in any case.

Erskine May also states the rule (403) but without further analysis.

This may be a matter for further consideration by the Committee in the context of common practice. Often Members speaking have to be reminded that they may not adjourn off their own debate. See further discussion in proposed Standing Order No 42 below.

#### Proposed Standing Order No 40

## Procedure for Adjourning a Debate

A Member who has not spoken to the question or who has the right of reply may move the adjournment of a debate. The question shall be put immediately and determined without amendment or debate.

Subject to the provisions of Standing Order No 39, if the question is resolved in the affirmative, the debate shall be adjourned. If no motion for the resumption of the debate is moved, the resumption of the debate shall be an order of the day for the next meeting of the Assembly and the Member on whose motion the debate was adjourned may speak first on the resumption of the debate.

If the motion for the adjournment of debate on a question is negatived, the Member moving the motion may speak at a later time in the debate.

## Existing Standing Order No 73

## Adjournment of Debate

Upon a debate being adjourned a motion may be made to appoint a time for its resumption, and the debate thereupon shall be limited strictly to the choice of date. The debate may be adjourned either to a later hour of the same day, or to any other day.

## **Policy Discussion**

Words like 'thereupon' are not in common usage. This proposed change is a modernisation of the language.

## Proposed Standing Order No 41

## **Question of Adjournment**

When a debate is adjourned, a motion may be moved immediately without notice to appoint a time for the resumption of the debate on either the same day or another day. Debate on this question is restricted to the proposed date and time of the resumption of the debate

## Existing Standing Order No 74

## Adjournment Not to be Moved by Member Speaking

It is not competent for a Member to move, whilst speaking to a question, the adjournment of the debate. The Member may seek leave to continue their remarks and, if granted, the debate shall be thereby adjourned. If no motion for the resumption of the debate is moved, the resumption of the debate shall be an order of the day for a later hour of the day and such order shall, unless otherwise ordered, be called on after the last order of the day listed on the Notice Paper for consideration that day. The Member so granted leave shall have preaudience on the resumption of the debate.

## Policy Discussion

As per the discussion at Standing Order No 40 above the procedure here is of interest in that it often creates some confusion amongst Members, is occasionally not adhered to and has to be corrected.

The 1985 analysis on the creation of existing Standing Order 74 states: Your Committee is of the opinion that the present practice whereby a debate is automatically adjourned, etc. when a Member has been granted leave to continue his remarks should be written into the Standing Orders.

The oddity is that the Standing Order as drafted says a Member cannot adjourn but can seek leave, and if leave is granted, then the debate is adjourned. So adjournment occurs on the request of the Member seeking leave and it being granted rather than moving an adjournment.

Of course seeking leave is a different matter from a vote of the Assembly in that one dissenting voice voids the granting of leave; however it is in effect an odd situation.

It also means that once leave is granted the Member needs to move a motion for consideration as to when it comes back on or else it will be called on automatically if it gets reached at the end of the Notice Paper.

The oddity is compounded by the ambiguity of the wording because the Notice Paper orders of the day for consideration 'that day' are not often reached.

Given the Committee may accept that a Member who has already spoken cannot adjourn (see decision required on Standing Order 40) then this Standing Order is in need of clear and concise re-wording.

## Proposed Standing Order No 42

## Member Speaking - Leave to Continue Remarks Later

A Member speaking may not adjourn the debate on which they are speaking but may seek the leave of the Assembly to continue their remarks later.

If leave is granted, the debate is adjourned. If the Member does not then move pursuant to Standing Order 41 to appoint a time and date for resumption of debate the debate will be called on after the last order of the day listed on the Notice Paper for consideration that day.

The Member who was granted leave may speak first on the resumption of the debate.

## Existing Standing Order No 75

#### Pre Audience

The Member upon whose motion any debate is adjourned by the Assembly shall be entitled to pre-audience on the resumption of the debate.

## Policy Discussion

Proposed Standing Order No 40 makes this redundant and the wording in proposed Standing Order No 41 also provides the Member who sought leave will speak first on resumption of the debate

## Existing Standing Order No 76

## If Motion be Negatived

In the event of a motion for the adjournment of debate upon any question being negatived, the Member who moved the motion for such adjournment may speak in debate on the original question at a later time during such debate.

#### Policy Discussion

Also redundant as this is covered in the last paragraph of proposed Standing Order 40.

## Existing Standing Order No 77

## Speech Time Limits

The maximum period for which a Member may speak on any subject indicated in this Standing Order and the maximum period for any debate, shall not, unless otherwise ordered, exceed the period specified opposite to that subject in the following schedule:

Election of Speaker or appointment of Chair—	
Each Member	5 minutes
Address-in-Reply—	
Each Member	30 minutes
Mover in reply	20 minutes
Discussion of a definite matter of public importance—	
Whole discussion	2 hours
Proposer	20 minutes
Member next speaking	20 minutes
Any other Member	15 minutes
Bills—second reading—	
Mover	45 minutes
Member next speaking	45 minutes
Any other Member	30 minutes
Mover in reply	30 minutes

Bills—third reading—	
Mover	10 minutes
Member next speaking	10 minutes
Any other Member	5 minutes
Mover in reply	10 minutes
Debates not otherwise provided for—	
Mover	30 minutes
Member next speaking	30 minutes
Any other Member	20 minutes
Mover in reply	20 minutes
Motion for adjournment of the Assembly to close the business of the day—	
Each Member	10 minutes

#### In committee

Each question before the Chair	
Member in charge of a bill	No limitation
Other Members	Unlimited, each speech not to exceed 10 minutes

#### In the Assembly or in committee

Extension of time—with consent of a majority of the Assembly or of	For one period not
the Committee a Member may be allowed to continue a speech	
interrupted under the foregoing provisions of this Standing Order, on	minutes
motion without debate for one period of debate (except a speech on a	
motion for the adjournment of the Assembly).	

## **Policy Discussion**

The Standing Order as drafted doesn't cover all instances and also allows for excessive time limits to apply on matters such as moving a motion to set the time for resumption of debate at 30 minutes for the mover and for the suspension of Standing Orders which is a very precise question. As drafted it allows a very long time to debate the motion that the Standing Orders be suspended, occasionally making it very difficult to maintain order and relevance.

The Standing Order also does not consider matters where there are no time limits such as a condolence or a Ministerial statement.

The references to the Committee of the Whole are also imprecise and require clarification, 'Unlimited' in the existing Standing Order referring to the number of speeches.

## Proposed Standing Order No 43

## Speech Time Limits

The maximum period for which a Member may speak on any subject indicated in this Standing Order and the maximum period for any debate, shall not, unless otherwise ordered, exceed the period specified in the following schedule:

Election of Speaker or appointment of Chair	
Each Member speaking	5 minutes
Address-in-Reply—	
Each Member	30 minutes
Mover in reply	20 minutes
Discussion of a matter of public importance	
Whole discussion not to exceed	2 hours
Proposer	20 minutes
Member next speaking	20 minutes
Any other Member	15 minutes
Bills second reading	
Mover	45 minutes
Member next speaking	45 minutes
Any other Member	30 minutes
Mover in reply	30 minutes
Bills third reading	
Mover	10 minutes
Member next speaking	10 minutes
Any other Member	5 minutes
Mover in reply	10 minutes
Motion to Suspend Standing Orders	
Mover	10 minutes
Member next speaking	10 minutes
Any other Member	5 minutes
Motion to set a time and date to resume an adjourned debate	
Mover	5 minutes
Member next speaking	5 minutes
Any other Member	3 minutes
Ministerial Statements & Tabling Statements	
Minister	unlimited
Member next speaking	30 minutes
	20 minutes

Condolence Motions	
Each Member speaking	unlimited
Debates not otherwise provided for	
Mover	30 minutes
Member next speaking	30 minutes
Any other Member	20 minutes
Mover in reply	20 minutes
Motion for adjournment of the Assembly to close the business of the day	
Each Member	10 minutes

## In Committee of the Whole

Each question before the Chair			
Member in charge of a bill	unlimi	ted	
Other Members (more than one speech is permitted on each question)		exceed	not 10

On motion, determined without debate and agreed to by the Assembly, a Member may continue a speech interrupted by this standing order for one period of 10 additional minutes, except in the instances of:

- (5) a discussion of a Matter of Public Importance
- (6) any debate with a time limit of 10 minutes or less
- (7) a Censure Motion, or
- (8) a Motion expressing a Want of Confidence.

## Existing Standing Order No 78

#### Closure of Debate

After any question has been proposed from the Chair either in the Assembly or in committee, a motion may be made by a Member, rising in their place and without notice and whether any other Member is addressing the Chair or not, and moving "that the question be now put" and such motion shall be put forthwith and decided without amendment or debate. If the motion be lost the debate shall be resumed where it was interrupted and the time taken in deciding the question "that the question be now put" shall not be reckoned as part of the time allotted to the Member whose speech was interrupted.

## Policy Discussion

Clarification of the language and a new more precisely descriptive heading for this Standing Order is proposed. The proposed Standing Order also reflects contemporary practice in the Northern Territory.

## Proposed Standing Order No 44

## Closure - Motion to put the Question

When debate has commenced on any question either in the Assembly or in Committee, a Member may move without notice (whether or not another Member is addressing the Chair) "that the question be put". The motion is put immediately and decided without amendment or debate. If the question is negatived the debate is resumed where it was interrupted and the time taken in deciding the question "that the question be now put" is not taken from the time allotted to the Member whose speech was interrupted.

## Existing Standing Order No 79

#### Closure of Member

A motion may be made that a Member who is speaking, except a Member giving a Notice of Motion or formally moving the terms of a motion allowed under the Standing Orders, "be not further heard". Such question shall be put forthwith and decided without amendment or debate.

## **Policy Discussion**

This Standing Order is relied on very occasionally and requires little explanation or variation. The only proposed change is to update the language.

## Proposed Standing Order No 45

## Motion - Member no Longer to be Heard

A motion may be moved that a Member who is speaking, except a Member giving a Notice of Motion or formally moving the terms of a motion allowed under the Standing Orders, "no longer be heard" the question is put immediately and decided without amendment or debate.

## Existing Standing Order No 80

## Question of Order

Any Member may at any time raise a question of order which shall, until disposed of, suspend the consideration and decision of every other question.

## **Policy Discussion**

The proposed change to this Standing Order aligns it with the existing practice of Members by calling at 'Point of Order' and better explaining how to raise one.

# Proposed Standing Order No 46

## Point of Order

Any Member may at any time raise a point of order with the Speaker, which, until disposed of, suspends everything else.

## Existing Standing Order No 81

## Member to Resume Seat and Speaker to Rule

Upon a question of order being raised, the Member called to order shall resume their seat and, after the question of order has been stated to the Speaker by the Member rising to the question of order, the Speaker shall thereon rule

## Policy Discussion

The proposed re-write for this order is a further clarification around how the point of order is raised, determined and then ruled upon.

## Proposed Standing Order No 47

## Member to Resume Seat and Speaker to Rule

When a point of order is raised, the Member interrupted resumes their seat and, after the question of order has been stated to the Speaker by the Member, the Speaker rules.

## Existing Standing Order No 82

## Dissent from Ruling

If any objection is taken to any ruling of the Speaker, such objection must be taken at once and a motion of dissent, to be submitted in writing, moved, which, if seconded, shall be proposed to the Assembly and debate thereon shall proceed forthwith.

## **Policy Discussion**

Dissent matters have become prominent recently with a motion of dissent moved against the new Speaker in the 44<sup>th</sup> Parliament in the House of Representatives shortly after commencement on the first sitting day in November 2013.

It is interesting to note from recent reporting on the matter of 'confidence' in the Speaker that in the Assembly in Victoria there is no such immediate dissent Standing Order.

The Standing Order permits the Assembly to immediately deal with a ruling which causes concern and has the benefit of diffusing a potentially volatile situation immediately, thus allowing the Assembly to then proceed to other business.

The most recent change to this Standing Order was in 1998 when the Committee deleted the words 'or decision' after the word 'ruling'. The change proposed is to remove the word 'forthwith' and replace it with 'immediately' as is proposed in all Standing Orders which contain the word 'forthwith' and also to outline in a more descriptive approach the process to be followed.

## Proposed Standing Order No 48

## Dissent from Ruling

If a Member objects to a ruling of the Speaker, the objection must be expressed immediately and a motion of dissent must be submitted in writing and then moved by the Member who expressed the objection.

The terms of the written motion must be seconded by another Member when submitted.

The Member seconding the motion may next speak to the motion and the remaining debate on the motion will proceed immediately, taking precedence over all other business of the Assembly until disposed of.

# **CHAPTER FOUR**

**DISORDER** 

## Existing Standing Order No 239

## Naming of Member

If any Member has -

- (a) persistently and wilfully obstructed the business of the Assembly;
- (b) been guilty of disorderly conduct;
- (c) used objectionable or disorderly words, which they have refused to withdraw;
- (d) persistently and wilfully refused to conform to any Standing Order; or
- (e) persistently and wilfully disregarded the authority of the Chair, they may be named by the Speaker, or, if any of the above-named offences has been committed by a Member in committee, by the Chair.

## **Policy Discussion**

It is proposed to follow the chapter on Rules of Debate with the chapter on Disorder. This approach appears more logical in the day to day operations of the Assembly. There is no proposal to redraft the wording of the existing Standing Order.

The question has been raised as to whether the ordering is logical in terms of the hierarchy of offences and sanctions available. The existing ordering is a legacy of the more recent introduction of the one hour 'sin bin' option as a measure to cool off heated debates.

As it is arguably more logical, the Committee may prefer the order to be as follows:

- 1. One hour sin bin
- 2. Naming
- 3. Suspension
- 4. Extreme disorder
- 5. Grave disorder
- 6. Effect of suspension
- 7. Periods of suspension

The sequence below follows the existing legacy and format.

## Proposed Standing Order No 49

#### Naming of a Member

If any Member has -

- (6) persistently and wilfully obstructed the business of the Assembly
- (7) been guilty of disorderly conduct
- (8) used objectionable or disorderly words, which they have refused to withdraw
- (9) persistently and wilfully refused to conform to any Standing Order, or
- (10) persistently and wilfully disregarded the authority of the Speaker,

they may be named by the Speaker, or, if any of the above-named offences has been committed by a Member in Committee, by the Chair.

## Existing Standing Order No 240

## Suspension of Member

- (1) If the offence has been committed in the Assembly, the Speaker shall forthwith put the question, on a motion being made, no amendment, adjournment or debate allowed, 'That the Member named be suspended from the service of the Assembly.'
- (2) If the offence has been committed in Committee, the Chair shall forthwith / suspend the proceedings and report the circumstances to the Assembly; and the Speaker shall forthwith / on a motion being made, put the same question, without amendment, adjournment or debate, as if the offence had been committed in the Assembly itself.

## **Policy Discussion**

The procedure after naming a Member came to attention during 2013 when the Deputy Speaker named the Leader of the Opposition during debate on 21 August and the Leader of Government Business did not sequentially move that the Member be suspended from the service of the Assembly.

This Standing Order was last reviewed in 1997 and came into existence after being trialled as a Sessional Order to become a Standing Order for the first sitting in 1999.

The Chair of the Standing Orders Committee (also Leader of Government Business) asked the Committee Secretary during Meeting No 5 of 2013 for further clarity in the drafting of this Standing Order, particularly in relation to the requirements of immediate moving of the motion to suspend.

See page 539 of the House of Representatives Practice for authority on the matter that the naming of a Member and the subsequent submission of a motion for suspension should occur "immediately without extraneous interruption." However, it is proposed to overcome this requirement by redrafting the old Standing Order.

After recent discussion with colleague Clerks and analysis of the Standing Orders in other jurisdictions it is recommended that the Territory Assembly take note of the amendment to the similar Standing Order in NSW which was made in 2009 to remove the requirement for the Speaker to put the question only after a motion has been moved, instead allowing the Speaker to now put the question themselves so the Assembly can then determine by a vote if a Member should be suspended.

In NSW they do however permit the Member named to provide an explanation for up to five minutes prior to the vote taking place. This may be a matter for the Territory Assembly to consider here.

The re-written Standing Order below reflects the existing split between the Assembly and the Committee. The Standing Orders Committee has an opportunity to consider whether the precursor Standing Order could clarify the naming offence in proposed Standing Order 49 which refers explicitly to the Assembly being broadened to include the Committee stage or whether the split should remain in proposed Standing Order 50.

There is also an option to place this directly in context and include it in proposed Standing Order 49.

## Proposed Standing Order No 50

## Suspension after Naming

If a Member has been named by the Speaker in the Assembly, the Speaker immediately puts the question *That the Member for ... be suspended from the service of the Assembly.* No amendment, adjournment or debate is allowed.

If a Member has been named by the Chairman of Committees in the Committee of the Whole, the Chairman suspends the Committee and reports the circumstances to the Assembly through the Speaker who will immediately put the question *That the Member for* ... be suspended from the service of the Assembly following the same procedure as if the offence had occurred in the Assembly.

## Existing Standing Order No 240A

#### Withdrawal from Chamber

- (1) If the Speaker considers the conduct of a Member is disorderly, the Speaker, instead of calling on the provisions of Standing Order 240 or 242, may order the Member to withdraw from the Assembly for one hour, which order shall not be open to debate or dissent.
- (2) If a Member fails to leave the Chamber immediately when ordered to do so by the Speaker, the Speaker may name the Member and shall forthwith put the question, on a motion being moved, no amendment, adjournment or debate being allowed, 'That the Member be suspended from the service of the Assembly.'
- (3) Where a Member is directed to withdraw from the Assembly by the Speaker, the Member may attend for the purpose of voting in any division or being counted when attention has been drawn to the lack of quorum, but shall withdraw when the vote has been declared or a quorum formed.

## **Policy Discussion**

This Standing Order is commonly known of as the 'sin bin' standing order in a number of jurisdictions and media commentaries. It provides the Speaker with power to impose an immediate penalty which is not subject to any dissent motion as it is not a ruling; rather it is an exercise of power given to the Speaker under Standing Orders.

The proposal is to clarify language and when referring to the naming process to reflect the proposal contained in draft Standing Order 50 above.

The decision as to whether the Speaker decides to name or to *sin bin* the Member is one for the Speaker alone to determine.

#### Proposed Standing Order No 51

#### Member Excluded for One Hour

- (3) If the Speaker considers the conduct of a Member is disorderly, the Speaker may order the Member to leave the Assembly immediately for a period of one hour. The requirement to leave is final and cannot be debated.
- (2) If a Member fails to leave the Chamber immediately when ordered to do so, the Speaker may name the Member pursuant to the process described in Standing Orders 49 and 50.
- (3) After leaving the Assembly Chamber the Member may only attend during the one hour period of exclusion for the purpose of voting in any division or being counted for a quorum, but must depart when the vote has been declared or a quorum formed.

## Existing Standing Order No 241

## Periods of Suspension

- (1) If any Member be suspended under Standing Order 240 or Standing Order 240A, their suspension on the first occasion shall be for 24 hours; on the second occasion during the same year for 2 sitting days excluding the day of suspension; and on the third or any subsequent occasion during the same year for 3 sitting days excluding the day of suspension.
- (2) For the purposes of this Standing Order: 'year' means a year commencing on 1 January and ending on 31 December; and a sitting day shall not exceed a period of 24 hours.
- (3) For the purposes of this Standing Order, any suspension in a previous session of the Assembly or any order to withdraw pursuant to Standing Order 240A shall be disregarded.
- (4) Should any period of suspension prevent a Member from attending the Legislative Assembly for three or more consecutive sitting days, for the purposes of section 21(2)(c) of the *Northern Territory (Self-Government) Act*, the Member shall be deemed to have been granted the permission of the Assembly to be absent.

#### **Policy Discussion**

The suspension periods proposed in the proposed Standing Order reflect the suspension periods which already apply and the only change is to the language explaining the procedure for the various periods and the application of the *Self Government Act*.

#### Proposed Standing Order No 52

## Periods of Suspension

- (5) A Member who has been named and excluded from the Assembly under Standing Order 50 or Standing Order 51 is suspended as follows:
  - (d) For 24 hours if it is the first occasion in the calendar year.
  - (e) For the second occasion in the same calendar year, they are suspended for a period of two meeting days in addition to any period on the day of suspension being ordered.
  - (f) For the third and any subsequent occasion they will be excluded for three meeting days in addition to any part of the day of the suspension being ordered.
- (6) For the purposes of this Standing Order, any suspension in a previous session of the Assembly during the same calendar year is disregarded.
- (7) Should any period of suspension prevent a Member from attending the Legislative Assembly for three or more consecutive meeting days, for the purposes of section

21(2)(c) of the Northern Territory (Self-Government) Act, the Member is deemed to have been granted the permission of the Assembly to be absent.

## Existing Standing Order No 242

#### Gross Disorder

When the conduct of a Member is of such a disorderly nature that the procedure in Standing Order 241 would be inadequate to ensure the urgent protection of the dignity of the Assembly, the Speaker or the Chair shall order the Member to withdraw immediately from the Chamber. When the Member has withdrawn, the Member shall forthwith be named by the Speaker or the Chair, as the case may be, and the proceedings shall then be as provided in Standing Orders 240 and 241, except that the question for the suspension of the Member shall be put by the Speaker without a motion being necessary

If the question for the suspension of the Member is resolved in the negative, the Member may forthwith return to the Chamber.

#### **Policy Discussion**

It is proposed to re-name this Standing Order from 'Gross' to 'Extreme' reflecting a slightly more modern usage of everyday language. The words 'gross' and 'grave' (see below) are both used in the House of Representatives<sup>3</sup>, however it is submitted that they are archaic and outmoded terms.

The Explanation of the process is also clarified and the role of the Speaker (or if the Assembly is resolved into a Committee stage the role of the Chair) is explained in the proposal.

The original Standing Order was the only version of these disciplinary Orders permitting the Speaker to name and put the question immediately. The proposal reflects the recommended approach that Speaker has this capacity in all similar Standing Orders and does not highlight this as an exception any longer.

#### Proposed Standing Order No 53

## Extreme Disorder by a Member

When the conduct of a Member is so highly disorderly that the procedure in Standing Order 52 would be inadequate to ensure the urgent protection of the dignity of the Assembly, the Speaker or the Chair of the Committee of the Whole orders the Member to leave the Chamber immediately and once the Member has departed, the Member is named by the Speaker (upon report from the Chair if the Assembly is in the Committee of the Whole) and the question for the suspension of the Member is put immediately. If the question for the suspension of the Member is resolved in the negative, the Member may return to the Chamber.

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<sup>&</sup>lt;sup>3</sup> HoRP p540-541

## Existing Standing Order No 243

## Effect of Suspension

A Member who has been suspended from the service of the Assembly shall be excluded from the Chamber and all galleries thereof and from attendance at all meetings of Assembly committees.

## **Policy Discussion**

It is proposed to re-title the Standing Order and make the language a little more succinct.

# Proposed Standing Order No 54

## Effect of a Suspension and Exclusion from the Chamber

A Member suspended from the service of the Assembly is excluded from the Chamber, its galleries and may not participate in or view any meetings of Assembly committees.

## Existing Standing Order No 244

#### Grave Disorder

In the case of grave disorder arising in the Assembly, the Speaker may adjourn the Assembly without question put, or suspend any sitting for such time advised to Members.

#### Policy Discussion

This is where the Assembly considers a level of disorder higher than Gross Disorder which it was suggested is changed to the more commonly used 'extreme' because 'gross' means *lacking refinement* and in the context of re-drafted Standing Order 53 above it is suggested that 'extreme' is a better word.

However if that is extreme then what is worse? The word 'grave' actually means *dignified*, *sedate*, *serious or earnest* which is not the correct meaning we wish to apply to an even worse case of disorder.

The meaning we are looking for here is more 'abhorrent'. This is a matter where the Assembly Standing Orders have routinely followed the wording in the House of Representatives, however on this occasion the Assembly may lead with more precise modern terminology.

Another word which is more serious than 'extreme' and better than 'grave' for this Standing Order might be 'disgraceful or, perhaps 'monstrous', severe or just 'the worst.'

The re-written Standing order provides clarity that it may apply to the galleries and how the Assembly may reconvene is by Speaker nominating a time or advising the bells will be rung.

## Proposed Standing Order No 55

#### Severe Disorder

In the case of severe disorder occurring either in the Assembly or in its galleries, the Speaker may adjourn the Assembly without a question being put, or may suspend any meeting for such time to be advised to Members or until the ringing of the bells to indicate a resumption of the meeting.

## Existing Standing Order No 245

#### Wilful Disobedience

A Member who wilfully disobeys any order of the Assembly may be ordered to attend to answer for their conduct and, if they fail to attend, or if their explanation be deemed unsatisfactory, the Assembly may direct the Serjeant-at-Arms or another officer of the Assembly to take such Member into custody

#### Policy Discussion

The matter for failure to attend is more likely a privilege matter or one of contempt which would no doubt be referred for consideration by the Committee of Privileges.

There have been no cases in either the House of Representatives or in the Territory Assembly where a Member has been taken into custody. The more likely procedure would be for the Speaker to suspend the sittings if a Member declined to leave as ordered by the Assembly.

It is a matter for the Standing Orders Committee as to whether to retain the explicit ability for the Serjeant to take a Member into custody when there are other options and it has not been done in 40 years or in 113 years in the case of the Representatives.

The power of the Presiding Officer to remove a Member from the Chamber is discussed at length in the High Court case of Egan v Willis and Cahill in 1998 where the President of the Legislative Council in NSW Council (the Hon. Mr Willis) directed the Usher of the Black Rod (Mr Cahill) to escort The Treasurer (Mr Egan) from the precincts of Parliament. When Mr Egan declined to leave voluntarily, the chair was vacated because of disorder. The Usher removed Mr Egan to the pavement of Macquarie Street, beyond the Parliamentary precinct.

The Northern Territory *Legislative Assembly Powers and Privileges Act* provides the power of the Speaker to remove a Member from the Chamber under s.16 but not extending to removal from the precinct, however, Speaker may order removal of strangers from the precinct.

- (1) The Speaker may, at any time, direct that a Member, ordered by the Assembly to be excluded or removed from the Chamber, be excluded or removed from the Chamber.
- (2) The Speaker may, at any time whether the Assembly is sitting or not, direct that a person who is not a Member be removed from, or be prohibited from entering, the precincts of the Assembly.

The proposed Standing Order does not include the power to take a Member into custody, yet this remains an option for an Assembly in control of its own destiny and member behaviour (the Assembly however, has no power to expel a Member). Once a Member was in custody they would be required to attend at the Bar in any case.

## Proposed Standing Order No 56

#### Disobedience of a Member

A Member who disobeys an order of the Assembly may be ordered to attend to answer for their conduct and a motion to this effect can be moved without notice.

#### Existing Standing Order No 246

#### Arrest of Stranger

The Serjeant-at-Arms or another officer of the Assembly may take or deliver into custody any stranger whom they may see, or who may be reported to them to be, in any part of the Chamber appropriated to the Members of the Assembly; and also any stranger who, having been admitted into any other part of the Assembly or gallery, misconducts themself, or does not withdraw when strangers are directed to withdraw, while the Assembly or any Committee of the Whole is sitting.

## Policy Discussion

This Standing Order is overly wordy and has been redrafted to more neatly reflect the relationship of who is authorised for the purposes of the security of the Assembly under the legislation.

While the term 'stranger' has currency in the context of Members and the history of the Westminster parliaments, the re-wording is designed to make the Standing Order completely comprehensible by any reader. In some Standing Orders it is proposed to refer to "strangers' as visitors. However this would not apply when a person acts with hostility rather than being a passive visitor. In this Standing Order 'authority' is the key.

## Proposed Standing Order No 57

#### Arrest of Unauthorised Persons

If any person other than a Member disturbs the operation of the Chamber or a Committee, any authorised officer pursuant to s.5 of the *Legislative Assembly (Security) Act* may immediately remove the person or take the person into custody.

## LEGISLATIVE ASSEMBLY (SECURITY) ACT - SECT 5

## Authorised persons

- (1) The following persons are authorised persons for the purpose of this Act:
  - (h) the Clerk within the meaning of the *Legislative Assembly (Powers and Privileges) Act*
  - (i) the Deputy Clerk within the meaning of the *Legislative Assembly (Powers and Privileges) Act*
  - (j) the Clerk Assistant within the meaning of the Legislative Assembly (Powers and Privileges) Act
  - (k) the Sergeant-at-Arms of the Assembly
  - (I) a member of the Police Force
  - (m) a person, employed by a security firm within the meaning of the *Private Security Act* that is engaged to provide the services of crowd controllers in relation to the Assembly precincts, who:

- (i) is directed by the security firm to provide the services of a crowd controller in relation to the Assembly precincts, and
- (ii) holds a crowd controller's licence within the meaning of the *Private Security Act* (not being a crowd controller's transitional licence or a crowd controller's provisional licence within the meaning of that Act).
- (n) a person appointed under subsection (2).
- (2) The Speaker may, in writing, appoint an employee within the meaning of the *Public Sector Employment and Management Act* to be an authorised person.

## Existing Standing Order No 247

## **Dealing with Arrested Persons**

When any Member or other person has been taken into the custody of the Serjeant-at-Arms or another officer, such arrest shall be reported to the Assembly by the Speaker without delay; and the Assembly shall fix the time for such Member or other person to be brought to the Bar, to be dealt with by the Assembly.

#### Policy Discussion

This is arguably in part superfluous because a person is brought to the Assembly pursuant to Standing Order 56, however it may be retained for completeness and clarity.

The proposal reflects the policy discussion above at Standing Order No 56 which suggests deleting the ability to 'arrest' Members and streamlines the proposed process.

## Proposed Standing Order No 58

## Dealing with Removed Persons

When any person is removed under Standing Orders 56 or 57 their removal is reported to the Assembly by the Speaker without delay; and the Assembly determines the consequences.

# **CHAPTER FIVE**

# BUSINESS OF THE ASSEMBLY AND ORDERS OF THE DAY

## Existing Standing Order No 89

## **Conduct of Business**

Any motion connected with the conduct of the business of the Assembly may be moved by a Minister at any time without notice.

## **Policy Discussion**

No change is proposed to this Standing Order as it is the self-explanatory ability of the Executive to have control over the order of the business of the Assembly.

## Proposed Standing Order No 59

## **Conduct of Business**

Any motion connected with the Assembly's conduct of the business may be moved by a Minister at any time without notice.

## Existing Standing Order No 90

## Routine - Sessional Order 23 October 2012

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

- (a) Tuesday and Thursday:
  - 1. Prayers
  - 2. Questions
  - 3. Government Business Notices and Orders of the Day
  - 4. At 2pm Notices
  - 5. Petitions
  - 6. Government Business Notices and Orders of the Day
  - 7. Ministerial Statements
  - 8. Papers
  - Consideration of Committee Reports, Auditor-General's Reports and Government Responses
  - 10. Discussion pursuant to Standing Order 94 (Matter of Public Importance)

#### (2) Wednesday

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

#### Policy Discussion

The proposed re-draft provides for complete flexibility which reflects the existing practice of the Assembly. The draft could continue to adopt the existing practice of extracting the relevant sessional order within the up to date copy of Standing Orders as available for Members as well as continuing the Sessional Order in a separate folio.

As a matter of good policy the Standing Orders should be reviewed and updated once each Assembly.

It is also proposed to include the Times and Meetings of the Assembly capacity in here which in the past were in Sessional Orders. Without this capacity there is arguably no ability for the Speaker to at his/her discretion appoint sittings of the Assembly outside of the existing published sittings. This situation is not desirable if there are no sittings for a while and an absolute majority of Members write to the Speaker seeking a sitting and Speaker's capacity to do so is in question.

## Proposed Standing Order No 60

## Programming of Meetings of the Assembly and Routine of Business

The Speaker may pursuant to Standing Order No 4 appoint, at his or her discretion, notwithstanding any other resolution of the Assembly, a day and/or time for the holding of a meeting of the Assembly.

Business of the Assembly will always take precedence as required by Standing Order No 61. Messages from the Administrator will be considered Business of the Assembly.

The Assembly conducts its business on each meeting day according to a Sessional Order as adopted by the Assembly from time to time.

The Sessional Order for the 12<sup>th</sup> Assembly is:

## (3) Tuesday and Thursday:

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

## (4) Wednesday

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

#### Existing Standing Order No 91

#### Precedence of Business of the Assembly

The following business shall be placed on the Notice Paper as "Business of the Assembly" and shall take precedence of government and general business for the day on which it is set down for consideration:

- (a) a motion touching on the qualification of a Member;
- (b) a motion to disallow, disapprove or declare void and of no effect any instrument of a legislative or administrative character made under the authority of any Act which provides for the instrument to be subject to disallowance or disapproval by the Assembly, or subject to a resolution of the Assembly declaring the instrument or part thereof to be void and of no effect;
- (c) an order of the day for the presentation of a report from a standing or sessional committee; and
- (d) a motion or order of the day for the appointment of standing or sessional committees.

#### Policy Discussion

It is proposed to refine the Standing Order to cover any committee of the Assembly rather than specify sessional or standing committees and also to include changes to membership and to also delete some of the redundant wording around the disallowance motion since this is merely a direction for what is placed into this area on the Notice Paper not a direction about what a disallowance itself is.

A question arises as to whether this confuses the ability to present a committee report at any time there is no question before the Chair. However the distinction here is that it has been made an order of the day and thus carries precedence. The Standing Orders Committee may however find (3) below redundant.

#### Proposed Standing Order No 61

#### Precedence of Business of the Assembly

'Business of the Assembly' will always appear first on the Notice Paper and be dealt with prior to any other business before the Assembly.

Business of the Assembly is:

- (6) a motion concerning the qualification of a Member
- (7) a motion to disallow, disapprove or declare void and of no effect any instrument or part of any instrument made under the authority of any Act which provides for the instrument to be subject to disallowance or disapproval by the Assembly
- (8) an order of the day for the presentation of a report from any committee of the Assembly, and
- (9) a motion or order of the day for the appointment or membership of any committee of the Assembly.

(10) Business related to any message from the Administrator to the Assembly.

#### Existing Standing Order No 92

## Reports from Committees, Papers, Ministerial Statements

Notwithstanding Standing Order 90, reports of standing, sessional or select committees, papers and ministerial statements may be presented at any time when other business is not before the Assembly.

## **Policy Discussion**

There is some overlap with existing Standing Order No 258 with regard to when Ministerial Statements are made.

It is proposed to delete the overlap with 258 and remove the reference to Ministerial Statements in this Standing Order and place it in a subsequent re-drafted Standing Order in new Chapter Nine.

Arguably the two clauses proposed for new Chapter Nine could alternately be included in this chapter. A matter for the Standing Orders Committee to consider for ease of reference.

It is also proposed to change the terminology to include all committees of the Assembly.

### Proposed Standing Order No 62

## Reports from Committees and Papers

Notwithstanding Sessional Orders outlining the routine of business pursuant to Standing Order 60, reports of any Assembly Committee or any papers to be presented may be presented whenever there is no other business being considered by the Assembly.

#### Existing Standing Order No 93

#### Order and Precedence of Government Business

In this Order 'Government Business' means any business introduced by a Minister.

The Chief Minister, or another Minister acting on behalf of the Chief Minister, may arrange the order of Government Business, Notices and Orders of the Day on the Notice Paper as required; and, unless otherwise ordered, Government Business shall, on each sitting day, have precedence of General Business except that, General Business shall have precedence of Government Business on each Wednesday of a sittings week from 5.30pm to 9pm.

## Policy Discussion

It is proposed the Standing Order reflect the practice of the Assembly by giving the authority to the Leader of Government Business while retaining the absolute authority of the Chief Minister and delegation to any Minister on his/her behalf. However the Standing Orders Committee might agree that the Leader of Government Business is routinely acting in that manner and should be for the purposes of clarity named in the Standing Order.

It is also proposed to leave the naming of the day of the week for General Business to the Sessional Orders. The existing Wednesday 5.30pm slot reference would thus be deleted.

This offers the Assembly flexibility and locates the routine in the Sessional Orders as per the proposed new Standing Order No 61.

#### Proposed Standing Order No 63

#### Order and Precedence of Government Business

The Chief Minister, Leader of Government Business or a Minister acting on behalf of the Chief Minister, may arrange any business introduced by a Minister on the Notice Paper as Government Business to suit the Government as required which will take precedence over General Business except where the Sessional Orders provide otherwise.

#### Existing Standing Order No 93A

#### Order and Precedent of General Business

Opposition and Independent Members are able to re-order Opposition and Independent Notices and Orders of the Day and postpone Notices and Orders of the Day provided the ranking of Opposition and Independents' Notices and Orders of the Day remain in the same position on the Notice paper.

Notification of re-arrangement of Notices or Orders of the Day / to be advised by Opposition Whip and/or Independent Member to the Clerk, Government Whip, Independent Members and Opposition Whip by the close of sittings on the Tuesday immediately preceding the General Business day.

#### Policy Discussion

This Standing Order is framed as if General Business excludes Government Members from introducing motions and bills for consideration; this is not the intention and is not the purpose of General Business. General Business is Private Members Business and allows any Member to introduce items.

The Speaker's Bulletin from August 2013 states:

During the August sittings, comment was made in debate about a Government Member giving notice of a motion to be considered during the time reserved for General Business.

I remind Members that General Business is available for use by any Member of the Assembly.

While the Standing Order about the ordering and the precedence of General Business (93A) states that the Opposition and Independent Members have control of the re-ordering of such business (providing that ranking remains the same) this does not preclude Government Members from introducing bills or giving Notices of Motions.

As a matter of interest, The Rights of the Terminally III bill stood on the Notice Paper under General Business Notices Number 3 on Wednesday 22 February 1995 and Members; Mr Finch and Mr Stone, had motions relating to the topic of euthanasia debated in General Business on the same day.

The redraft will also clarify altering the order without impacting upon the ranking. The intention being that Member X cannot re-order unilaterally or in collusion with other Members to disadvantage Member Y's ranking.

This Standing Order was given further Subcommittee consideration on 14 May 2014 and has been re-drafted to allow for agreement between Members to re-order and lose ranking.

### Proposed Standing Order No 64

#### Order and Precedence of General Business

Members with General Business listed on the Notice Paper may re-order and postpone their own Notices and Orders of the Day so long as their re-reordering or postponement does not alter the ranking of another Member's item on the Notice Paper to move that Member further down the ranking of Notices or Orders of the Day unless that other Member agrees.

Notification of re-arrangement of Notices or Orders of the Day shall be advised by the relevant Whip and/or Independent Member and any affected Member to the Clerk, the counterpart Whip or Whips and any other Independent Member by the close of the meeting on the day immediately preceding the General Business day.

#### Existing Standing Order No 93AA

# Consideration of Committee Reports, Auditor General's Reports and Government Responses

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, Auditor-General's reports or government responses presented to the Assembly shall be called on, in the order in which the respective reports or government responses were presented.

#### Policy Discussion

This is not followed in practice. It is supposed to occur after Papers and prior to MPI or Adjournment.

In practice these matters tend to languish on the Notice Paper and are routinely re-ordered by the Government. The Assembly has not insisted on this practice and no point of order appears to have been raised.

Arguably it is redundant if not followed. It could be removed. It was only introduced in 2010.

What is the view of the Standing Orders Committee? If retained it would be in substantially the same form except for referring to the Sessional Orders rather than Standing Orders should the re-write of SO 90 have been agreed (New SO 60).

#### Proposed Standing Order No 65

# Consideration of Committee Reports, Auditor General's Reports and Government Responses

Where on any meeting 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 then at the time allocated in the Sessional Orders for consideration of such reports, they will be called on for consideration in the order in which the respective reports or government responses were presented.

#### Existing Standing Order No 94

## Discussion of a Matter of Public Importance

- (1) A Member may propose to the Speaker that a definite matter of public importance be submitted to the Assembly for discussion. The Member proposing the matter shall present to the Speaker at least two hours before the time fixed for the sitting of the Assembly, and on the day for presentation, a written statement of the matter proposed to be discussed. If the Speaker determines that it is within the competence of the Assembly and is otherwise in order the matter shall be communicated to a Minister and to the Leader of the Opposition as soon as practicable. After "Ministerial Statements" the Speaker will read the matter proposed to be discussed to the Assembly. The proposed discussion must be supported by **four** Members, including the proposer, rising in their places as an indication of approval. The Speaker shall then call upon the Member who proposed the matter to speak.
- (2) At any time during the discussion, a motion may be made by a Member "that discussion be concluded" and such motion shall be put forthwith and decided without amendment or debate and, if agreed to, the Business of the Day shall be proceeded with immediately. A motion under Standing Order 78 (closure) or Standing Order 72 (adjournment) will not be in order.
- (3) In the event of more than one matter being presented for the same day, priority shall be given to the matter which, in the opinion of the Speaker, is the most urgent and important and no other proposed matter shall be read to the Assembly on that day.

#### Policy Discussion

Proposed to provide a tidy up of language to omit words like 'forthwith' and replace with 'immediately' where appropriate.

#### Proposed Standing Order No 66

#### Discussion of a Matter of Public Importance

(2) A Member may propose to the Speaker that a matter of public importance be submitted to the Assembly for discussion.

The Member proposing the matter must present the proposal in writing to the Speaker at least two hours before the time fixed for the meeting of the Assembly, and on the day for presentation.

If the Speaker determines that it is within the competence of the Assembly and it is otherwise in order, the proposal is communicated to a Minister and to the Leader of the Opposition as soon as possible.

After "Ministerial Statements" the Speaker will read the proposal to the Assembly. The proposed discussion must be supported by **four** Members, including the proposer, rising in their places. The Speaker then calls upon the Member who proposed the matter to speak.

(4) At any time during the discussion, a motion may be made by a Member "that discussion be concluded". Such a motion must be put immediately and decided without amendment or debate and, if agreed to, the Business of the Day proceeds

- according to the routine of Business on the Notice Paper. A motion under Standing Order 44 (closure of question) or Standing Order 40 (adjournment) will not be in order.
- (3) In the event that more than one matter is presented for the same day, priority is given to the matter which, in the opinion of the Speaker, is the most urgent and important and no other proposed matter is read to the Assembly on that day.

#### Existing Standing Order No 95

#### Precedence to Censure or Want of Confidence

A motion of which notice has been given or an amendment which expresses a censure of or want of confidence in the government, if accepted by a Minister as a censure or want of confidence motion or amendment, shall be moved forthwith and until it is disposed of by the Assembly, shall take precedence of all other business

#### Policy Discussion

A No Confidence Motion is governed by the three day notice rule in s.24 of the Electoral Act.

This Standing Order should only refer to Censure Motions and there should be a separate process for No Confidence Motions which allows for precedence for Notice and Debate but notes the three day rule.

The usual process in the Territory Assembly is for a motion to be moved for the suspension of Standing Orders to allow for the Censure of a Minister. This is required because there is no precedence given under this Standing Order for censure of a Minister (including Chief Minister) this Standing Order relates only to Government.

Does the Committee wish to allow for the Government to accept the censure of a Minister on the floor without notice? It would do away with unnecessary confusion of moving suspension and still permit a refusal.

During the existing Assembly the Government has required such a motion to be written and signed by the mover and circulated at the time it is moved. The Standing Orders do not require this approach, however to reflect this practice the re-drafted Standing Order requires this. The proposed version also limits the procedure to Question Time and this may be considered too restrictive, even though it's the course of events on 100% of times such a motion is moved.

## Proposed Standing Order No 67

#### Precedence of a Censure Motion

A motion which is moved without notice during the course of Question Time, and prior to the Leader of Government Business asking further Questions to be placed on the written question paper, which seeks to censure the Government or a Minister, may be accepted by the Government and given precedence over all other business. Once accepted, the motion will be moved and a copy circulated. If not accepted to take precedence, then the normal routine of business will prevail and notice may be given at the usual time.

#### Existing Standing Order No 95

#### Precedence to Censure or Want of Confidence

A motion of which notice has been given or an amendment which expresses a censure of or want of confidence in the government, if accepted by a Minister as a censure or want of confidence motion or amendment, shall be moved forthwith and until it is disposed of by the Assembly, shall take precedence of all other business

#### Policy Discussion

As discussed above, the process for a No Confidence or 'Want of Confidence' Motion is guided by legislation.

# ELECTORAL ACT - SECT 24 Extraordinary general election – motion of no confidence

- (2) The Administrator may issue a writ for a general election at any time if:
  - (a) a motion of no confidence in the Government is passed by the Legislative Assembly (being a motion of which not less than 3 clear days notice has been given in the Legislative Assembly); and
  - (b) during the period of no confidence, the Legislative Assembly has not passed a motion of confidence in the Government.
- (2) After the motion of no confidence is passed, the Legislative Assembly may not be prorogued before the end of the period of no confidence and may not be adjourned for a period extending beyond that period unless a motion of confidence has been passed.
- (3) In this section:

"period of no confidence", for a motion of no confidence in the Government, means the period starting on the day the motion is passed and ending 8 clear days after it is passed.

It is proposed to use the common everyday nomenclature of 'no confidence' rather than the quaint 'want of confidence' and to reflect in the new Standing Order a process tested during 2009 in the Assembly.

The draft Standing Order outlines the process where the Assembly is not sitting and where an absolute majority of Members have sought a sitting to consider a matter of No Confidence.

The Speaker must convene the sitting; however matters of practicality will dictate when the sitting will occur. These matters would include ascertaining the availability of Members to attend the sittings at short notice.

The Committee's attention is drawn to this new Standing Order for detailed consideration.

#### Proposed Standing Order No 68

#### **Motion of No Confidence**

Where a Member wishes to move a Motion of No Confidence in the Government the Member must give notice of the motion three clear days prior to the Motion of No Confidence being called on and debated.

A Minister may give precedence for notice to be given ahead of any other business at any time there is no question before the Chair.

After the lapse of three clear days, the Motion will be given precedence over all other business and be listed on the Notice Paper as the first item in the category: *Business of the Assembly*.

The form the Notice will take will be to express that: The Assembly, pursuant to section 24(1)(a) of the Electoral Act, expresses that the Government no longer possesses the confidence of the Assembly. The reasons why may then be expressed in the remainder of the motion.

If the Assembly is not scheduled to meet, and the Speaker receives a letter signed by an absolute majority of Members of the Assembly requesting a special meeting in order for the Notice of a Motion of No Confidence to be given, and a subsequent meeting day to take place three days later for the Motion to de debated, the Speaker will convene a special meeting of the Assembly as soon as possible.

## Existing Standing Order No 96

#### Leave

Leave of the Assembly or committee must be granted without any dissentient voice.

## Policy Discussion

The new heading and description proposed in the re-draft updates the language and makes it clear what is required to the casual reader. The term 'dissentient voice' is arguably redundant.

## Proposed Standing Order No 69

## Seeking leave of the Assembly or Committee of the Whole

A Member who has the call may seek the leave of the Assembly or the Committee of the Whole. Leave of the Assembly or Committee must be unanimous and granted without any dissent.

## Existing Standing Order No 96B

Programming of Questions – suspended on 23 October 2012 by resolution pursuant to Standing order 90.

## **Policy Discussion**

Standing Order 96A was rescinded on 12 October 2009. That was the Standing Order permitting Ministerial Reports (as opposed to Ministerial Statements). Given it has no status as a rescinded Standing Order it is not discussed here.

Standing Order 96B is best dealt with by way of Sessional Orders as per the policy discussions surrounding proposed Standing Order No 60 above.

If this proposal is accepted, Standing Order No 70 will be the first Standing Order of the next Chapter.

Proposed Standing Order No 70

See below

## **CHAPTER SIX**

## **NOTICES OF MOTIONS AND MOTIONS**

#### Existing Standing Order No 101

#### **Notices Given**

A notice of motion may be given by a Member stating its terms to the Assembly when notices are called for, and delivering to the Clerk a copy of their motion signed and indicating the day proposed for moving the motion.

## **Policy Discussion**

The sentence structure is a little unwieldy and it is proposed to redraft the Standing Order to make the process clear and simple to follow.

The re-draft also requires a succinct approach. This is a matter the Committee may wish to consider further. Overly long notices may attempt to argue the substance ahead of the actual debate. Speakers have in the House of Representatives warned Members about giving overly long Notices. A Notice practically incorporating a speech cannot be given<sup>4</sup>.

Existing Standing Order No 122 requires motions be by way of notice only. See the discussion surrounding proposed Standing Order No 79 below.

The re-draft here explains that motions require notice and then how to give that notice. It is arguably easier to understand and comply with than the existing process of Standing Order Nos 101 and 122 being separated out.

## Proposed Standing Order No 70

#### Giving Notice of a Motion

Motions require notice, unless otherwise provided in Standing Orders or the Assembly gives leave.

When a Member wishes to give notice that they will move a motion, they will provide a signed copy of the notice to the Clerk stating the day the motion is proposed to be moved and the terms of the motion in the form of a succinct and concise proposition. The Member will, when Notices are called on, rise and orally give their notice.

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<sup>&</sup>lt;sup>4</sup> See HoRP pages 293- 297.

## Existing Standing Order No 102

## Given By Proxy

A Member, in the absence of another Member and at their request, may give a notice of motion for another Member and shall put the name of such Member and their own signature on the notice.

## **Policy Discussion**

The proposed re-draft is a simple clarification of the description of the procedure and language.

## Proposed Standing Order No 71

### Giving Notice of Motion by Proxy

A Member may give notice of a motion on behalf of a Member who is absent and the notice of motion will be signed by the originating Member stating the name of the Member acting on their behalf and the notice must also satisfy the requirements of Standing Order No 70.

#### Existing Standing Order No 103

#### **Amendment**

After a notice of motion has been given, the terms thereof may be altered by the Member notifying the Assembly and delivering to the Clerk an amended notice, either on the same day or any day prior to that for proceeding with the motion, or The Member may withdraw the same by notifying the Assembly.

#### Policy Discussion

This Standing Order combines amending and withdrawing. It is proposed to separate these two distinct procedures and to re-draft the Standing Order accordingly into two separate orders.

By proposing the time during the sitting day when the Assembly is notified being the same time as the notices being given, provides for more certainty. Otherwise a Member may seek leave at any time there is no question before the Chair. That is a given.

### Proposed Standing Order No 72

#### Amending a Notice of Motion

A Member may amend their notice by providing an amended signed notice to the Clerk and notifying the Assembly during the Business of the Day set aside for notices where they will present their amended notice. The amended notice must be given prior to the calling on of the original notice.

#### Existing Standing Order No 103

#### Amendment

After a notice of motion has been given, the terms thereof may be altered by the Member notifying the Assembly and delivering to the Clerk an amended notice, either on the same day or any day prior to that for proceeding with the motion, or The Member may withdraw the same by notifying the Assembly.

#### Policy Discussion

It is proposed to separate out amending and withdrawing a notice.

This draft makes it clear that the Notice may be withdrawn at any time when there is no question before the Chair.

Prior to the Motion being moved it remains in the possession of the Member, after being moved it comes into the possession of the Assembly itself and must be disposed of as a question for deliberation before any other business comes on.

In the House of Representatives the process is more formal where the motion is moved and seconded then the question is proposed by the Speaker<sup>5</sup> then the debate occurs. It is not proposed to adopt this procedure in the Northern Territory.

The re-draft proposes a flexible approach which would at any time permit the Notice being withdrawn and it being removed from the notice paper so the Assembly can get on with other matters.

The Committee may wish to make the amendment provision in Proposed Standing Order No 72 this flexible as well.

#### Proposed Standing Order No 73

#### Withdrawing a Notice of Motion

A notice of motion may be withdrawn by the Member by notifying the Assembly at any time when there is no other question before the Chair.

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<sup>&</sup>lt;sup>5</sup> Page 302

#### Existing Standing Order No 104

#### Order on Notice Paper

Notices shall be entered by the Clerk on the Notice Paper in the order in which they were delivered at the Table. A Member, except a Minister, may not give 2 notices consecutively if another Member has any notice to give.

## **Policy Discussion**

Existing Standing Order No 123 provides for order of precedence on the Notice Paper which follows from existing Standing Order 104 providing that they will get on the Notice paper in the order they are delivered at the Table.

It is suggested that the first part of existing Standing Order No 123 is redundant and proposed Standing Order 74 can cover the order of putting them on the Notice paper as well as the precedence arising written on the Notice Paper.

That part of existing Standing Order No 123 relating to postponement of an order of the day may be accommodated in either the same or a separate Standing Order on orders of the day for motions as distinct from notices of motions.

The re-draft below may conflate the practice and the Standing Orders Committee may wish to consider this mater in further detail to either combine or separate these.

#### Proposed Standing Order No 74

#### Order of Notices on the Notice Paper

Notices will appear on the Notice Paper and have precedence over each other in the order in which they are received by the Clerk at the Table. Only a Minister may give two or more notices consecutively unless no other Member has any notice to give.

A Member may postpone their motion or the motion of another Member with the permission of that Member by moving a motion without notice whenever there is no other matter before the Chair.

## Existing Standing Order No 105

## **Dividing Into Parts**

If a notice of motion is given which contains matters not relevant to each other, the Speaker may instruct the Clerk to divide such notice into 2 or more notices.

## **Policy Discussion**

Nil required. Change suggested to heading only.

Proposed Standing Order No 75

## Notice May be Divided if it Covers Unrelated Topics

If a notice of motion is given which contains matters not relevant to each other, the Speaker may instruct the Clerk to divide the notice.

#### Existing Standing Order No 106

## Not to Offend Against Standing Orders

Any notice of motion containing unbecoming expressions, or which offends against any Standing Order, shall be amended by the Speaker before it appears upon the Notice Paper and, if necessary, the Speaker may determine that any such notice shall not be placed upon the Notice Paper.

#### Policy Discussion

So long as the language in the motion is not unparliamentary then it is up to the mover of the motion to choose the language they wish to express their intentions and the Speaker does not intervene.

The Speaker intervenes only to administer the rules and practices of the Assembly, not to correct grammar or spelling. A Speaker may rule a motion out of order if the motion differs substantially from the notice given.

The same motion rule and frivolous content are discussed in the House of Representatives Practice at pages 297 and 298.

## Proposed Standing Order No 76

## Language and Content of a Notice of Motion

A notice of motion may not contain unparliamentary language or content which contravenes any Standing Order. Such a notice may be ordered by the Speaker to be amended or ordered withdrawn from the Notice Paper.

#### Existing Standing Order No 107

## Change of Day for Moving

A Member who has given notice of a motion may change the day proposed for moving the motion to a day subsequent to that first named by notifying the Clerk in writing prior to the calling on of the motion. The change of day shall be reported to the Assembly by the Clerk at the first convenient opportunity

#### Policy Discussion

Confusion has arisen about how the Clerk is to notify Members.

Is it sufficient to send an email or should the Clerk rise and make some announcement?

It is proposed that the Standing Order only require the Clerk to advise relevant Whips and independent Members where applicable.

This could be done by an email or if the proposed change is notified to the Clerk only seconds before it is to be called on the Clerk can notify the Assembly when asked by the Speaker to read the Orders of the Day.

Does the Committee agree with this approach?

Proposed Standing Order No 77

## Change of Day for Moving Motion

A Member who has given notice of a motion may change the day proposed for moving the motion to a later day by notifying the Clerk in writing prior to the calling on of the motion. Upon receiving this advice the Clerk will advise the Assembly as soon as possible through the most convenient available channel.

#### Existing Standing Order No 108

#### **Effect of Notice**

With the exception of a notice of a motion given and accepted by a Minister pursuant to Standing Order 95, no notice or contingent notice shall have effect for the day on which it is given

#### **Policy Discussion**

This Standing Order is to ensure notices are given with plenty of time for Members to prepare for debate on the motion to be given consideration by the Assembly.

## Proposed Standing Order No 78

## Notices must be for Another Day

Except for a notice of motion given and accepted by a Minister under Standing Order No 67, or as otherwise provided in these Standing Orders, notices of motion must be for a day subsequent to the day when notice is given.

#### Existing Standing Order No 122

#### By Notice Only

No Member may, except by leave of the Assembly or unless it be otherwise provided in Standing Orders, move any motion except in pursuance of a notice appearing on the Notice Paper.

## **Policy Discussion**

The original placement of this Standing Order at the commencement of Chapter XIII, two chapters after the original chapter entitled *Notices of Motion*, is nonsensical and this Standing Order suffers as if it were once again starting on the topic of Notices of Motion. Proposed Standing Order No 70 above provides for this rule. The Committee may wish to revisit proposed Standing Order No 70 above.

### Existing Standing Order No 123

#### Order of Precedence

Motions shall have precedence of each other according to the order in which they appear on the Notice Paper. A motion may be postponed by motion without notice by the Member who gave notice of the motion, or a Member acting on their behalf and at their request.

#### Policy Discussion

See discussion above in relation to proposed Standing Order No 74.

#### Existing Standing Order No 124

#### Not Dealt With

If, at the adjournment of the Assembly, any motions on the Notice Paper have not been called on, such motions shall be set down on the Notice Paper for the next sitting day.

#### Policy Discussion

This is a self-evident Standing Order and allows for the motions to continue their life until finally disposed of. Their life continues on the Notice Paper until considered or the Assembly is prorogued. In the House of Representatives, under their Standing Order 42 the Clerk removes from the Notice Paper any item of Private Member's business which has not been called on for eight consecutive sitting Mondays<sup>6</sup>.

It is not proposed to emulate this provision in the Northern Territory. It is proposed the Standing Order remains as previously drafted.

#### Proposed Standing Order No 79

#### Motions Not Dealt With

If, at the adjournment of the Assembly, any motions on the Notice Paper have not been called on, such motions shall be set down on the Notice Paper for the next meeting day.

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<sup>&</sup>lt;sup>6</sup> HoRP page 296

#### Existing Standing Order No 125

#### Thanks or Condolence

Precedence will be ordinarily given by courtesy to a motion for a vote of thanks of the Assembly or of condolence.

#### Policy Discussion

It is the practice of the existing Assembly that condolence motions will take precedence over all other business at 2.00pm on a sitting day. Motions of Thanks are comparatively rare and have not been moved recently in the Assembly.

The Standing Order notes this is a courtesy only and it is not a requirement and nor should it be expected. In the past the Standing Order was applied to the commencement of proceedings at 10.00am, however, with the restoration of Question Time to 10.00am for the 12<sup>th</sup> Assembly the 2.00pm slot is more convenient for the routine of business to be interrupted and for certainty for invited guests to be seated in the galleries.

#### Proposed Standing Order No 80

#### Motions of Thanks or Condolence

A motion for a vote of thanks of the Assembly or of condolence will generally be given precedence as a matter of courtesy.

#### Existing Standing Order No 126

## Lapse of Notice

If a Member is not in their place when the notice of motion they have given is called on, it shall be withdrawn from the Notice Paper unless another Member, at their request, either moves the motion or thereupon proposes that the motion be later moved.

## Existing Standing Order No 127

## Member Failing to Rise

If a Member, when the notice of motion they have given is called on, fails to rise and move the motion, it shall be withdrawn from the Notice Paper unless they thereupon propose fixing a future time for moving the motion.

### **Policy Discussion**

A simple mechanism to dispose of or defer a motion so as to continue the smooth running of business in the Assembly, this Standing Order (126) is a warning to Members to be in their place or an invitation to Members to be absent should they wish their motion not to proceed.

The proposed re-draft also includes the existing provision in Standing Order 127 where a Member for whatever reason fails to rise.

The Existing Standing Order No 127 is nonsense because it is about the Member failing to rise so the Notice is withdrawn but provides that after they fail to rise they can propose a fixing of a future time for moving the motion. This is not possible if they have 'failed to rise'.

Existing Standing Orders Nos 49 and 50 (proposed Standing Orders 18 and 19) require a Member to rise in order to speak.

Alternatively the Standing Order could be redrafted to get rid of 'Failing to Rise' and state that a Member may 'choose not to rise or may rise and defer'.

#### Proposed Standing Order No 81

#### Notice will Lapse if Member is not Present or Fails to Rise

If a Member is not in their place or fails to rise when the notice of motion they have given is called on, it will be withdrawn from the Notice Paper. If the Member is absent, another Member may, at their request, either move the motion or postpone the motion to a later time or date.

## Existing Standing Order No 128

#### Possession of Motion

When a motion has been moved, a question thereupon shall be proposed to the Assembly by the Speaker and the motion shall be deemed to be in possession of the Assembly and cannot be withdrawn without leave.

## **Policy Discussion**

This does not occur in practice.

See discussion about this above at Standing Order No 73. The practice in the Northern Territory is reflected in the proposed re-draft.

### Proposed Standing Order No 82

#### Possession of a Motion

After a motion has been moved it is in the possession of the Assembly and cannot be withdrawn without leave.

#### Existing Standing Order No 129

## Anticipation of Business

A matter on the Notice Paper must not be anticipated by another matter unless that matter is a more effective form of proceeding: provided that, in determining whether the matter proposed is or is not in order on the ground of anticipation, regard shall be had by the Speaker to the probability of the matter anticipated being brought before the Assembly within a reasonable time.

#### Policy Discussion

It is proposed to tighten up this Standing Order to bring anticipation to a defined timeframe of the same or the next sitting day.

Existing Standing Order No 68 (proposed Standing Order 36) already covers 'Anticipation of Subject' and has been retitled 'Anticipation of Debate on Notice Paper.'

This Standing Order replicates that in the context of Notice of Motion. Is it actually required?

Can the Assembly rely upon proposed Standing Order 36 in the context of rules of Debate as well for Notices of Motion? Arguably it could, however perhaps abundant caution should prevail.

## Proposed Standing Order No 83

## A Motion which Anticipates Business already on the Notice Paper

A matter already on the Notice Paper must not be anticipated by giving Notice of a Motion covering the same matter unless it is a more effective form of proceeding. When deciding whether the matter proposed is or is not in order on the ground of anticipation, the Speaker will consider the probability of the matter anticipated being called on for consideration by the Assembly on the same or next meeting day.

## Existing Standing Order No 130

## Repeating Motions

A motion which has been superseded, or which, by leave, has been withdrawn may be moved again during the same session.

## **Policy Discussion**

This proposed redraft merely rearranges the syntax and clarifies the wording to achieve the same meaning.

## Proposed Standing Order No 84

## Repeating the Same Motion if Withdrawn

A motion which has been withdrawn from the Notice Paper before being decided may be moved again during the same session.

#### Existing Standing Order No 131

#### **Question Put**

As soon as the debate upon a question has been concluded, the Speaker shall put the question to the Assembly for decision, but, on the request of a Member, the Speaker may order a complicated question to be divided into parts.

## **Policy Discussion**

This is a mechanical provision which needs no explanation. The clarification is that any Member may ask, not just the Member who moved the motion.

#### Proposed Standing Order No 85

### Question or Questions to be put at the end of Debate

As soon as debate on a motion has concluded, the Speaker puts the question to the Assembly for decision. If any Member requests the Speaker to divide a complicated question then the Speaker may order that a complicated question is divided into parts to be put to the Assembly for decision part by part.

## Existing Standing Order No 132

#### Decision

A question being put shall be resolved in the affirmative or negative by the majority of voices "Aye" or "No".

## **Policy Discussion**

No substantial change proposed.

Proposed Standing Order No 86

## Decision on a Question Before the Assembly

A question being put is resolved in the affirmative or negative by the majority of voices "Aye" or "No".

#### Existing Standing Order No 133

#### **Opinion Stated**

The Speaker shall state whether in their opinion the "Ayes" or "Noes" have it; and if this opinion is challenged, the question shall be decided by a division.

## **Policy Discussion**

Once again a fairly simple tidy up, however it is worth noting that this Standing Order overlaps with existing Standing Order 156 drafted in substantially the same terms which then relies upon the following Standing Order (existing 157) to determine that a division must be supported.

This is because the existing ordering features a separate chapter on *Divisions* which arguably makes this Standing Order in this chapter redundant.

There will also be a similar Chapter in the new Standing Orders but this is the legacy of the existing Standing Orders telling the story in context of motions then telling the same story again for all divisions This is potentially a trap for the new Member who relies on the Standing Order describing how they can get the Speaker to call a division not knowing that the rule relating to divisions is expanded on later in the Standing Orders. If it is our intention to make these Standing Orders user friendly then this trap should be overcome.

Arguably it might be best to refer to the Standing Order drafted on the rule of divisions and delete this one or it may be desirable to retain it and just precisely re-state the rule with a reference as drafted below.

#### Proposed Standing Order No 87

## Speaker to State Opinion on Result of a Question being Put

The Speaker states whether in their opinion the "Ayes" or "Noes" have it. If this opinion is challenged, the question is decided by a division. A call for a division must be supported in accordance with the rule in Standing Order No 125.

#### Existing Standing Order No 134

#### No Repeat

Except by leave of the Assembly or, subject to Standing Order 198, by leave of a Committee of the Whole, no question or amendment may be proposed which is the same in substance as any question which, during the same session and within the previous 12 months, has been resolved in the affirmative or negative, unless the order, resolution or vote on such question or amendment has been rescinded: provided that this Standing Order shall not operate to prevent any proposal for the disallowance of or disapproval of an instrument of a legislative or administrative character substantially the same in effect as one previously disallowed or disapproved during the same session.

#### **Policy Discussion**

This Standing Order is largely ignored. The Assembly has considered matters the same in substance within 12 month periods on previous occasions. It is perhaps better to re-phrase this to better suit the requirements of the Territory Assembly and the level of tolerance for reconsidering matters from time to time.

On that basis the Speaker would have discretion over the proposed 'recently' rather than 12 months being stipulated. It should be noted that this proposal would no doubt be frowned upon in some jurisdictions.

## Proposed Standing Order No 88

## Limit on Repeating the Same Question

Except by leave of the Assembly or, subject to Standing Order No 162 (relating to the recommittal of a bill) by leave of a Committee of the Whole, no question or amendment may be proposed which is the same in substance as any question which the Speaker considers has recently been resolved in the affirmative or negative, unless the order, resolution or vote on such question or amendment has been rescinded. This Standing Order does not operate to prevent any proposal for the disallowance of or disapproval of an instrument of a legislative or administrative character substantially the same in effect as one previously disallowed or disapproved during the same session.

#### Existing Standing Order No 135

## Rescission of Vote, Order or Resolution

An order, resolution or other vote of the Assembly may be read and rescinded; but no such order, resolution or other vote may be rescinded during the same session, unless 7 days' notice be given: provided that —

- (a) to correct irregularities or mistakes one day's notice shall be sufficient, or the rescission may be made at once by leave of the Assembly; and
- (b) if 12 months have elapsed since the order, resolution or other vote was made or taken, one day's notice shall be sufficient.

## **Policy Discussion**

This is clumsily worded and a re-wording is proposed which contains the same rules.

Page 319 of the House of Representatives Practice lists examples of rescission motions but dos not give specific examples of irregularities or mistakes. An argument can be mounted as required when the matter arises. Suspension of Standing Orders without notice will usually overcome any notice provisions if there is absolute majority support for the suspension.

#### Proposed Standing Order No 89

#### Rescission of Vote, Order or Resolution

An order, resolution or other vote of the Assembly may be read and rescinded subject to the following rules:

- (5) A rescission requires seven days' notice
- (6) If the rescission is to correct a mistake then one days' notice will be sufficient
- (7) The Assembly may grant leave for a mistake or irregularity to be rectified immediately, and
- (8) If 12 months have elapsed since the order, resolution or other vote was made or taken, one day's notice is sufficient.

## **CHAPTER SEVEN**

## **AMENDMENTS TO MOTIONS AND QUESTIONS**

## Existing Standing Order No 136

## **Different Forms of Amending**

A question having been proposed may be amended —

- (a) by omitting certain words only;
- (b) by omitting certain words in order to insert or add other words; or
- (c) by inserting or adding words.

## **Policy Discussion**

No change proposed except to the title.

## Proposed Standing Order No 90

## Amending Motions and Questions

A question having been proposed may be amended:

- (4) by omitting certain words only
- (5) by omitting certain words in order to insert or add other words, or
- (6) by inserting or adding words.

## Existing Standing Order No 137

## In Writing Only

An amendment to any motion before the Assembly must, for purposes of record, be in writing and be signed by the mover.

## **Policy Discussion**

The proposed change is a minor deletion.

## Proposed Standing Order No 91

## Amendments to be in Writing

An amendment to any motion before the Assembly must be in writing and signed by the mover.

## Existing Standing Order No 138

#### Relevant

Every amendment must be relevant to the question which it is proposed to amend.

## **Policy Discussion**

A minor change to heading and text to improve comprehension is proposed.

## Proposed Standing Order No 92

## Amendments must be Relevant

Every amendment must be relevant to the question which it proposes to amend.

## Existing Standing Order No 139

#### Form of Question

When the proposed amendment is to omit certain words, the Speaker or Chair shall put the question "that the words proposed to be omitted, be omitted".

## Policy Discussion

No change is proposed to this self-explanatory Standing Order except to the heading.

## Proposed Standing Order No 93

## Speaker's words when putting a Question to Omit Words

When the proposed amendment is to omit certain words, the Speaker or Chair puts the question "that the words proposed to be omitted, be omitted".

#### Existing Standing Order No 140

#### Omit Words to Insert or Add Words

When the proposed amendment is to omit words in order to insert or add other words, the Speaker or Chair shall put the question "that the words proposed to be omitted, be omitted", which, if resolved in the negative, shall dispose of the amendment; but if in the affirmative, another question shall be put "that the words proposed to be inserted (or added) be inserted (or added)".

#### Policy Discussion

Once again, only a change to the heading is proposed.

#### Proposed Standing Order No 94

## Speaker's words when putting a Question to Omit in order to Insert or Add Words

When the proposed amendment is to omit words in order to insert or add other words, the Speaker or Chair puts the question "that the words proposed to be omitted, be omitted", which, if resolved in the negative, disposes of the amendment; but if in the affirmative, the next question is: "that the words proposed to be inserted (or added) be inserted (or added)".

## Existing Standing Order No 141

#### Insert or Add Words

When the proposed amendment is to insert or add certain words, the Speaker or Chair shall put the question "that the words proposed to be inserted (or added) be inserted (or added)". When amendments have been made, the main question shall be put as amended

## **Policy Discussion**

This wording is also proposed to remain the same with a new heading.

## Proposed Standing Order No 95

## Speaker's words when putting a Question to Insert or Add Words

When the proposed amendment is to insert or add certain words, the Speaker or Chair puts the question "that the words proposed to be inserted (or added) be inserted (or added)". When amendments have been made, the main question is put as amended.

## Existing Standing Order No 142

#### **Alternative Question**

If no Member objects, the Speaker or Chair may put the question "that the amendment be agreed to" in place of the question or questions stated in Standing Orders 139, 140 and 141.

#### Policy Discussion

The rather prescriptive Standing Orders above are now ameliorated by this one. These just follow on from the existing traditions but there is no prohibition on changing the lot. This is up to the Standing Orders Committee and ultimately the Assembly.

## Proposed Standing Order No 96

#### Speaker's use of Alternative words Permitted

If no Member objects, the Speaker or Chair may put the question "that the amendment be agreed to" in place of the question or questions stated in Standing Orders 139, 140 and 141.

## Existing Standing Order No 143

#### **Inconsistent Amendments**

No amendment shall be moved which is inconsistent with a previous decision on the question.

## **Policy Discussion**

This is fairly obvious that if an amendment has been carried then the next question cannot be inconsistent with that decision.

## Proposed Standing Order No 97

## No Inconsistent Amendments Allowed

No amendment may be moved which is inconsistent with a previous decision on the question.

## Existing Standing Order No 144

## Order of Moving

No amendment may be moved to any part of a question after a later part has been amended, or after a question has been proposed on an amendment thereto, unless the proposed amendment has, by leave, been withdrawn.

## **Policy Discussion**

This Standing Order is in place to ensure that the debate flows in a logical manner and the Members are reminded to do so in the correct context.

## Proposed Standing Order No 98

#### Order of Moving must be Sequential

No amendment may be moved to any part of a question after a later part has been amended, or after a question has been proposed on an amendment thereto, unless the proposed amendment has, by leave, been withdrawn.

## Existing Standing Order No 145

#### Decisions to Stand

No amendment may be moved to any words which the Assembly has resolved shall not be omitted, or which have been inserted in, or added to, a question, except it be for the addition of other words thereto.

## **Policy Discussion**

This Standing Order is designed to prevent tactics attempting to revisit and change a decision already taken by the Assembly.

## Proposed Standing Order No 100

#### A Decision Cannot be Subverted

No amendment may be moved to any words which the Assembly has resolved shall not be omitted, or which have been inserted in, or were added to a question, however the addition of other words may be permitted if they do not change the meaning of the decision.

## Existing Standing Order No 146

## Order of Disposal

An amendment proposed shall be disposed of before another amendment to the original question can be moved.

## **Policy Discussion**

No change proposed.

Proposed Standing Order No 100

## Order of Disposal of Amendments

An amendment proposed is to be disposed of before another amendment to the original question can be moved.

## Existing Standing Order No 147

## Withdrawal

A proposed amendment may, by leave, be withdrawn.

## **Policy Discussion**

No change proposed.

Proposed Standing Order No 101

## Withdrawal of Amendment

A proposed amendment may, by leave, be withdrawn.

## Existing Standing Order No 148

## Amendments to Amendments

Amendments may be moved to a proposed amendment as if such proposed amendment were an original question.

## **Policy Discussion**

No proposed change.

Proposed Standing Order No 102

#### Amendments to Amendments

Amendments may be moved to a proposed amendment as if such proposed amendment were an original question.

## Existing Standing Order No 149

#### **Order of Amendments**

When an amendment is moved to omit words in the main question in order to insert or add other words, no amendment to the words proposed to be inserted or added can be entertained until the question "that the words proposed to be omitted, be omitted" has been determined.

## **Policy Discussion**

A minor change to this Standing Order's wording is proposed to replace 'entertained' with 'considered'.

## Proposed Standing Order No 103

#### **Order of Amendments**

When an amendment is moved to omit words in the main question in order to insert or add other words, no amendment to the words proposed to be inserted or added can be considered until the question "that the words proposed to be omitted, be omitted" has been determined.

## Existing Standing Order No 150

## Main Question as Amended

When amendments have been made, the main question shall be put as amended.

## **Policy Discussion**

Nil.

Proposed Standing Order No 104

## Main Question as Amended

When amendments have been made, the main question is put as amended.

## Existing Standing Order No 151

## Original Question

When amendments have been moved but not made, the question shall be put as originally proposed.

## **Policy Discussion**

Nil.

Proposed Standing Order No 105

## Original Question

When amendments have been moved but not made, the question is put as originally proposed.

## **CHAPTER EIGHT**

# **QUESTIONS SEEKING INFORMATION**

#### Existing Standing Order No 109

#### To Ministers

- (1) The global time limit for Questions be approximately one (1) hour.
- (2) Questions may be put to a Minister relating to public affairs, to proceedings pending in the Assembly, or to any matter of administration for which they are responsible.
- (3) (a) Questions shall be succinct, concise and direct and shall not exceed one minute.
  - (a) The answer of each question shall not exceed 3 minutes.
  - (c) One supplementary question per Question Time may be asked immediately by an Opposition Member asking the original question which shall not exceed 30 seconds and the answering of each supplementary question shall not exceed one minute.

#### Policy Discussion

A new sub clause (1) is proposed which will see the deletion of existing Standing Order No 119.

The time of 'approximately one hour' has been raised on two occasions during the existing Assembly

On Thursday the 10<sup>th</sup> of October 2013, the Chief Minister requested at approximately 10.46am that further questions be placed on the written question paper.

Even though Standing Order No 109 specifies 'approximately one hour', the time allocated for questions is a matter for the Government rather than for the Assembly itself.

There is no suggestion that the language be changed except to also qualify that the Government may at its discretion increase or decrease this time on a given sitting day.

Questions to Ministers may only relate to 'public affairs, to proceedings pending in the Assembly, or to any matter of administration; for which the Minister is responsible.

On 20 March 2014 the Speaker ruled that questions must be to the Minister relating to public affairs, proceedings pending in the Assembly, or matters of administration for which they are responsible. You are asking questions in regard to party matters and your question is out of order.

While interest in the internal machinations of a political party may be of interest it is arguably not a matter of 'public affairs'. Public affairs are those matters pertaining to the people of the Territory and done or made on behalf of the community and open to general observation such as a government policy decision, direction or announcement. This arguably does not extend to matters inside a political party room.

On Tuesday 25<sup>th</sup> March 2014 the Speaker again cautioned a Member about a similar question. It is not in order to ask Ministers about matters taking place in party rooms even when they become discussed publically afterwards, unless there is a direct link to the plans and policies of the Government.

Page 554 of the House of Representatives Practice: Speakers have ruled out of order questions or parts of questions to Ministers which concern...what happens or is said in the party rooms...

The Senate Standing Orders only mention 'public affairs' which seems to be a fairly sensible catch all and might be worth consideration in the Assembly. Standing Orders No 72 and No 73 are a model of brevity.

To maintain flexibility and discretion it is not proposed that 'public affairs' be specifically defined. The draft below has retained the three categories of possible questions until there is any further discussion.

Sub Clause 3(b) (now 4) should appear in the later Standing Order about answers. It has been removed and so placed.

Sub Clause 3(c) as originally drafted (now 4) only considers Opposition Members will be allowed a supplementary. A non-party aligned or other Member may also ask, so the wording is changed to 'non-government'.

#### Proposed Standing Order No 106

#### Question Time and Questions to Ministers

- (1) Question Time will occur according to the adopted Routine of Business and be conducted in conformity with the Standing Orders.
- (2) The global time limit for Questions is approximately one (1) hour. This period may be increased or decreased at the discretion of a Minister.
- (3) Questions may be put to a Minister relating to public affairs, to proceedings pending in the Assembly, or to any matter of administration for which they are responsible.
- (4) (a) Questions must be succinct, concise and direct and not exceed one minute.
  - (b) One supplementary question may be asked per Question Time by a non-Government Member and it must be asked immediately by the same Member who asked the original question. The supplementary question may not exceed 30 seconds and the answer not exceed one minute.

#### Existing Standing Order No 110

#### To Other Members

Questions may be put to a Member, not being a Minister, relating to any bill, motion, or other public matter connected with the business of the Assembly, of which the Member has charge.

## **Policy Discussion**

The operation of Standing Order No 110 is narrow – is there 'business before the Assembly' and does the Member being asked have charge of it?

Applied to "connect it with business of the Assembly" rather than the substance of a debate. Timing, procedure and a question on a clause of a bill may be in order but nothing on the substance of a motion or a bill.

The question should also not anticipate the substance and content of any debate which is listed on the Notice Paper.

#### Proposed Standing Order No 107

#### Questions to Members who are not Ministers

Questions may only be put to a Member who is not a Minister if the question relates to the timing, procedure or clauses of a bill, motion, or other public matter connected with the business of the Assembly which the Member has charge of.

#### Existing Standing Order No 111

#### To Chair of Committee

Questions may be put to the Chair of a committee relating to the activities of that committee: provided that —

- (a) unless leave of the Assembly is granted for them to be asked at question time, such questions may be asked only as written questions;
- (b) they shall not attempt to interfere with the committee's work or anticipate its report;and
- (c) the Chair shall answer such questions only on the basis that answers are made on behalf of the committee.

#### **Policy Discussion**

The Chair is responsible to the Committee not the Assembly<sup>7</sup>. The general rule applies that a Chair should not make public pronouncements on behalf of the Committee unless the Committee has been consulted and given its permission beforehand<sup>8</sup>.

A question addressed to a Committee Chair has in the past been answered by a Minister where the Minister has responsibility and competence to answer.

On 21 February 2012 the Leader of the Opposition sought leave of the Assembly to ask a question of the Chair of the Council of Territory Cooperation (CTC) which was granted, however the question was framed to the Member in his capacity as a Member rather than his role as Chair and it was therefore out of order and the Leader redirected it to the Chief Minister (related to agreement between CTC Chair as Member for Nelson and Chief Minister to support the Government.)

Distinguish SO 99 in the Cth which allows for QT questions to Committee Chairs but SO 100(c) provides limits.

There is no proposed change to the existing draft.

#### Proposed Standing Order No 108

#### Questions to a Chair of Committee

Questions may be put to the Chair of a committee relating to the activities of that committee: provided that —

- (4) unless leave of the Assembly is granted for them to be asked at question time, such questions may be asked only as written questions
- (5) they shall not attempt to interfere with the committee's work or anticipate its report, and

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<sup>&</sup>lt;sup>7</sup> HoRP 537

<sup>&</sup>lt;sup>8</sup> 540



#### Existing Standing Order No 112

#### For Questions

The following rules shall apply to questions —

- (1) Questions cannot be debated.
- (3) Questions should not contain
  - (a)statements of facts 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.
- (4) Questions should not ask Ministers
  - (a) for an expression of opinion;
  - (b) to announce new policy of the government, but may seek an explanation regarding the policy of the government and its application; or
  - (c) for a legal opinion.
- (4) Questions should not refer to proceedings in Committee not reported to the Assembly.

#### Policy Discussion

The sub-heading is out of context and change is proposed, however the substance of the Standing Order remains mostly the same.

It is noted that while this Standing Order is only occasionally raised in the Territory Assembly the Order is usually breached on a daily basis. Therefore a question arises as to whether more radical surgery is desirable

There is no apparent interest in strict enforcement; however the deletion or significant watering down would possibly reduce the flexibility to uphold order when required.

The word 'epithet' is not in common usage. For example "It is easy to see how she earned herself the epithet "The All-Knowing' Chief Minister". It can also be abusive or insulting. It is suggested it be replaced with "insults". Can also apparently apply to "Katherine 'the Great" and thus might invite ironical abuse, however irony may now be permitted because, at its meeting on 14 May 2014 the Sub Committee decided to eliminate the prohibition on 'ironical expressions' and this it has been deleted in this draft.

## Existing Standing Order No 121

## Improper Questions

Questions shall not be asked which reflect on or are critical of the character or conduct of those persons whose conduct may be challenged only on a substantive motion and questions critical of the character or conduct of other persons must be asked in writing.

## **Policy Discussion**

A question arises as to whether this rule should be applied here at proposed Standing Order No 109. It would make more sense. On that basis it has been inserted here at (5).

## Proposed Standing Order No 109

#### Manner and Form of Questions

The following rules apply to questions —

- (1) Questions cannot be debated.
- (2) Questions should not contain:
  - (f) statements of fact or names of persons unless they are strictly necessary to render the question intelligible and can be authenticated
  - (g) arguments
  - (h) inferences
  - (i) imputations
  - (i) insults, or
  - (f) hypothetical matter.
- (3) Questions should not ask Ministers:
  - (d) for an expression of opinion
  - (e) to announce new policy of the government, but may seek an explanation regarding the policy of the government and its application, or
  - (f) for a legal opinion.
- (8) Questions should not refer to proceedings in Committee not reported to the Assembly.
- (9) Questions may not be asked which reflect on or are critical of the character or conduct of those persons whose conduct may be challenged only on a substantive motion and questions critical of the character or conduct of other persons must be asked in writing.

#### **STANDING ORDER No 110**

#### Existing Standing Order No 113

#### **Answers**

An answer shall be **succinct**, **concise and directly** relevant to the question

#### Policy Discussion

The reason for the three words in bold was a decision of the Standing Orders Committee Report to the Assembly which was adopted on 26 November 2010 on the basis of the recommendations in the *Third Report of Standing Orders Committee*, 11th Assembly.

The most common refrain in Question Time in the Territory Assembly is "Point of Order Madam Speaker, 113 relevance...."

However, to date no Member has sought, when raising such a point of order, a specific ruling on these highlighted words in their individual or in their collective contexts.

The House of Representatives Practice says that it is the established practice of the House that Ministers cannot be required to answer questions and the matter of relevance is explored in detail at page 568. Worth noting is the distinction that where there is no limit in the Assembly, in the House of Representatives only one point of order relating to relevance may be raised for each answer.

It may be worth the Standing Orders Committee considering whether to apply this rule in the Assembly. Often it is complained about that the 113 Point of Order is merely a device for interruption and debating a point rather than seeking to draw the relevance out of the answer.

The requirement of 'direct' relevance entered the House of Representatives Standing Orders in 2010. The idea is to give the Speaker greater authority in a difficult area and gives the Speaker the opportunity to require a Minister to be less wide ranging in their responses.

The interpretation of relevance in the Territory is traditionally broad and given the Member asking cannot usually resist the long preamble to the question, the Speaker will usually allow an answer which addresses the preamble and the short question at the end.

Standing Order 104 in the House of Representatives is:

- (a) An answer must be directly relevant to the question
- (b) A point of order regarding relevance may be taken only once in respect of each answer, and
- (c) The duration of each answer is limited to three minutes.

Proposed Territory Standing Order No 106 deleted the time limit on answers on the basis it would appear in this Standing Order.

It was previously proposed the Territory Assembly adopt a version of this, however the meeting of the Sub Committee on 14 May 2014 deleted the inclusion of the proposed restriction.

## Proposed Standing Order No 110

## Answers to Questions Without Notice

- (3) Answers will be concise and directly relevant to the question asked.
- (4) No answer will exceed three minutes.

#### Existing Standing Order No 114

#### Repeating Questions

A question fully answered cannot be renewed

## Policy Discussion

Is this required?

This Standing Order is consistently flouted in the Northern Territory as often the same question is asked in a slightly different form in order to circumvent the strict application of the rule.

Retaining this rule perhaps calls into account the extent of discretion available to the Chair if the Speaker doesn't apply it. The suggestion below (in the absence of complete deletion) is to delete the word 'renewed and qualifying the rule to the same Question Time. The Committee may wish to consider whether to further constrain the Members.

The term 'fully answered' is interesting. There is no commentary in the June 1985 draft rewrite of Standing Orders explaining what 'fully' means in this context and there is no equivalent Standing Order either in the House of Representatives or in the Senate.

#### Proposed Standing Order No 111

## Repeating Questions Already Answered

A question which has been answered cannot be asked again during the same Question Time period.

#### Existing Standing Order No 115

## Power of Speaker

The Speaker may direct that the language of a question be changed if it seems unbecoming or not in conformity with the Standing Orders.

#### Policy Discussion

House of Representatives Standing Order 101 is framed in a similar but more descriptive manner.

The economy of language in the Assembly is perhaps preferable. The Assembly version reflects Standing Order 73 (3) in the Senate: The President may direct that the language of a question be changed if it is not in conformity with the standing orders

The proposed redraft is an exact duplication to remove the words "seems unbecoming" because the Standing Orders already cover the use of language.

#### Proposed Standing Order No 112

#### Power of Speaker

The Speaker may direct that the language of a question be changed if it is not in conformity with the Standing Orders.

#### Existing Standing Orders No 116 & 117

#### Written Questions

A written question shall be given by a Member delivering the same to the Clerk within such time as, in the opinion of the Speaker, will enable the question to be fairly printed. The Question shall be fairly written and signed by the Member.

## **Question Paper**

The Clerk shall place written questions on the Question Paper in the order in which they were delivered.

#### **Policy Discussion**

This is a suggested re-draft based on the old fashioned and clumsy language used in the existing draft.

It is also suggested that the new Standing Order be merged with existing Standing Order no 117 similar to the form of Standing Order 102 in the House of Representatives .

#### Proposed Standing Order No 113

#### Written Questions for Lodgement on the Question Paper

A Member asking a question on notice will deliver it to the Clerk or to the Table Office. The Question must be in writing and signed by the Member and the Clerk will place the question on the Question Paper in the order received.

#### Existing Standing Order No 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.

#### Policy Discussion

The Standing Orders Committee may prefer English as below. The Sub Committee on 14 May asked that the House of Representatives standing order be replicated with the ability to ask the Speaker to write to the Minister seeking reasons for the delay.

#### Proposed Standing Order No 114

#### Replies to Questions

- (1) A reply to a written question must be delivered to the Clerk. A copy of the reply will be provided to the Member who asked the question, the question and reply will be printed in the Parliamentary Record.
- (2) A Minister should respond to a written question within 30 days of receipt. If a Minister does not answer the question within 30 days the Member who asked the question may at the conclusion of Question Time ask the Speaker to write to the Minister seeking reasons for the delay.

#### Existing Standing Order No 119

#### **Question Time**

When questions are called on during the routine of business, questions may be asked of Ministers and other Members in conformity with the Standing Orders.

#### Policy Discussion

This Standing Order will be obsolete with the newly drafted Standing Order No 106 in place.

#### Existing Standing Order 119 A

#### Answers to Questions Asked on Previous Days

When Question Time has concluded, following the request of a Minister 'That all further Questions be placed on the Question Paper', Ministers may answer or give supplementary answers to questions asked on previous days at Question Time or during the debate on the motion for the Adjournment of the Assembly but the total time taken for the giving of such answers shall not exceed 10 minutes

#### Policy Discussion

It is proposed this Standing Order be drafted to also reflect the practice that the most common occurrence is actually an answer given on the same day rather than previous days.

#### Proposed Standing Order No 115

# Answers to Questions Asked on the Same or Previous Days and Responses to Matters raised in Adjournment

At the conclusion of Question Time, after the request that 'all further Questions be placed on the Question Paper', Ministers may answer or give supplementary answers to:

- (4) Questions asked on the same day during Question Time
- (5) Questions Asked on previous days during Question Time
- (6) Questions raised during the debate on the motion for the Adjournment of the Assembly.

The total time taken for the giving of all such answers by all Ministers will not exceed 10 minutes.

#### Existing Standing Order No 120

## Questions to Speaker

A question may be put to the Speaker at Question Time relating to any matter of administration for which the Speaker is responsible.

## **Policy Discussion**

During Question Time on 18 March 2014 Speaker was asked about correspondence between a Member and the Speaker. Speaker ruled that Standing Order No 120 permits questions to the Speaker relating to 'any matter of administration for which the Speaker is responsible' and this does not include a communication from a Member of the Assembly.

Standing Order No 120 would not override existing Standing Order No 111 if Speaker is also a Committee Chair because they are very distinct roles and it would be a coincidence that there is a single person holding both offices.

No change is proposed to this draft.

## Proposed Standing Order No 116

## Questions to Speaker

A question may be put to the Speaker at Question Time relating to any matter of administration for which the Speaker is responsible.

## **CHAPTER NINE**

# **MINISTERIAL STATEMENTS**

#### Existing Standing Order No 258

#### When Made

A Minister may make a statement on government policy, or on a government decision, or on government action or on proposed government action at any time when there is no question before the Assembly: provided that copies of the statement are available for distribution to Members when the Minister commences their statement.

## Policy Discussion

The normal course of events is that Ministerial Statements are made according to the Routine of Business adopted for each Assembly, however this Standing Order retains ultimate flexibility and is redrafted only for clarity of the content permitted.

#### Proposed Standing Order No 117

#### When A Ministerial Statement May be Made

A Minister may make a statement on:

- (5) Government policy
- (6) A Government decision
- (7) Government action
- (8) Proposed Government action

at any time when there is no question before the Assembly: provided that copies of the statement are available for distribution to Members when the Minister commences the statement.

#### Existing Standing Order No 259

#### **Motions**

When any statement has been made to the Assembly pursuant to Standing Order 258, a Member may move, without notice, either or both of the motions:

- (1) that the statement be printed:
- (2) that the Assembly take note of the statement;

provided that, if the motions are not moved at the conclusion of the statement, either or both may be moved, on notice, on a subsequent day.

#### **Policy Discussion**

If it's not moved then the Ministerial Statement doesn't come back on and does not appear on the Notice Paper unless notice is given to bring about a debate on the Statement as per the requirements at the end of the Standing Order.

'Printing' nowadays means a copy of the Statement is printed and available on-line or the printed copy from the Table office. Multiple copies will not be available, therefore a change to wording is proposed to 'made available in an accessible format'.

#### Proposed Standing Order No 118

#### Motions on Ministerial Statements

When any statement has been made to the Assembly pursuant to Standing Order 258, a Member may move, <u>without notice</u>, either or both of the motions:

- (3) that the statement be made available in an accessible format
- (4) that the Assembly take note of the statement

if the motions are not moved at the conclusion of the statement, either or both may be moved, on notice on another day.

## **CHAPTER TEN**

# **PETITIONS**

# Existing Standing Order No 97

#### Petitions

Petitions may be presented to the Assembly by any Member: provided that

- (a) every petition shall be respectful, decorous and temperate in its language, and shall not contain irrelevant statements:
- (b) every petition shall be fairly written, typewritten, printed or reproduced by mechanical (or other) process, without interlineation or erasure;
- (c) every petition shall contain a prayer at the end thereof;
- (d) every petition shall be in the English language, or be accompanied by a translation certified to be correct by the Member who lodges it;
- (e) every petition shall be signed by at least one person on the sheet on which the petition is inscribed;
- (f) every petition shall be signed by the parties whose names are appended thereto, by their own hand, and by no one else, except in the case of incapacity or sickness. Persons unable to write shall affix their marks in the presence of a witness, who shall as such affix their signature;
- (g) every signature shall be written upon the petition or upon sheets containing the prayer of the petition, and not pasted upon or otherwise transferred thereto;
- (h) no letters, affidavits or other documents may be attached to any petition;
- (i) a petition for presentation to the Assembly can be lodged with the Clerk only by a Member, but a Member cannot lodge a petition from themselves;
- (j) every Member lodging a petition with the Clerk for presentation to the Assembly shall affix their name at the beginning thereof; and
- (k) every petition shall be lodged with the Clerk at least 2 hours prior to the time of the meeting of the Assembly on the day on which it is proposed to present it; and when presented the petition must bear the Clerk's certificate that it is in conformity with the Standing Orders.

# Policy Discussion

Changes to terminology and consideration of form are worth further consideration here.

'Decorous'? Probably unnecessary as the word respectful is there already.

The Term 'fairly written' is a little quaint and not in common usage. Does it mean written so as to be neat? Or does it mean it's not 'unfair'? The answer is 'neat', but it is ambiguous. 'Typewritten; is also obsolete as this machine is rarely used these days.

The above words have been deleted in the re-draft below

Does the Committee wish to consider the more modern mechanism of e-petitions here? These are acceptable as 'non-conforming' by leave of the Assembly, does the Assembly consider that these may be able to be considered as confirming to a category of petitions as incorporated into this or a separate Standing Order which could be called 'E-Petitions'?

At the Sub Committee meeting on 14 May the Subcommittee asked for further work to be undertaken to modernise the Standing Order to permit electronic petitions to be considered as conforming petitions.

The new draft Standing Order is thus changed to include paragraph (9) below for consideration.

# Proposed Standing Order No 119

# **Petitions**

Petitions may be presented to the Assembly by any Member provided that:

- (13) every petition must be respectful and not contain irrelevant statements
- (14) every petition must be neatly written, printed or reproduced by mechanical (or other) process, without interlineation or erasure
- (15) every petition must contain a prayer at the end
- (16) every petition must be in the English language, or be accompanied by a translation certified to be correct by the Member who lodges it
- (17) every petition must be signed by at least one person on the sheet on which the petition is inscribed
- (18) every petition must be signed by the parties whose names are on the petition, by their own hand, and by no one else, except in the case of incapacity or sickness. Persons unable to write must affix their marks in the presence of a witness, who also affix their signature. For electronic petitions see (9) below
- (19) every signature must be written upon the petition or upon sheets containing the prayer of the petition, and not pasted or otherwise transferred upon. For electronic petitions see (9) below
- (20) no letters, affidavits or other documents may be attached to any petition
- (21) any petition signed by electronic means or which claims to have been electronically endorsed by petitioners will be certified by the presenting Member that to the best of his or her knowledge the petition has been endorsed by the number of petitioners claimed
- (22) a petition for presentation to the Assembly can be lodged with the Clerk only by a Member, but a Member cannot lodge a petition from themselves
- (23) every Member lodging a petition with the Clerk for presentation to the Assembly will affix their name at the beginning, and
- (24) every petition must be lodged with the Clerk at least 2 hours prior to the time of the meeting of the Assembly on the day on which it is proposed to present it, and when

presented the petition must bear the Clerk's certificate that it conforms with the Standing Orders.

# Existing Standing Order No 98

#### Motion on Petition

Where any petition has been presented in accordance with Standing Order 97, any Member may move that the petition be read and, in moving shall confine their remarks to a brief statement of the persons from whom the petition comes, of the number of signatures attached to the petition, of the material allegations contained in the petition, and of the purport of the prayer of the petition. If the motion is carried, the Clerk shall read the petition.

# **Policy Discussion**

This is the procedural motion to get the petition read out by the Clerk. It's a little old fashioned and a slight adjustment is recommended to delete the word 'purport'.

# Proposed Standing Order No 120

#### Motion on Petition

Where any petition has been presented in accordance with Standing Order 120, any Member may move that the petition be read and, in moving confines their remarks to a brief statement of the persons from whom the petition comes, of the number of signatures attached to the petition, of the material allegations contained in the petition, and the meaning or substance as contained in the prayer. If the motion is carried, the Clerk reads the petition.

# Existing Standing Order No 99

# Action on Petition

On presentation of a petition, no debate upon or relating to it shall be allowed. But it shall be laid upon the Table of the Assembly and a Member may move, without notice, a motion to refer the petition to a standing, select or other committee of the Assembly and may also move "that the petition be printed".

#### Policy Discussion

A self-explanatory Standing Order outlining the limitations on debate. No change is proposed.

# Proposed Standing Order No 121

#### Action on Petition

On presentation of a petition, no debate upon or relating to it is allowed. It is laid upon the Table of the Assembly and a Member may move, without notice, a motion to refer the petition to a standing, select or other committee of the Assembly and may also move "that the petition be printed".

# Existing Standing Order No 100

# Terms referred to Minister

A copy of the terms of every petition lodged with the Clerk and received by the Assembly shall be referred by the Clerk to the Minister responsible for the administration of the matter which is the subject of the petition.

# Policy Discussion

No change proposed except to the heading.

# Proposed Standing Order No 122

# Terms of Petition referred to Minister

A copy of the terms of every petition lodged with the Clerk and received by the Assembly will be referred by the Clerk to the Minister responsible for the administration of the matter which is the subject of the petition.

# Existing Standing Order No 100A

#### Response

A Minister shall respond to a petition forwarded, pursuant to Standing Order 100, within 12 sitting days of it being sent. The response shall be lodged with the Clerk for presentation to the Assembly, such response being announced at the end of the time for presentation of petitions. There is no requirement for a Minister to respond to a petition which is in similar terms to a petition previously presented to the Assembly and which has been responded to.

#### Policy Discussion

The Standing Orders Committee meeting on 26 March 2014 considered a submission from a member of the public concerning the practice of the Clerk advising the Assembly that the Minister's response is being incorporated into the *Parliamentary Record* (Hansard).

The Committee decided that while reading out the entire record may be of some benefit, the Committee determined that equal benefit can be obtained by interested persons reading the *Hansard* which the Clerk alerts all Members will contain the response. Some responses are lengthy and a response does not invite debate.

Minor re-write only and no policy change is contemplated below.

#### Proposed Standing Order No 123

# Response to a Petition

A Minister must respond to a petition forwarded by the Clerk pursuant to Standing Orders within 12 meeting days of it being sent. The response will be lodged with the Clerk for presentation to the Assembly. The response will be announced at the end of the time for presentation of petitions. There is no requirement for a Minister to respond to a petition which is in similar terms to a petition previously presented to the Assembly and which has been responded to.

# **CHAPTER ELEVEN**

# **DIVISIONS**

# Existing Standing Order No 156

# Calling a Division

Whenever the Speaker states, on putting a question, that the "Ayes" or the "Noes" (as the case may be) have it. This opinion may be challenged by Members calling for a division.

# **Policy Discussion**

On 19 March 2014 during General Business a display of political tactics for the sole purpose of some Members saying the government had to cross the floor occurred which resulted in a division being taken in breach of Standing Orders .

The question was put on the voices. It was clear to the Chair from the voices that the ayes had it. However, pursuant to Standing Order 156 a Member called for a division, the required support came from another Member pursuant to requirement of Standing Order 157. However, the Assembly then divided and no Member recorded a no vote.

The Members who called no and voted yes breached Standing Order 159, which states a Member may not change their vote.

This rewritten chapter will endeavour to make the already comprehensive rules clearer for the Members.

# Proposed Standing Order No 124

# Calling a Division

When the Speaker states, that the "Ayes" or the "Noes" have it, the Speaker's statement may be challenged by Members calling for a division.

# Existing Standing Order No 157

# Support Needed

A division shall not be proceeded with unless more than one Member has called for a division. If one Member only calls for a division, that Member may inform the Speaker that they wish their dissent to be recorded in the Minutes of Proceedings and in the Parliamentary Record and their dissent shall be so recorded.

#### Policy Discussion

The Leader of the Opposition is assumed to have support as has the Chief Minister if they call a division, otherwise the rule should be enforced that a division must be supported.

On this basis, the Sub Committee determined on 14 May 2014 that this should be included in the text of the Standing Order itself.

#### Proposed Standing Order No 125

# Division to be supported by Two Members

More than one Member is required to call for a division. If only one Member calls for a division, that Member may inform the Speaker that they wish their dissent to be recorded in the Minutes of Proceedings and in the Parliamentary Record and their dissent will be recorded.

A division called by the Chief Minister or Leader of the Opposition does not require the Speaker to hear a second voice of support.

# Existing Standing Order No 158

# Withdrawn By Leave

At any time before the Clerks begin to count the Members voting in a division, a call for a division may be withdrawn, by leave, and the division shall not be proceeded with. The decision of the Speaker which was challenged shall stand.

# Policy discussion

The tellers count the Members not the Clerks. The tellers report through the Clerks and the tellers sign off prior to the Clerk counter signing and presenting the division result to the Speaker.

If the division doesn't proceed there is no reason to state the previous decision stands, it must do so without such a statement.

# Proposed Standing Order No 126

# Call for a Division Withdrawn after Leave Granted

At any time before the tellers begin to count the Members voting in a division, if leave is granted, a call for a division may be withdrawn and the division will not proceed.

# Existing Standing Order No 159

# Vote Not to Change

Every Member shall vote in a division in accordance with their voice either "Aye" or "No", and their vote shall be so recorded.

# Policy discussion

During the March 2014 sittings of the Legislative Assembly a Member called a division and then proceeded to vote the opposite way. The Standing order requires Members to vote in accordance with their initial intention on the voices.

A little more clarity in drafting is proposed as below.

# Proposed Standing Order No 127

# Voting in Divisions Not to Change

Every Member must vote in a division in accordance with how they called the vote on their voice. Where a Member calls "Aye" or "No", their vote in the division must be the same and be recorded as such in the Minutes of Proceedings.

# Existing Standing Order No 160

# Member to Remain

A Member calling for a division shall not leave the Chamber and shall vote with those who, in the opinion of the Speaker, were in the minority when the Speaker's decision on the voices was given.

# Policy discussion

This Standing Order is in place to prevent a Member causing a division for the purpose of disruption or some political gain when they have no intention of voting. The rule closely follows the previous one (proposed Standing Order No 128) and no change is proposed.

# Proposed Standing Order No 128

#### Member who Calls a Division Must Remain to be Counted

A Member calling for a division may not leave the Chamber and must vote with those who, in the opinion of the Speaker, were in the minority when the Speaker's decision on the voices was given.

# Existing Standing Order No 161

# Bells Rung

- (1) Before a division is taken, the Clerk shall ring the division bells and the doors shall not be closed until after the lapse of three minutes.
- (2) When successive divisions are taken and there is no intervening debate after the first division, the Bells for the ensuing division shall be rung for one minute only.

# Policy discussion

Arguably a number of the procedures separated out in the Northern Territory could be consolidated as they have been in House of Representatives Standing Order No 129 which is entitled *Procedures for a Division*. However there is some benefit in the existing structure which sets out the process in the Northern Territory Assembly step by step in successive Standing Orders.

The re-draft proposed here is minor and the approach is the same as the existing one. On a successive decision it is normal practice that the Speaker shall advise of the truncated time frame, but this is not included in the text so as not to lead to a challenge should the Speaker not have done so.

#### Proposed Standing Order No 129

# Bells Rung to signal a Division is in Progress

- (2) Before a division is taken, the Clerk rings the division bells and the doors shall not be closed until after the lapse of three minutes.
- (2) When successive divisions are taken and there has been no intervening debate after the first division, the Bells for the ensuing division are rung for one minute only.

# Existing Standing Order No 162

# **Doors Locked**

The doors shall be closed and locked after the lapse of three minutes, and then no Member may enter or leave the Chamber until after the division.

# Policy discussion

There is no practice of 'locking the doors' in the Northern Territory. The Subcommittee asked for this to be reflected in the re-draft.

# Proposed Standing Order No 130

# Members Present to be Counted

After the lapse of three minutes from when the bells commenced ringing no Member may enter or leave the Chamber until after the division.

# Existing Standing Order No 163

# Assembly Divides

When the doors have been locked and all Members are in their places, the Speaker shall state the question to the Assembly, and then direct the "Ayes" to proceed to the right of the Chair and the "Noes" to the left.

# Policy discussion

More recently the Speaker has dispensed with the practice of stating the question and asking for the Members to move to the right and to the left, the Members generally know what to do. A question arises if this prescriptive Standing Order is absolutely necessary. It is not a stand-alone Order in other jurisdictions, in the House of Representatives it is a part of a broader more descriptive Standing Order (no 129).

On the basis of consistency it is duplicated here with no change proposed, the Committee may decide it is obsolete.

The Subcommittee on the 14<sup>th</sup> of May asked that it be adhered to in practice rather than being eliminated.

# Proposed Standing Order No 131

# Assembly Divides

When all Members are in their places, the Speaker states the question to the Assembly, and then direct the "Ayes" to proceed to the right of the Chair and the "Noes" to the left.

# Existing Standing Order No 164

#### Members to Vote

The Members supporting the call for a division and every other Member in the Chamber, when the question is stated, shall vote, except the Speaker, or the Chair of Committees in the Chair of a Committee of the Whole, for whom voting shall be optional. Members having accordingly taken sides, the Chair shall appoint a Teller for each side.

# Policy discussion

Appointing a teller for each side is nonsense in our Assembly. The Whip is the teller by default, however if for some reason a Whip is not present this flexibility must be retained but the re-draft reflects the existing practice.

# Proposed Standing Order No 132

#### Members to Vote

The Members supporting the call for a division and every other Member present in the Chamber must vote, except the Speaker, or the Chair of Committees in the Committee of the Whole, for whom voting is optional. Once the Members are on their respective sides the Whips shall act as the Tellers If the Whips are not present, the Speaker or Chair then appoints a Teller for each side.

# Existing Standing Order No 165

#### Count

The Clerks at the Table shall count the Members voting and record the vote of each Member present.

# **Policy Discussion**

It is not the Clerks who count; it is the Whip/Teller. The redraft reflects this. The Clerk records and countersigns with the Whip and presents the tally to the Speaker for announcement and recording in the Minutes of Proceedings.

# Proposed Standing Order No 133

# Recording the Count

The tellers count the Members voting and the Clerks record the vote of each Member present.

# **Existing Standing Order No 166**

# Result

The Speaker shall declare the result of the division to the Assembly.

# **Policy Discussion**

This is self-explanatory and no change is proposed.

# Proposed Standing Order No 134

# Result of Division Declared

The Speaker declares the result of the division to the Assembly.

# Existing Standing Order No 167

# Only One Member on a Side

If there should be only one Member on a side in a division, the Speaker, without completing the division, shall forthwith declare the decision of the Assembly. In such event, the one Member concerned may inform the Speaker that they wish their dissent to be recorded in the Minutes of Proceedings and in the Parliamentary Record and their dissent shall be so recorded.

#### Policy Discussion

When only one Member ends up on a side it is an indication that there has been a breakdown in the previous procedures.

A division requires support. While it is assumed the Leader of the Opposition and the Chief Minister will have the support of their political colleagues, a division called by any other Member must have at least one other supporter to proceed. If not, then the sole voice can have their dissent recorded in the Minutes of Proceedings and the Assembly gets on with the business on the Notice Paper.

#### Proposed Standing Order No 135

#### If Only One Member on a Side During Division

If only one Member appears on a side in a division, the division will be cancelled and the Speaker declares the decision of the Assembly. The one Member may inform the Speaker that they wish their dissent to be recorded in the Minutes of Proceedings and in the Parliamentary Record and their dissent will be recorded.

# Existing Standing Order No 168

# Question of Order

While the Assembly is dividing Members may speak to a question of order arising out of or during the division.

# Policy Discussion

A point of order may arise such as a claim that a Member has not proceeded to vote in accordance with their voice. If so, then the Speaker rules in accordance with practice and these Standing Orders.

# Proposed Standing Order No 136

# Question of Order arising During Division

While the Assembly is dividing Members may speak to a question of order arising out of or during the division.

# Existing Standing Order No 169

# Record

Lists of divisions shall be recorded in the Minutes of Proceedings and in the Parliamentary Record

# **Policy Discussion**

Once again, self-explanatory, no change proposed.

Proposed Standing Order No 137

# **Divisions Recorded**

Lists of divisions will be recorded in the Minutes of Proceedings and in the Parliamentary Record.

# Existing Standing Order No 170

# Confusion or Error

In the case of confusion or error concerning the numbers reported, unless the same can be otherwise corrected, the Assembly shall proceed to another division on the question.

# **Policy Discussion**

The 'unless the same can be otherwise corrected' is a little vague. A slight re-wording is the only proposal here.

# Proposed Standing Order No 138

# Confusion or Error During Division

Where there is some confusion or an immediately discernable error in relation to the numbers recorded, the Speaker may consult the Whips and if the error cannot be resolved then the question will be put again and a further division will take place.

# Existing Standing Order No 171

# **Record Corrected**

If a complaint be made to the Assembly that a division has been inaccurately reported, the Speaker may cause the record to be corrected.

# **Policy Discussion**

This follows on from the previous Standing Order, and while the existing wording is quaint, it's time for an update.

# Proposed Standing Order No 139

# Record of Division Corrected

If a complaint is made to the Assembly that a division has been inaccurately reported, the Speaker may have the Clerk correct the record.

# Existing Standing Order No 172

# Casting Vote

Any reasons stated by the Speaker or any other Member presiding for exercising a casting vote shall pursuant to section 27(2) of the *Northern Territory Self—Government Act* (Cth) be entered in the Minutes of Proceedings and in the *Parliamentary Record*.

# Policy Discussion

Only ever exercised once in the history of the Northern Territory Legislative Assembly (during 2012) the famous casting vote is the subject of much discussion and literature in Westminster parliaments.

The Standing Order is self-explanatory and is replicated in this review.

# Proposed Standing Order No 140

# Casting Vote

If the Speaker or Member presiding exercises a casting vote pursuant to section 27(2) of the *Northern Territory (Self Government) Act*, the reasons stated will be entered in the Minutes of Proceedings and into the *Parliamentary Record*.

# **CHAPTER TWELVE**

# **BILLS – INTRODUCTION AND PASSAGE**

# Existing Standing Order No 173

#### Introduction

- (1) Before introducing a bill a Member shall give to the Assembly notice of their intention.
- (2) A notice of intention to introduce a bill shall specify the short title and the serial number of the bill and the day for presentation and shall be signed by the Member.
- (3) A Member shall give such a notice by stating its terms to the Assembly and delivering a copy to the Clerk at the appropriate time.
- (4) Except by leave of the Speaker, a Member shall not give notice of intention to introduce a bill which has not been printed.
- (5) A Member who has given such a notice may alter its terms by notifying the Assembly and delivering to the Clerk an amended notice, either on the same day or on any day prior to that for introducing a bill, or the Member may withdraw the notice by notifying the Assembly.
- (6) On the calling on of the notice to present a bill a Member shall present to the Assembly a printed copy of the bill with their signature appended.
- (7) The Standing Orders shall, to the necessary extent, be applied and read as if a notice of intention to present a bill were a notice of motion.

#### Policy Discussion

This is a step by step procedural guide to giving notice which is a declaration of intent to present a bill on a specified day.

In the Commonwealth, notice should specify the terms or long title of the bill and in the Assembly it is the short title. The Standing Orders are read as if it's a notice of motion (see page 291 of the House of Representatives Practice).

Thus, like any motion, it must be signed and presented to the Clerks at the Table. Bills such as the annual *Appropriation Bill* (see Chapter 16 below) do not require notice as they are initiated by a message from the Administrator in accordance with the requirements of the *Self Government Act*.

The Standing Orders Committee considered a proposal on 25 February 2015 that the Notice provisions be reformed and instead of giving Notice of a Bill for introduction, a bill is simply presented and read a first time. For example:

At 2pm the Routine of Business will require there be **Notices** (for motions) followed by a new category called **Presentation of Bills**.

Madam Speaker would say: "Are there any bills to be presented?

A Minister would stand and say: "Madam Speaker I present a bill entitled the Construction Industry Long Service Leave and Benefits Amendment Bill 2015 Serial 112 and I move the second reading for Thursday the 19<sup>th</sup> of February.

The Clerk would then read the Long title of the bill. The bill would then appear on the Notice Paper under a new category called *Motions for Second Reading of Bills* with the date it will be moved for a second reading.

This approach would give Ministers options to present bills and second read them on a day they pre-determine, or on the next day if they wish. This could be tomorrow or next week or next month.

Then after the second reading they are adjourned off like they are now for 30 or more days and reappear on the Notice Paper as *Orders of the Day*.

# Advantages:

Reduces the two step confusion now faced by Ministers and Members giving notice and then on the next sitting day presenting a bill for a first reading and then moving a second reading.

The bill itself is tabled and live upon the presentation. Standing Order 173 already requires that notice cannot be given for a bill which has not been printed.

Instead of giving notice of intention, the Member is presenting the bill itself. There is nothing gained by giving notice of intention over this proposal as the bill remains in the infant state and is not second read until the next day or later in any case.

The draft below reflects this approach

# Proposed Standing Order No 141

#### Presentation of Bills for First Reading

- (1) A member may present a bill to the Assembly at the time set aside in the Routine of Business for the Presentation of Bills.
- (3) When presenting a bill for a first reading a member will state the title of the bill and move the day when the member will present the second reading of the bill.
- (3) The member must delivering a copy of the bill to the Clerk for circulation upon presentation and first reading.
- (4) A member may not present a bill which has not been printed or is not available for circulation.
- (5) After the moving of the day for the second reading the Clerk will read the short title of the bill as the first reading.
- (6) The Speaker will not put the question on the motion of the member for the second reading and it will be deemed that the second reading will occur as moved unless any member objects.
- (7) If any member objects, then the Speaker will put the question for the second reading to take place as moved by the member and the Assembly will determine the outcome.

# Existing Standing Order No 174

# Title and Contents

The title of a bill shall agree with the notice of intention and no clause may be included which does not come within the title.

# **Policy Discussion**

This Standing Order is to prevent tricks and surprises. With the modern practice of having the Office of Parliamentary Counsel involved in all of the drafting it is unlikely to occur, but it is a failsafe.

The Standing Order is changed to reflect the presentation approach.

# Proposed Standing Order No 142

#### Title and Contents of a Bill

Every clause of a bill presented to the Assembly must come within the title of that bill being relevant to the subject matter and purpose of the bill.

# Existing Standing Order No 175

# First Reading

On the presentation of a bill by a Member it shall be read a first time without question being put.

# **Policy Discussion**

Arguably this approach is superfluous given the procedure outlined, but harmless nonetheless.

# Proposed Standing Order No 143

# First Reading of a Bill

On the presentation of a bill by a Member it will be read a first time without question being put.

# Existing Standing Order No 176

# Title Only Read

On every order for the reading of a bill, the long title only shall be read.

# Policy Discussion

This reflects the modern practice of the Clerk only reading out the long title of the bill at each of its reading stages, rather than the now long outmoded practice of reading the bill in its entirety.

As has been done with a number of Standing Orders the overused word 'shall' is replaced.

# Proposed Standing Order No 144

# Only Title of Bill to be Read

When the Speaker calls the Clerk to read a bill, on each occasion only the long title will be read.

# Existing Standing Order No 177

# Second Reading

When a bill has been read a first time, the Member in charge of the bill may move —

- (a) "that the bill be now read a second time"; or
- (b) "that the second reading of the bill be made an order of the day for a later hour (or day)".

# **Policy Discussion**

This is the normal practice adopted in the Assembly; part (b) is never used but could be retained for flexibility as required.

Refer also to policy discussion contained around Existing Standing Order No 180 following internal consultation between the Clerks at the Table. This proposes a possible ability to move an amendment here to move the bill off to a committee for scrutiny on the policy principles not just the detail.

The new draft reflects the new step eliminating Notice and already having given the first reading on a previous day.

# Proposed Standing Order No 145

# Second Reading of a Bill

When a bill has been read a first time and is called on for presentation of the second reading, the member in charge of the bill will move either

- (c) "that the bill be now read a second time"; or
- (d) "that the second reading of the bill be made an order of the day for a later hour (or day)".

# Existing Standing Order No 177A

# Explanatory Statement

In the case of a bill presented by a Member other than an Appropriation Bill, an Explanatory Statement signed by the Member and including an explanation of the reasons for the bill and a brief explanation of each clause of the bill shall be presented to the Assembly at the conclusion of the Member's second reading speech.

#### Policy Discussion

The Standing Orders Committee considered the use of Explanatory Statements at its meeting during March 2014 and resolved to continue the practice. The wording will be slightly improved on the existing draft.

# Proposed Standing Order No 146

# Explanatory Statement to be Tabled

Unless the bill is the Appropriation Bill, when a Member concludes their second reading speech they will table a signed Explanatory Statement.

# Existing Standing Order No 178

# Time Limit on Passage

The question "that the bill be now read a second time" shall not be determined by the Assembly before the lapse of one month from the day on which the bill was read a first time except in the case of a bill declared by the Speaker to be an urgent bill pursuant to Standing Order 179.

#### Policy Discussion

This standing order is universally applied to all bills however the latter part is never used and it is not recommended it be used because it requires an assessment by the Speaker that a bill is urgent, which we will look at in the following Standing Order.

A plain English re-write is in order to reflect the proposed procedural change.

# Proposed Standing Order No 147

# Time Restriction on Passage of a Bill

A period of one month must elapse between the giving of the second reading speech of a bill and the Assembly considering the question "that the bill be now read a second time".

# Existing Standing Order No 179

# **Urgent Bills**

The Speaker may, on the application of the Chief Minister, or a Minister acting on the Chief Minister's behalf, declare a bill to be an urgent bill if satisfied that the delay of one month provided by Standing Order 178 could result in hardship being caused.

# **Policy Discussion**

This Standing Order takes the Speaker into the realms of determining hardship. It is not used and the Clerks do not recommend it be used because of the political hothouse around 'hardship'. For example, is this only for bills that would cause material hardship to the poor or also bills that if not passed will not allow for a major and controversial matter?

The alternatives are to delete it altogether or to re-state here that a suspension of standing orders can be used. The recommended approach is deletion.

In the House of Representatives there is no set time limit but leave or suspension of Standing Orders is required to proceed through all the stages without delay. This is the approach recommended in the Northern Territory.

# Existing Standing Order No 180

#### Defeat of a Bill

An amendment may be moved to the question "that the bill be now read a second time", in the form "omit 'now' and add at the end 'this day 6 months' ", which if carried shall finally dispose of the bill. No amendment may be moved to this amendment.

#### Policy Discussion

This is an archaic and never used Standing Order. What would happen should the Assembly happen to be sitting on precisely that day six months hence?

Arguably the bill should remain on the Notice Paper and come back on for debate as it has not been concluded or disposed of in any meaningful way. The way to defeat a bill is to vote against it on the second reading or the third reading. If a question that a bill be read a second time is resolved in the negative then the bill is defeated and disposed of.

It is proposed to delete this Standing Order.

# Existing Standing Order No 181

# Reasoned Amendment

No other amendment may be moved to the question "that the bill be now read a second time" except in the form of an amendment relevant to the bill, which does not anticipate an amendment which may be moved in committee: provided that an amendment relating to public affairs may be moved to the question for the second reading of an Appropriation Bill or a Supply Bill.

#### Policy Discussion

A method of opposing a bill on a second or third reading is by way of a 'reasoned amendment' in which objections to the bill or reasons for opposing its progress are clearly made.

The effect of a reasoned amendment, if carried, is not necessarily one of outright defeat of the bill because the bill can be brought back on on a subsequent occasion. But *Erskine May* states that it is unlikely if a reasoned amendment were carried the bill could proceed and an example from Winston Churchill amending the second reading in 1948 of the *Representation of the People Bill* merely proves the point.

The House of Representatives has never agreed to a 'Reasoned Amendment'. The House of Representatives Standing Order No 145 deals with this process with some more clarity.

However, on balance, it's a murky option and its deletion altogether is recommended. Why have this capacity? If you want to defeat a bill then vote against it!

Internal discussion amongst the Clerks at the Table has raised the consequence that there will thus be no prohibition on an amendment being moved to the motion that a bill be now read a second time. The Standing Orders Committee is invited to consider whether they have any difficulty with this.

If a bill is not read a second time, the consequence is the bill fails to pass.

#### Existing Standing Order No 182

# Second Reading Pro Forma

When it is the intention of the Member in charge of a bill to move that the bill be referred to a select committee, the second reading may be moved *pro forma*, and in such case there shall be no speech by the mover and no debate: provided that notice of intention to move *pro forma* must be given either at the time of fixing the date for the second reading, or not less than two clear sitting days before the date fixed for the second reading, and such notice shall be placed on the Notice Paper.

# Policy Discussion

Why is this a good idea?

If a Member wishes to have a committee consider a bill why shouldn't they be required to provide a detailed second reading speech in the Assembly so every other Member has the benefit of listening to the intent of the bill to then be considered by a Committee?

This Standing Order is never used and it is recommended this Standing Order is deleted.

Notes made by former Clerk McNeill on this Standing Order are instructive:

The provisions contained in the Standing Order appear to be outdated and reflect procedures which are no longer in use in other Australian legislatures. The *Pro Forma* and *Reasoned Amendment* Standing Orders appear to replicate former Standing Orders Nos. 195A and 196 of the Australian Senate in the 1950's and 1960's. These Orders have been deleted from Senate procedures.

The Second Reading Pro-forma procedure was based on the principle that no bill should enter a Committee stage before the Second Reading had been passed in some form.

Accordingly, if it was proposed to refer a bill to a Select or Standing Committee, the Pro-forma process for passing the Second Reading without a debate or Second Reading Speech, was in place to satisfy this provision. Once the bill had been considered by a Select or Standing Committee and that Committee had reported, a motion would be moved for committal of the bill to Committee of the Whole (as contained in the Legislative Assembly Standing Order No. 185). The motion for the committal of the bill would be effectively treated as a Second Reading Debate. If the motion was rejected it would have the same effect as rejecting the Second Reading.

The procedures described in the Assembly Standing Orders do not reflect accepted contemporary practice. It is understood that they have not been used in the last 25 years, if at all. Alternative arrangements to facilitate the consideration of a bill by a Select or Standing Committee could be put in place to extend the options provided for in (existing) Standing Order No. 183.

In the House of Representatives, Standing Order No. 143, a bill may be referred to the Main Committee or to another Committee after the First Reading and before the resumption of the Second Reading debate. When the Committee has reported, the bill can be moved for consideration in detail by the House.

The Senate practice for reference to Standing or Select Committees for bills is far more flexible and it is available for bills to be referred to a Committee by an Amendment to the Motion for the Second Reading. Bills have also been referred to a Committee before the Second Reading has been passed and Draft bills have been referred to Committees before the introduction of the bill into either House of the Commonwealth Parliament.

In the event that the Second Reading Pro-Forma procedures were rescinded by the Assembly, the existing provisions of SO183(a) 'immediately after the second reading a motion "that the bill be referred to a select committee" may be moved.", should provide adequate opportunity to facilitate a referral.

However, Clerks at the Table take the view that because second reading is for agreement on the principles contained in the Bill the referral to a Committee for inquiry should be available.

This submission is that the options for referral both prior to the second reading (to consider the principle and the details of the bill) and after the conclusion of the second reading (to consider details only) should be available. If there is only one opportunity for referring a bill it is argued then it should be prior to the traditional second reading conclusion.

What is the Standing Orders Committee view on this matter? If the Committee prefers, referring back to proposed Standing Order 145, there is scope to include an amendment to the question to refer the bill to a committee then.

It is suggested further consideration be given at the next meeting.

#### Existing Standing Order No 183

#### After Second Reading

Immediately after the second reading —

- (a) a motion "that the bill be referred to a select committee" may be moved:
- (b) an instruction of which notice has been given may be moved; and

(c) it may be proposed "that leave be granted for the motion 'that the bill be now read a third time' to be moved forthwith";

but otherwise the Assembly shall, without further question being proposed, resolve itself into a Committee of the Whole: provided that a motion may be moved by a Minister or the Member in charge of the bill, "that the committee stage be later taken".

#### Policy Discussion

This is the key Standing Order that requires Ministers to seek leave if they wish to move to the third reading without the bill going through the detail (Committee of the Whole) stage.

## Proposed Standing Order No 148

# After Second Reading of a Bill

Immediately after the second reading the Assembly will, without further question, resolve itself into a Committee of the Whole to consider the bill in detail. However if the Assembly agrees to forego this then:

- (5) a motion may be moved by a Minister or the Member in charge of the bill, "that the committee stage be later taken" or
- (6) a motion may be moved "that the bill be referred to a select committee" or
- (7) an instruction of which notice has been given may be moved or
- (8) leave may be sought "that the bill be now read a third time".

#### New Standing Order / Proposed Standing Order No 149

The Third Reading debate on a bill will be confined to considering only the content of the bill as it is at the third reading stage and will not introduce any new material for debate or consideration.

#### Policy Discussion

The Subcommittee noted many recent examples where this protocol has been breached and thought it wise to include the requirement in the context of Standing Orders.

Speaker's Procedural Bulletin during May 2014 noted:

#### Contributions to Third Reading Debate

On Wednesday the 7<sup>th</sup> of May The Assembly and the Chair gave significant latitude to a Member on the third reading. It is worth recalling what the House of Representatives Practice advises on the approach to a third reading debate:

The motion moved on the third reading is 'That this bill be now read a third time'. The motion may be debated, although such debates are not common. The scope of debate is more restricted than at the second reading stage, being limited to the contents of the bill—that is, the matters contained in the clauses and schedules of the bill. It is not in order to re-open or repeat debate on matters discussed on the motion for the second reading or during the detail stage, and it has been held that the debate on the motion for the third reading is limited to the bill as agreed to by the House to that stage.

Clauses may not be referred to in detail in the third reading debate, nor may matters already decided during the detail stage be alluded to. In practice, the opportunity to speak at this time may be taken by a Member who for some reason has been unable to participate in earlier debate (perhaps because of a guillotine), or, unacceptably, by a Member attempting to continue earlier debate.

The Third Reading is not an opportunity for a Member to refute matters raised in the Minister's closing remarks.

If the Minister raises new material in closing remarks the Member can raise a point of order asking the Chair to have the Minister restrict his/her remarks to replying to matters raised during debate.

As advised previously, where a Bill has not been to the Committee the Minister must seek leave of the Assembly to move the third reading.

## Proposed Standing Order No 149

#### Limits on Third Reading Debate

Debate on the question a bill be read a third time is limited to consideration of the content of the clauses in the bill at that stage and may not introduce new material or canvass matters already considered during the second reading debate.

#### Existing Standing Order No 184

#### Resumed Consideration

Except as otherwise provided by Standing Order 185, when a bill has been referred to a select committee and the report of the select committee has been presented, consideration of the bill in the Committee of the Whole shall be an order of the day for a later hour.

#### Policy Discussion

Standing Order No 185 (as existing) will be recommended for deletion as it relates to the proforma process which is recommended be discontinued for lack of use and lack of necessity.

Otherwise the proposed re-draft is substantially the same as the existing draft.

The intention is that it will be considered the same sitting day as the Committee report comes back to the Assembly. The existing wording is retained but it could be made even clearer to say 'on the same day'.

For more detailed consideration by the Committee.

#### Proposed Standing Order No 150

#### Resumed Consideration

When a bill has been referred to a select committee pursuant to Standing Order 148 (2) and the report of the select committee has been presented, the bill in the context of the report delivered will then be considered in the Committee of the Whole and consideration of the bill in the Committee of the Whole will be an order of the day for a later hour.

## STANDING ORDERS (Deleted)

#### Existing Standing Order No 185

#### Debate on Motion for Committal after Pro Forma Second Reading

Where the second reading of any bill has been taken *pro forma*; on the first occasion for consideration of the bill in Committee of the Whole the question shall be proposed "that the bill be now committed", and such motion shall be open to debate as though it were a motion for the second reading.

#### **Policy Discussion**

Given the suggested deletion of existing Standing Order No 182, if it is agreed to proceed with that deletion, this Standing Order is also redundant. See notes above.

#### Existing Standing Order No 186

#### Referral

A bill shall not be referred to a select or standing committee except in pursuance of Standing Order 183.

#### **Policy Discussion**

Re-drafted Standing Order No 149 applies. The Standing Order speaks for itself. It is suggested for deletion.

# **CHAPTER THIRTEEN**

# BILLS - AMENDMENTS AND CONSIDERATION IN DETAIL AND PROCEDURE FOR COMMITTEE OF THE WHOLE

#### Existing Standing Order No 187

#### Long Title in Committee of the Whole

In the committee the title and preamble stand postponed without question proposed and the clauses shall be considered in their order, a question being proposed by the Chair on each clause, "that the clause stand as printed". The words of enactment at the head of the bill shall not be put to the committee.

## Policy Discussion

There is an opportunity to get rid of the fiction of Committee of the Whole in this exercise and replace it with a section of debate entitled "consideration of the bill in detail". There is also the opportunity to refer all bills to a scrutiny of bills committee and have a section of debate dedicated to consideration of the report back from the Committee before proceeding to the finalisation of the second reading. These are major changes and possibilities.

As per the suggested chapter re-arrangement, the parts of the existing Standing Orders chapter on bills sub titled "In Committee of the Whole" at page number 65 will continue in sequence but be placed in this new chapter entitled Amendments and Consideration in Detail which encompasses all the Committee of the Whole procedures.

If the above mentioned major changes do not proceed then arguably it is more logical to now place the Committee of the Whole Chapter here. In the existing Standing Orders there is an intervening chapter (existing Chapter XVIII Proposed Laws Returned). This would be moved.

The following is based on the above proposal and will be re-arranged if the Committee does not agree to this re-ordering.

The Standing Order itself is slightly re-worded for a more consistent and contemporary feel.

#### Proposed Standing Order No 151

#### Long Title in Committee of the Whole

In the Committee of the Whole, the title and preamble of a bill stand postponed without a question being proposed and the clauses are considered in order with a question being proposed by the Chair on each clause, "that the clause stand as printed". The words of enactment at the head of the bill are not put to the Committee.

#### Existing Standing Order No188

#### Order of Consideration

- (1) Except as provided hereinafter, the following order shall be observed in considering a bill and its title:
  - (a) clauses, as printed and new clauses, in their numerical order:
  - (b) schedules, as printed and new schedules in their numerical order;
  - (c) postponed clauses (not having been postponed until after certain other clauses);
  - (d) preamble; and
  - (e) title.
- (2) In reconsidering a bill or in consideration of a bill upon re-committal, the same order shall be followed.
- (3) In considering an Appropriation or Supply Bill, any schedule expressing the services for which the appropriation is to be made shall be considered before the clauses and, unless the committee otherwise orders, that schedule shall be considered by proposed expenditures in the order in which they are shown.
- (4) In considering a bill to impose taxation, any schedule shall be considered before the clauses.

## **Policy Discussion**

This Standing Order outlines the process for consideration and the Member of the Standing Orders Committee who is also the Chair of Committees may have an abiding interest in this draft.

A slight redraft is proposed for now, subject to further consideration by the Standing Orders Committee.

## Proposed Standing Order No 152

#### Order of Consideration

- (2) A bill will be considered in the following order:
  - (e) clauses, as printed and proposed clauses, in their numerical order
  - (f) schedules, as printed and proposed schedules in their numerical order
  - (g) postponed clauses (not having been postponed until after certain other clauses)
  - (h) preamble, and
  - (e) title.
- (2) In reconsidering a bill or in consideration of a bill upon re-committal, the same order shall be followed as far as possible.

- (3) In considering an Appropriation or Supply Bill, any schedule expressing the services for which the appropriation is to be made will be considered before the clauses and, unless the committee otherwise orders, that schedule will be considered by proposed expenditures in the order in which they are shown.
- (4) In considering a bill to impose taxation, any schedule must be considered before the clauses.

## Existing Standing Order No 189

#### **Amendments**

Any amendment may be moved to any part of a bill provided the same is within the title or relevant to the subject matter of the bill and is otherwise in conformity with the Standing Orders.

# **Policy Discussion**

This Standing Order requires amendments to be within the leave of the bill. A re-wording is suggested to modernise the language and provide more clarity.

## Proposed Standing Order No 153

#### Amendments Consistent with Bill

An amendment may be moved to any part of a bill provided it is within the title or relevant to the subject matter of the bill and conforms with the Standing Orders.

#### Existing Standing Order No 190

# Amendments in Writing

Except by leave of the Chair, no amendment may be proposed unless —

- (a) it is in writing and signed by the mover; and
- (b) copies of it are immediately available for circulation to Members.

#### Policy Discussion

While the existing Standing Order provides flexibility for the Chair to keep things moving along, where a Member were drafting their amendments on the spot, there is a danger of consideration of amendments which are not written down to provide clarity for the consideration in detail to proceed smoothly could cause chaos.

However there is no proposal to change this text, unless the Committee sees fit to do so.

## Proposed Standing Order No 154

#### Amendments to be in Writing

Except by leave of the Chair, no amendment may be proposed unless

- (3) it is in writing and signed by the mover, and
- (4) copies of it are immediately available for circulation to Members.

Existing Standing Order No 191

## Discussion Confined to Question

The discussion shall be confined to the clause or amendment before the committee.

# **Policy Discussion**

No change proposed.

Proposed Standing Order No 155

## Discussion Confined to Question

The discussion is confined to the clause or amendment before the committee.

# Existing Standing Order No 192

# Postponement of Clauses

A clause or a clause which has been amended may be postponed.

# **Policy Discussion**

No change proposed.

Proposed Standing Order No 156

# Postponement of Clauses

A clause, or a clause which has been amended, may be postponed.

# Existing Standing Order No 193

#### Clause as Amended

If a clause is amended, a further question shall be proposed "that the clause stand as amended".

# **Policy Discussion**

No substantive change proposed.

# Proposed Standing Order No 157

## Clause as Amended

If a clause is amended, the further question to be proposed is "that the clause stand as amended".

## Existing Standing Order No 194

## No Repetition

No amendment or new clause or schedule shall be at any time moved which is substantially the same as one already negatived by the committee, or which is inconsistent with one that has been already agreed to by the committee, unless a re-committal of the bill has intervened.

#### **Policy Discussion**

A minor adjustment in the language is suggested as drafted below.

## Proposed Standing Order No 158

#### No Repetition

No amendment or new clause or schedule may be moved if it is substantially the same as one already negatived by the committee, or which is inconsistent with one that has been already agreed to by the committee, unless it is being considered on a re-committal of the bill.

## Existing Standing Order No 195

#### Amendment of Title

If any amendment has been made to the bill necessitating an amendment of the original title, such title shall be amended and a question proposed, "that the title, as amended, be the title of the bill", and amendments of the title shall be specially reported to the Assembly.

## Policy Discussion

On the very rare occasion that a bill needs a new title then the Assembly requires a specific report. A minor re-wording is suggested only.

## Proposed Standing Order No 159

#### Amendment of Title

If any amendment has been made to the bill not coming within the original title, the title will be amended and a question put, "that the title, as amended, be the title of the bill", and be specifically noted in the report to the Assembly.

#### Existing Standing Order No 196

#### Report

When the bill has been fully considered, the question shall be put forthwith "that the bill (or the bill, as amended,) be reported" which being agreed to, the Chair shall leave the Chair and report the bill forthwith and the Speaker shall propose the question "that the report be adopted".

#### Policy Discussion

A convoluted description of the well-known process was discussed in detail at the Subcommittee meeting on 14 May 2014 and the Subcommittee recommended an innovation which would do away with the theatrics of the reporting and receipt of report, particularly when the Chairman of Committees is also the Deputy Speaker and receives the report.

Instead of reading the report to the Speaker who has returned to the Chair, the new approach will be to read the report to the Committee from the Committee Chair and advise that the Speaker will report to the Assembly in the same terms.

Then the Speaker can take the Chair and advise he/she has received the report and put the question for adoption.

#### Proposed Standing Order No 160

#### Report from Committee of the Whole to the Assembly

When the bill has been considered, the question will be put "that the bill (or the bill, as amended,) be reported", when agreed, the Chair will advise the Committee that the report will be received by the Speaker who will then propose the question to the Assembly "that the report be adopted".

## Existing Standing Order No 197

## No Notice Until Reported

No notice may be taken of any proceedings of a Committee of the Whole, or of a select committee on a bill, until such proceedings have been reported.

# **Policy Discussion**

No significant change is suggested to this self-explanatory procedure. A minor change in wording only.

## Proposed Standing Order No 161

## Report to Assembly Required before Assembly takes Notice

The Assembly takes no notice of any proceedings of a Committee of the Whole, or of a select committee on a bill, until such proceedings have been reported to the Assembly.

#### Existing Standing Order No 198

#### Recommittal

A motion for the re-committal of a bill for the reconsideration of —

- (a) the whole bill;
- (b) a particular clause or clauses:
- (c) a particular schedule or schedules;
- (d) the preamble; or.
- (e) the title, may be moved —
- (f) as a motion superseding the question "that the report be adopted"; or
- (g) as a motion superseding the question "that the bill be now read a third time".

#### **Policy Discussion**

No change to the substance, only a minor heading change is proposed for this Standing Order.

#### Proposed Standing Order No 162

#### Recommittal of a bill to the Committee of the Whole

A motion for the re-committal of a bill for the reconsideration of:

- (1) the whole bill
- (2) a particular clause or clauses
- (3) a particular schedule or schedules
- (4) the preamble, or
- (5) the title

#### may be moved:

- (6) as a motion superseding the question "that the report be adopted", or
- (7) as a motion superseding the question "that the bill be now read a third time".

## Existing Standing Order No 199

# Adoption and Third Reading

When the report is finally adopted, it may be moved that the third reading of the bill be later taken or, on motion being made, the question shall be proposed "that the bill be now read a third time".

# **Policy Discussion**

Further minor language changes but no change to substance or existing procedure is proposed in the re-draft contained below.

## Proposed Standing Order No 163

## Adoption and Third Reading

When the report of the Committee of the Whole is adopted, it may be moved that the third reading of the bill be taken later or a motion may be moved and the question put "that the bill be now read a third time".

#### Existing Standing Order No 200

#### Defeat

The only amendment which may be moved to the question "that the bill be now read a third time" is to omit "now" and add "this day 6 months", which if carried shall finally dispose of the bill

#### Policy Discussion

Once again we are faced with an archaic 'defeat' mechanism.

It is suggested it be deleted because a bill can be defeated on the third reading by voting against the third reading of the bill itself. This mechanism has no place in a modern Assembly.

The House of Representatives Practice states at page 372 (6<sup>th</sup> Edition) *It is now so long since this procedure has been used that it could…be regarded as obsolete.* 

## **Existing Standing Order No 201**

#### Disposal

After the third reading no further question shall be put, and the bill shall thereupon be a proposed law with the title agreed to in the consideration of the bill.

#### **Policy Discussion**

Only a slight re-wording is suggested.

#### Proposed Standing Order No 164

## Completion and Disposal of a Bill

After the third reading no further question will be put, and the bill is a proposed law with the title agreed to in the consideration of the bill.

#### Existing Standing Order No 202

#### Subsequent Amendments

Amendments falling within any of the following classes of amendments may be made, by the Clerk acting with the authority of the Speaker, to proposed laws, before they are presented for assent –

- (a) amendments of a formal nature necessary or desirable to any of the long title, the short title, and the method of citation;
- (b) amendments correcting clerical, grammatical or typographical errors and other amendments of a verbal or formal nature; and
- (c) amendments to the citation of an Act.

#### Policy Discussion

This very limited category of amendments cannot go to the substance of a bill and facilitates changes such as typographical which relate to numbering or a single word rather than groups of words and sentences which might change meaning.

The Standing Order is used infrequently but on the few occasions per Assembly that it is used, it saves the Members revisiting the bill for a minor tidy up.

#### Proposed Standing Order No 165

#### Subsequent Amendments Permitted

Amendments falling within any of the following classes of amendments may be made, by the Clerk acting with the authority of the Speaker, to proposed laws, before they are presented for assent:

- (4) amendments of a formal nature necessary or desirable to any of the long title, the short title, and the method of citation
- (5) amendments correcting clerical, grammatical or typographical errors and other amendments of a verbal or formal nature, and
- (6) amendments to the citation of an Act.

#### Existing Standing Order No 203

#### Restoration of Lapsed Bills

- (1) Any bill which lapses by reason of a prorogation may be proceeded with in the next ensuing session, at the stage it had reached in the preceding session, if a general election has not taken place between such 2 sessions, by resolution of the Assembly restoring it to the Notice Paper.
- (2) Any bill so restored to the Notice Paper shall be proceeded with in the Assembly as if its passage had not been interrupted by prorogation and, if passed to be a proposed law, shall be presented to the Administrator for assent, in the normal manner.
- (3) Should a motion for restoration to the Notice Paper be not agreed to by the Assembly, the bill may be re-introduced and proceeded with in the ordinary manner.

#### Policy Discussion

This Standing Order is redundant in modern practice as it has been many years since the Assembly has been prorogued between elections.

It is a matter for the Standing Orders Committee as to whether they wish to retain the flexibility of bringing a bill back on in the same Assembly after a prorogation and a new session has commenced.

The last time the Assembly was prorogued between elections was in the Fourth Assembly which had three sessions, the last commencing in 1986.

It is recommended that the Standing Order be deleted.

#### Existing Standing Order No 204

#### Presentation

After a bill has been passed to be a proposed law it shall be certified by the Clerk as a true copy and shall be presented to the Administrator for assent.

#### Policy Discussion

Only a change to the title is suggested.

#### Proposed Standing Order No 166

## Presentation for Assent

After a bill has been passed to be a proposed law it shall be certified by the Clerk as a true copy and be presented to the Administrator for assent.

#### Existing Standing Order No 210

#### Quorum

The quorum in a Committee of the Whole shall consist of the same number of Members as is requisite to form a quorum of the Assembly.

## **Policy Discussion**

The Standing Orders re-draft has now reached the suggested placing of existing Chapter XIX into the proposed new Chapter 13 where bills in detail are considered.

The rationale is for everything about the Committee of the Whole to be all in one place, however the Standing Orders Committee may wish to keep procedural aspects (some of which overlap with consideration in detail and some which don't) in a separate chapter.

It is submitted however, that when Members and the Clerks are consulting the Standing Orders it is more intuitive to have everything about the Committee of the Whole including its rules for proceeding, as well as rules for consideration of bills in detail, in one place.

The proposed re-wording to this Standing Order as drafted below reflects the requirement there be ten for a quorum. It is easier for Members and the casual reader to place it here rather than reference the *Self Government Act*.

Proposed Standing Order No 167

#### Quorum in Committee of the Whole

The quorum in Committee of the Whole is 10 Members.

#### Existing Standing Order No 211

#### Appointment

Except as otherwise provided in these Standing Orders, a Committee of the Whole shall be appointed by resolution that the Assembly resolve itself into a Committee of the Whole either immediately or at a future time.

## Policy Discussion

The Standing Orders already provide for a Committee to be available at the conclusion of the second reading of a bill otherwise the Assembly may grant leave to dispense with that automatic process, this Standing Order merely provides extra flexibility to appoint a Committee of the Whole.

The Assembly may task the Committee of the Whole to do more than just consider a bill in detail via a terms of reference as canvassed later in these Standing Orders.

#### Proposed Standing Order No 168

#### Appointment of Committee of the Whole

Except as otherwise provided in these Standing Orders, a Committee of the Whole may be appointed by a resolution that the Assembly resolve itself into a Committee of the Whole either immediately or at a future time.

#### Existing Standing Order No 212.

## Order of the Day

Whenever an order of the day is read for the Assembly to resolve itself into a Committee of the Whole, the Speaker shall leave the Chair without putting any question, and the Assembly shall thereupon resolve itself into a committee unless a motion for an instruction or other relevant motion, of which notice has been given, is moved.

#### Policy Discussion

Motions for instruction are never used in the Northern Territory, however the flexibility can remain. It is understood that this feature is commonly used for example in the Legislative Council in Victoria. Perhaps it is more commonly used in an upper house where there are more minor parties and independent Members.

The wording can be slightly changed to modernise the Standing Order.

The notice provision is deleted in the Proposed Standing Order in accordance with the suggestion that the capacity to provide instructions to Committees be deleted.

#### Proposed Standing Order No 169

#### Order of the Day to Resolve into the Committee of the Whole

Whenever an order of the day is read for the Assembly to resolve itself into a Committee of the Whole, the Speaker leaves the chair and the Assembly resolves itself into a committee.

## Existing Standing Order No 213

#### Chair Presides

As soon as the Speaker has left the Chair, the Deputy Speaker and Chair shall preside in the Committee of the Whole at the Table.

## **Policy Discussion**

Self-explanatory procedure but with the addition that the Chair has the precise role for keeping order as was noted above in relation to proposed Standing Order No 13 and existing Standing Order 44.

## Proposed Standing Order No 170

#### Chair of Committees to Preside

As soon as the Speaker has left the Chair, the Deputy Speaker presides in Committee of the Whole and is responsible for maintaining order.

#### Existing Standing Order No 214

## **Progress Reported**

When a matter has been partly considered in committee and the Deputy Speaker and Chair has been directed to report progress and ask leave to sit again, and the Assembly has ordered that the committee shall sit again at a later hour or on a particular day, the Speaker, when the order for the committee has been read, shall forthwith leave the Chair and the Assembly shall again resolve itself into such committee.

#### **Policy Discussion**

The existing syntax is convoluted and difficult. A re-write is suggested as below. The policy principle remains the same. The Committee may report and seek to sit again later.

#### Proposed Standing Order No 171

#### Progress of Committee Reported to Assembly and Leave to Convene Again

When a matter has been partly considered in committee and the Chair has reported progress and asked leave to sit again, if the Assembly has agreed, then at the nominated time the order will be read by the Clerk and the Speaker will leave the chair and the Assembly will resolve itself into the committee.

#### Existing Standing Order No 215

#### Terms of Reference

A committee shall consider such matters only as shall have been referred to it by the Assembly.

#### Policy Discussion

The practice in the Territory Assembly is that nothing is "referred" as there is no motion as there is in some jurisdictions moved by the Minister responsible to the effect that "you do now leave the chair and the Assembly resolves itself in a Committee of the Whole Assembly to consider the bill in detail" such proposal being put by the Speaker who on the affirmative does leave the chair.

It may be desirable to require this mechanism rather than the existing practice of a vague transition from Assembly to Committee.

## Proposed Standing Order No 172

#### Terms of Reference

A Committee of the Whole will only consider those matters referred to it by the Assembly upon motion by a Member.

## Existing Standing Order No 216

# Questions Decided by Majority

Every question in committee shall be decided in the same manner as in the Assembly itself.

# **Policy Discussion**

A re-draft is suggested which reflects the title.

# Proposed Standing Order No 173

# Questions Decided by Majority

Every question in committee will be decided by a majority of committee members.

## Existing Standing Order No 217

# No Contradictory Motions

A motion contradictory to a previous decision of the committee shall not be entertained in the same committee.

# **Policy Discussion**

Another self-explanatory matter.

Proposed Standing Order No 174

# No Contradictory Motions

A motion contradictory to a previous decision of the committee will not be considered by the same committee.

## Existing Standing Order No 218.

#### **Divisions**

Divisions shall be taken and decided in committee in the same manner as in the Assembly itself and the Deputy Speaker and Chair shall be entitled to a deliberative vote, which vote shall be optional, and shall also, where there is an equality of votes on any question, have a casting vote.

## **Policy Discussion**

Strange and unnecessary wording has been deleted to simplify this Standing Order.

## Proposed Standing Order No 175

#### Divisions in Committee of the Whole

Divisions will be conducted the same way as they are in the Assembly and the same rules will apply.

#### Existing Standing Order No 219

#### Rules of Business

Except as provided by these Standing Orders, the same rules for regulating the conduct of business shall be observed in committee as in the Assembly itself, the Deputy Speaker and Chair of Committees being vested with the same authority as the Speaker for the preservation of order, but disorder in a committee may only be censured by the Assembly on receiving a report.

## **Policy Discussion**

The procedural rules including the lack of authority to act on matters of disorder are applied to the Chair of the Committee of the Whole and the proposed re-drafted Standing Order simplifies the description.

#### Proposed Standing Order No 176

#### Rules of Business in Committee of the Whole

Unless otherwise stated in these Standing Orders, the same rules for regulating the conduct of business apply to the committee as it does in the Assembly. If disorder occurs in a committee, the Chair will report it to the Speaker and any censure will be a matter for the Assembly.

## Existing Standing Order No 220

## Dissent from Ruling

If any objection is taken to a ruling of the Chair, such objection shall be stated at once and a motion of dissent, to be submitted in writing, moved, which shall be forthwith decided by the committee without debate. The proceedings shall then be resumed where they were interrupted.

#### **Policy Discussion**

Once again the proposal for the re-written Standing Order is one of clarity.

## Proposed Standing Order No 177

#### Dissent from Ruling of Chair in Committee of the Whole

A motion of dissent must be submitted in writing, moved immediately, and voted on by the committee without debate. The proceedings then resume where interrupted.

## Existing Standing Order No 221

#### Disorder

If any sudden disorder shall arise in committee the Speaker may resume the Chair in the Assembly.

# **Policy Discussion**

This mechanism allows for an escape valve if matters become very heated during the Committee of the Whole.

# Proposed Standing Order No 178

# Disorder Suddenly Occurring in Committee of the Whole

If any sudden disorder arises in committee the Speaker may resume the Chair and the Assembly will immediately recommence.

## Existing Standing Order No 222

#### No Quorum on Division

If it appears upon a division in committee, that a quorum of Members is not present, the Deputy Speaker and Chair shall leave the Chair of the committee, and shall inform the Speaker thereof, but make no further report. No decision of the committee shall be considered to have been arrived at by such division.

#### **Policy Discussion**

Another minor rewording is proposed.

## Proposed Standing Order No 179

#### No Quorum on Division in Committee of the Whole

If a quorum of 10 Members is not present during a division in a committee the Chair will immediately report the lack of quorum to the Speaker and no decision of the committee was reached by the division.

#### Existing Standing Order No 223

#### Notice of Quorum

If any Member shall take notice that a quorum of Members is not present, the Deputy Speaker and Chair shall count the committee, and if, the bells having been rung, a quorum be not present within three minutes the Chair shall inform the Speaker thereof, but shall make no further report. If a quorum be present, the committee shall proceed with the business where it was so interrupted. **Note:** The quorum of the Assembly is 10.

# **Policy Discussion**

The proposed re-draft reflects that in Standing Order No 9 above for a quorum of the Assembly.

# Proposed Standing Order No 180

#### Committee Member calling a Lack of Quorum

If a Member states that a quorum is not present in a committee the Chair will count the committee, and if there are fewer than 10 Members (including the Chair) the bells will be rung for three minutes. If after three minutes there are still not 10 Members present the Chair will inform the Speaker.

#### Existing Standing Order No 224

# Direction to Report

When all matters referred to a committee have been considered the Chair shall be directed to report the same to the Assembly.

# **Policy Discussion**

Arguably there is no need for a 'direction' it does not occur in practice, rather it happens organically, however that is in the context of a conclusion of consideration of a bill. If a committee is considering another matter then perhaps a direction is required.

It is the Speaker who reports to the Assembly not the Chair.

Arguably this is a re-statement of proposed Standing Order No 160 (existing 196) and could be deleted.

# Proposed Standing Order No 181

#### Chair to Report Conclusion to Speaker

When all matters referred to a committee have been considered the Chair will report the conclusion to the Speaker who will advise the Assembly.

#### Existing Standing Order No 225

#### Reporting Progress

A motion may be moved during the proceedings of a committee "that the Chair do report progress and ask leave to sit again", and such question shall be put forthwith and decided without amendment or debate. On the Chair reporting to the Assembly and the Assembly having adopted the report, a motion may be moved to fix a time for the Assembly to resolve itself again into the committee: otherwise further consideration in the Committee of the Whole becomes an order of the day for a later hour.

#### Policy Discussion

This is a procedural motion that is required for things like the luncheon suspension of the sittings because at 2.00pm the Assembly will sit as the Assembly to consider Notices and petitions and other matters. Otherwise it is available as required. Re-drafting proposed as below.

A common occurrence in the Territory Assembly is for a Committee to fail to report progress and to suspend for lunch and then the Assembly resumes at 2.00pm to proceed with the Routine of Business pursuant to (existing) Standing Order 89 and resumes Committee later where they left off. That process works most of the time, but there has been a point of order raised in this Assembly about this practice.

This demonstrates again that the fiction of the Committee of the Whole is cumbersome and inconvenient when the procedure for considering a bill in detail is just a process which could be interrupted by the Routine of Business without reporting if it were not a Committee process.

#### Proposed Standing Order No 182

#### Reporting Progress

A motion may be moved during the proceedings of a committee "that the Chair do report progress and ask leave to sit again". The question must be put immediately and decided without amendment or debate. When the Chair reports to the Speaker and the Assembly adopts the report the Speaker puts to the Assembly, a motion may be moved to fix a time for the Assembly to resolve itself again into the committee: otherwise further consideration in the Committee of the Whole becomes an order of the day for a later hour.

#### Existing Standing Order No 226

#### Motion that Chair leave the Chair

A motion "that the Chair do now leave the Chair", which question shall be put forthwith and decided without amendment or debate, will, if carried, supersede the proceedings of a committee; but the committee may, on motion after notice, be revived and the proceedings shall be resumed at the point where they were interrupted.

#### Policy Discussion

It is suggested this Standing Order be deleted.

Existing Standing Order 226 provides that during Committee-of-the-Whole proceedings a motion 'that the Chair do now leave the Chair' may be moved and shall be put and decided without amendment or debate and if carried would supersede the proceedings of the committee. However, the committee may on motion after notice be revived and proceedings resumed at the point where they were interrupted.

It is understood that this provision may not have been used in the Assembly committee stage proceedings and the former Clerk advises that it was not used in the last 25 years.

There is no similar current provision in either the House of Representatives or Senate Standing Orders. However, until the late 1960s Senate Standing Orders contained Standing Order 280 which was in similar terms to that provided in Standing Order 226 of the Legislative Assembly.

In providing a description of the Standing Order in the 3<sup>rd</sup> Edition of *Australian Senate Practice* (Odgers) it was stated that the only precedent cited was for proceedings in 1904 (*Journals* p.71).

#### Existing Standing Order No 227

#### Dilatory Motions: Limit As To

Motions "that the question be now put", "that the Chair do report progress and ask leave to sit again", and "that the Chair do now leave the Chair", should not be repeated within 15 minutes of any of these motions having been negatived: provided that the Member in charge of a bill or the Member who has moved the motion under consideration, or a Minister, may at any time move to report progress and ask leave to sit again.

# Policy Discussion

A dilatory motion is one which is intended to delay, postpone or indefinitely delay a matter, because if accepted and the question is put, it immediately supersedes the previous question before the chair.

Limits are required so as not to inordinately disrupt committee proceedings. The re-draft below also reflects the proposed deletion of existing Standing Order No 226.

# Proposed Standing Order No 183

# Limits on Superseding Motions

Motions "that the question be now put" or "that the Chair do report progress and ask leave to sit again", should not be repeated within 15 minutes of being negatived. However, the Member in charge of a bill or the Member who has moved the motion under consideration in a committee, or any Minister, may at any time move to report progress and ask leave to sit again.

# Existing Standing Order No 228.

# Resolutions Reported

The resolutions reported from a committee may be taken into consideration forthwith and may be agreed to or disagreed to by the Assembly, or recommitted to a committee, or the further consideration thereof postponed.

# Policy Discussion

This Standing Order merely indicates that all other business of the Assembly remains on hold until the Assembly decides what to do with the report back from the Committee of the Whole. The wording is proposed to change.

# Proposed Standing Order No 184

# Assembly Action when Committee of the Whole Resolutions are Reported

The resolutions reported from a committee may be taken into consideration immediately and the Assembly may agree or disagree, recommit them to a committee, or postpone further consideration.

# Proposed Deletion - Existing Chapter XVIII - PROPOSED LAWS RETURNED

#### Existing Standing Order No 205

#### Considered in Committee

Whenever a proposed law is returned pursuant to section 7(3) or 8(2) of the *Northern Territory (Self-Government) Act* together with amendments recommended by either the Administrator or the Governor-General, such amendments shall be printed, unless the Assembly otherwise orders, and a time fixed for taking the same into consideration in a Committee of the Whole.

# **Policy Discussion**

The *Self Government Act* arguably provides enough guidance for this very unusual circumstance if it ever arises. An Administrator many years ago raised some objection about legislation, however the proposed laws were not returned.

There is an argument to delete the Standing Order on the basis that the Assembly could determine when and if it were to occur, how to consider the amendments which are proposed.

Consultation undertaken by the Clerk with other Clerks at the 2014 Presiding Officers and Clerks conference on these specific Standing Orders confirmed that this procedure could be referred to as a 'back pocket' procedure to be revived if required. It is best to try to simplify the Standing Orders by removing such never used contingency Standing Orders where possible.

In the event of such a message, the Speaker would receive the message from the Administrator with the proposed amendments and the message would be read out in the Assembly. Then the Assembly could consider the proposed amendments or it could ignore the proposal and the Bill for the proposed Act would not be assented to and would not commence.

This is a standard 'just in case Standing Order' which arguably just crowds the Standing Orders and takes up space. The *Self Government Act* and the will of the Assembly on the day would be the appropriate guide. Telling the Assembly to print the proposed amendments, unless it otherwise orders to print them is unnecessary.

Note – that since August 2014 this Standing Order was used for the first time during the November 2014 sittings.

It is suggested the Standing Order either be deleted or if preferred it could be simplified as follows:

#### Possible Standing Order No 185

#### Considered in Committee

Whenever a proposed law is returned pursuant to section 7(3) or 8(2) of the *Northern Territory (Self-Government) Act* together with amendments recommended by either the Administrator or the Governor-General, the Assembly will consider the proposed amendments in a Committee of the Whole.

#### Existing Standing Order No 206

#### **Amendments**

The amendments recommended by either the Administrator or the Governor-General shall be agreed to either with or without amendments, or disagreed to, or consideration thereof postponed, or the proposed law ordered to be laid aside.

#### Policy Discussion

Once again this is perhaps superfluous and speculative.

It is suggested that existing Standing Orders No 205 to 209 are not required. On the very rare chance a bill is returned, then the Assembly can take note of the *Self Government Act* and determine how it wishes to examine the matter contained in the message from the Administrator rather than rely upon these poorly worded and overly prescriptive standing Orders.

The Assembly always has the opportunity to revive and refer back to the deleted procedure for guidance or determine a new procedure as required.

#### Existing Standing Order No 207

#### Relevance

No amendment may be moved to an amendment recommended by either the Administrator or the Governor-General that is not relevant thereto; nor may an amendment be moved to the proposed law unless the same be relevant to, or consequential upon, either the acceptance or the rejection of an amendment recommended by either the Administrator or the Governor-General.

#### Existing Standing Order No 208

#### Report

Upon completion by the committee of its consideration of amendments recommended by either the Administrator or the Governor-General, the Chair shall report accordingly.

#### Existing Standing Order No 209

#### Disposal

Upon adoption of the report, the proposed law or the proposed law as amended together with any alterations rendered necessary to be made in the proposed law in consequence of amendment shall be fairly printed and certified by the Clerk as a true copy and shall be presented to the Administrator for assent.

#### Policy Discussion

As above, all of these are proposed for deletion on the basis that the Assembly has capacity and capability to consider the proposed amendments if they ever occur under existing arrangements to examine bills.

The message would be received, a Member could then give notice of consideration of the amendments and it takes place on the day notice is given for and a report is then furnished back to the Administrator to pass a new version of the bill. It shouldn't be this complex.

# **CHAPTER FOURTEEN**

# **MESSAGES FROM THE ADMINISTRATOR**

# **Proposed Standing Order No 185**

# Existing Standing Order No 232

# Announced to Assembly

A message from the Administrator shall be announced to the Assembly by the Speaker, but not during debate or so as to interrupt a Member whilst speaking.

#### Policy Discussion

Only a change to reflect the priority the Assembly gives to these sorts of messages in practice is proposed. Messages are business for the whole Assembly and thus should be accorded priority over other matters.

# Proposed Standing Order No 185

# Messages to be Announced to Assembly

A message from the Administrator will be announced to the Assembly by the Speaker at the first available opportunity on a meeting day taking precedence over other matters but not be announced during a debate or interrupting a Member who is speaking.

#### Existing Standing Order No 233

# Financial Proposals to be Recommended

Subject to the provisions of Standing Order 234, a message from the Administrator recommending an appropriation of revenue or moneys for the purpose of a bill shall be announced before the bill to which it relates is presented.

#### **Policy Discussion**

Instead of referring to another Standing Order it is proposed to clarify and incorporate the rule into this Standing Order.

# Proposed Standing Order No 186

# Financial Proposals: Announcement of Message from the Administrator

A message from the Administrator recommending an appropriation of revenue or moneys for the purpose of a bill will be announced before the bill to which it relates is presented.

# Existing Standing Order No 234.

#### When Announced for Amendment

Any message from the Administrator recommending an appropriation of revenue or moneys for the purposes of an amendment to be moved to a bill shall be announced before the amendment is moved.

# **Policy Discussion**

No change proposed to text, slight change to heading is proposed.

# Proposed Standing Order No 187

# Administrator's Recommendation to Amend to Appropriate Moneys

A message from the Administrator recommending an appropriation of revenue or moneys for the purposes of an amendment to be moved to a bill will be announced before the amendment is moved.

# **CHAPTER FIFTEEN**

PROCEDURES FOR APPROPRIATION AND SUPPLY

#### Existing Standing Order No 229

#### Appropriation Proposal to be Recommended

No proposal for the appropriation of any public moneys shall be made unless the purpose of the appropriation has in the same session been recommended to the Assembly by message of the Administrator. No amendment of such proposal shall be moved which would increase, or extend the objects and purposes or alter the destination of, the appropriation so recommended unless a further message is received.

#### Policy Discussion

Section 11 of the Self Government Act provides: An enactment, vote, resolution or question, the effect of which is to dispose of or charge any revenues, loans or other moneys received by the Territory, shall not be proposed in the Legislative Assembly unless the purpose for which such revenues, loans or other moneys are to be disposed of or charged by reason of the enactment, vote, resolution or question, as the case may be, has in the same session been recommended by message of the Administrator to the Legislative Assembly.

The Assembly has no inherent power to initiate an Appropriation Bill and the content of the Standing Order as drafted reflects the drafting of the section in the *Act*.

The proposed re-wording below is clearer.

#### Proposed Standing Order No 188

# Appropriation Bill must be recommended by Administrator

A proposal for the appropriation of public moneys must be recommended to the Assembly by a message from the Administrator received in the same session of the Assembly as the bill is introduced. No amendment of the same proposal to increase, or extend the objects and purposes or alter the destination of the recommended appropriation is possible unless a further message is received.

#### Existing Standing Order No 230

# Supply Bills, Appropriation Bills and Taxation Proposals

An Appropriation or Supply Bill or a bill or proposal dealing with taxation may be presented to the Assembly by a Minister without notice.

# **Policy Discussion**

Each year on the presentation of the Budget, Members are reminded that the Treasurer does not give notice of the bill, instead he or she presents the bill immediately pursuant to the message of authority from the Administrator.

There is no requirement for one month to lapse before the question on the second reading. At the conclusion of the second reading debate the Treasurer moves the Committee stage be later taken and the matter is referred to the Estimates Committee.

The only proposed change is to the heading.

# Proposed Standing Order No 189

### Supply Bills, Appropriation Bills and Taxation Proposals Do Not Require Notice

An Appropriation or Supply Bill or a bill or proposal dealing with taxation may be presented to the Assembly by a Minister without notice.

#### Existing Standing Order No 231

#### Taxation Proposals By Minister Only

A proposal for the imposition, or for the increase, or alleviation, of a tax or duty, or for the alteration of the incidence of such a charge, shall not be made except by a Minister. No Member, other than a Minister, may move an amendment to increase, or extend the incidence of, the charge defined in that proposal unless the charge so increased or the incidence of the charge so increased shall not exceed that already existing by virtue of any law of the Territory.

#### Policy Discussion

As required in all similar jurisdictions, only the Government of the day can raise taxes and appropriate moneys. For example the Senate cannot do this because it is not the House where Government is formed. Similarly in the Northern Territory while the Assembly appropriates the money, it is the Executive who initiate the proposals for the Assembly to consider.

A minor re-write for clarity is suggested below.

#### Proposed Standing Order No 190

#### Taxation Proposals made by a Minister Only

A proposal for the imposition, increase, or alleviation, of a tax or duty, or for the alteration of the incidence of a tax or duty may only be made by a Minister. Only a Minister may move an amendment to increase, or extend the incidence of, the charge defined in that proposal unless the charge increased or the incidence of the charge increased does not exceed that already existing under any law of the Territory.

# **PART TWO**

# OTHER PRACTICE, PROCEDURE, COMMITTEE AND ADMINISTRATIVE MATTERS

**CHAPTER SIXTEEN** 

**COMMITTEES OF THE ASSEMBLY** 

#### **EXISTING CHAPTER XXII – For Deletion**

#### Existing Standing Order No 235.

#### Effect of (instructions to Committees)

An instruction empowers a committee to consider matters not otherwise referred to it.

#### Policy Discussion

Existing Standing Orders 235 to 238 relate to instructions to Committees.

At the very least the wording requires change to explain an instruction more clearly, however since the device is rarely if ever used in the Northern Territory and arguably is redundant, it is worth considering deletion.

Deletion does not mean a loss of capacity. The Assembly may, after notice is given, or if the Assembly agrees to suspend standing orders to permit it, provide an instruction for a Committee to do a particular thing.

The House of Representatives omitted its former Standing Order relating to instructions to committees prior to 2005 due to its lack of use. In the Assembly, directions regarding a committee's inquiry have been done by way of order amending or adding to its terms of reference rather than by instruction. It is therefore recommended that the Standing Orders relating to instructions be omitted

# Existing Standing Order No 236

#### Limitation

No instruction may be given to a committee to do that which it is already empowered to do.

#### Policy Discussion

There is no need for this Standing Order; it is illogical and inherently redundant.

#### **STANDING ORDER 191**

#### Existing Standing Order No 237

# Instruction to Committee of the Whole

An instruction may be given to the Committee of the Whole on a bill to amend an Act to 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: provided that such motion shall be passed by at least 10 affirmative votes.

#### Policy Discussion

Rarely used in the Legislative Assembly in the Northern Territory, in fact no existing Member would be able to remember an instruction being given.

This device permits the Committee to consider an amendment which would normally be outside the leave of the bill in question but could be accommodated by the Act being amended by a specific bill.

More likely to be used in an upper house and in discussions with the (now former) Clerk of the Legislative Council of Victoria it was disclosed that it is a common device to give instructions to Committees and to the Committee of the Whole.

While this Standing Order could be retained for the rare occasion of necessity on the assumption the Standing Orders Committee is retaining the process of the referral to the Committee of the Whole when considering a bill in detail, there is no occasion when it actually occurred in living memory.

The reference to ten votes shows how old this is. It was the absolute majority when the Assembly was comprised of 19 members between 1974 and 1978.

# **Existing Standing Order No 238**

# **Timing**

An instruction to a select committee extending or restricting the order of reference may be moved, after notice, on any day prior to the report of the committee.

#### **Policy Discussion**

Deletion follows as a consequence of previous proposed deletions of existing Standing Orders 235 and 236.

#### Existing Standing Order No 17

# Standing Orders Committee

A Standing Orders Committee to consist of the Speaker and 4 other Members shall be appointed at the commencement of each Assembly and such Committee shall have power to sit during any adjournment of the Assembly.

# **Policy Discussion**

Standing Orders establishing specific committees should include the name, functions and any special provisions that do not apply to all committees.

The existing Standing Order relating to the Standing Orders Committee does not set out the functions of the committee and repeats the general provision that committees can sit during any adjournment of the Assembly. The proposed Standing Order includes the functions of the Committee

# Proposed Standing Order No 191

# Standing Orders Committee

- (1) A Standing Orders Committee will be appointed at the commencement of each Assembly to inquire into and report on the Standing Orders and procedures of the Assembly and its committees.
- (2) The Committee must consist of the Speaker and four other Members.

#### Existing Standing Order No 18

#### Committee of Privileges

- (1) A Committee of Privileges to consist of 5 Members shall be appointed at the commencement of each Assembly or at such other time as the Assembly may decide, to inquire into and report upon complaints of breach of privilege which may be referred to it by the Assembly and such committee shall have power to sit during any adjournment.
- (2) The Committee shall have power to send for persons, papers and records, to adjourn from place to place, to meet and transact business in public or private session and to sit during any adjournment of the Assembly.

#### **Policy Discussion**

The proposed Standing Order is rearranged to separate out functions and membership without any substantive change. Paragraph (2) of the existing Standing Order is unnecessary as those provisions apply generally to committees.

Although it rarely meets, it is standard practice for a Privileges Committee to be established at the commencement of each Assembly. The provision allowing the Privileges Committee to be established later than the beginning of the Assembly, which is not applied to other committees, has been omitted.

Reference is also made to the *Disclosure of Interests Act* in order to ensure compliance with s.3 of that act which requires a resolution of the Assembly to give powers to the Committee.

#### Proposed Standing Order No 192

#### Committee of Privileges

- (1) A Committee of Privileges must be appointed at the commencement of each Assembly to inquire into and report on complaints of breach of privilege which may be referred to it by the Assembly and act as the Committee of Members' Interests pursuant to s.3 of the Legislative Assembly Disclosure of Interest Act.
- (2) The Committee will consist of five Members.

#### Existing Standing Order No 19

#### House Committee

- (1) A House Committee to consist of the Speaker and 4 other Members shall be appointed at the commencement of each Assembly to advise the Speaker on matters relating to the operation of Parliament House and its precincts including:
  - (a) building operations:
  - (b) repairs, renewals, and alterations to the Parliament House and all fittings and furniture;
  - (c) information technology services for the Assembly and Members;
  - (d) the library services provided to the Assembly and Members;
  - (e) allocation of rooms;
  - (f) catering for Parliament;
  - (g) maintenance and upkeep of gardens, parking areas and associated roadways;
  - (h) any other matter referred to it by the Speaker or the Assembly.
- (2) The Committee shall have power to -
  - (a) meet and transact business in public or private session;
  - (b) send for persons, papers and records;
  - (c) sit during any adjournment of the Assembly; and
  - (d) move from place to place.

#### Policy Discussion

The proposed Standing Order is rearranged to separate out functions and membership without any substantive change. Paragraph (2) of the existing Standing Order is unnecessary as those provisions apply generally to committees.

#### Proposed Standing Order No 193

# House Committee

- (2) A House Committee shall be appointed at the commencement of each Assembly to advise the Speaker on matters relating to the operation of Parliament House and its precincts including:
  - (a) building operations
  - (b) repairs, renewals, and alterations to the Parliament House and all fittings and furniture
  - (c) information technology services for the Assembly and Members
  - (d) the library services provided to the Assembly and Members
  - (e) allocation of rooms
  - (f) catering for Parliament
  - (g) maintenance and upkeep of gardens, parking areas and associated roadways
  - (h) any other matter referred to it by the Speaker or the Assembly.

(2) The committee will consist of the Speaker and four other Members.

#### Existing Standing Order No 20

#### Subordinate Legislation and Publications Committee

- (1) A Standing Committee on Subordinate Legislation and Publications to consist of 5 Members shall be appointed at the commencement of each Assembly. The Committee shall examine and report upon all instruments of a legislative or administrative character and other papers which are required by statute to be laid upon the Table.
- (2) The Committee shall, with respect to any instrument of a legislative or administrative character which the Legislative Assembly may disallow or disapprove, consider—
  - (a) whether the instrument is in accordance with the general objects of the law pursuant to which it is made:
  - (b) whether the instrument trespasses unduly on personal rights or liberties;
  - (c) whether the instrument unduly makes rights and liberties of citizens dependent upon administrative and not upon judicial decisions;
  - (d) whether the instrument contains matter which in the opinion of the committee should properly be dealt with in an Act;
  - (e) whether the instrument appears to make some unusual or unexpected use of the powers conferred by the statute under which it is made;
  - (f) whether there appears to have been unjustifiable delay in the publication or laying of the instrument before the Assembly; and
  - (g) whether for any special reason the form or purport of the instrument calls for elucidation.
- (3) The Committee, if it is of the opinion that an instrument ought to be disallowed or disapproved—
  - (a) shall report that opinion and the grounds thereof to the Assembly before the end of the period during which any notice of the motion for disallowance of that instrument may be given to the Assembly; and
  - (b) if the Assembly is not sitting, may refer its opinion and the grounds thereof to the authority by which the instrument was made.

For the purposes of these Standing Orders, "instrument of a legislative or administrative character" has the same meaning as that defined in the *Interpretation Act*.

- (4) The Committee, if it is of the opinion that any matter relating to any paper which is laid upon the Table of the Assembly should be brought to the notice of the Assembly, may report that opinion and matter to the Assembly.
- (5) All petitions and papers presented to the Assembly which have not been ordered to be printed shall stand referred to the Committee, which shall report from time to time as to what petitions and papers ought to be printed and whether wholly or in part.
- (6) The Committee shall inquire into and report, from time to time, on the printing, publication and distribution of publications or such other matters as are referred to it by the Speaker or the Assembly.
- (7) The Committee shall have power to send for persons, papers and records, to sit in public or private session notwithstanding any adjournment of the Assembly and to adjourn from place to place.
- (8) The Committee shall have power to consider, disclose and publish the Minutes of Proceedings, evidence taken and records of the Subordinate Legislation, Tabled

Papers and Publications Committees established in this Assembly and all previous Assemblies.

#### Policy Discussion

The name of the committee is changed to that in the Standing Order title and by which it is usually referred: the Subordinate Legislation and Publications Committee.

As existing Standing Order No 254 makes all tabled documents public documents and the Assembly does not produce a separate printed papers series, ordering a paper to be printed has no real effect. Existing paragraph (5) regarding printing papers has therefore been omitted, while paragraph (6) relating to the distribution of papers generally is retained. Existing paragraphs (7) and (8) have been omitted as the provisions apply to committees generally.

#### Proposed Standing Order No 194

#### Subordinate Legislation and Publications Committee

- (1) A Subordinate Legislation and Publication Committee shall be appointed at the commencement of each Assembly to examine and report upon all instruments of a legislative or administrative character and other papers which are required by statute to be laid upon the Table.
- (2) The Committee must consist of five Members.
- (3) The Committee shall, with respect to any instrument of a legislative or administrative character which the Legislative Assembly may disallow or disapprove, consider:
  - (h) whether the instrument is in accordance with the general objects of the law pursuant to which it is made
  - (i) whether the instrument trespasses unduly on personal rights or liberties
  - (j) whether the instrument unduly makes rights and liberties of citizens dependent upon administrative and not upon judicial decisions
  - (k) whether the instrument contains matter which in the opinion of the Committee should properly be dealt with in an Act
  - (I) whether the instrument appears to make some unusual or unexpected use of the powers conferred by the statute under which it is made
  - (m) whether there appears to have been unjustifiable delay in the publication or laying of the instrument before the Assembly and
  - (n) whether for any special reason the form or purport of the instrument calls for elucidation.
- (4) The Committee, if it is of the opinion that an instrument ought to be disallowed or disapproved:
  - (a) shall report that opinion and the grounds thereof to the Assembly before the end of the period during which any notice of the motion for disallowance of that instrument may be given to the Assembly and

- (b) if the Assembly is not meeting, may refer its opinion and the grounds thereof to the authority by which the instrument was made.
- (5) The Committee, if it is of the opinion that any matter relating to any paper which is laid upon the Table of the Assembly should be brought to the notice of the Assembly, may report that opinion and matter to the Assembly.
- (6) The Committee shall inquire into and report, from time to time, on the printing, publication and distribution of publications or such other matters as are referred to it by the Speaker or the Assembly.
- (7) For the purposes of this Standing Order, "instrument of a legislative or administrative character" has the same meaning as that defined in the *Interpretation Act*.

#### Existing Standing Order No 21A

#### **Public Accounts Committee**

- (1) A Standing Committee of Public Accounts to consist of five members shall be appointed at the commencement of each Assembly.
- (2) The duties of the Committee shall be -
  - (a) to examine the accounts of the receipts and expenditure of the Northern Territory and each statement and report tabled in the Legislative Assembly, pursuant to the *Financial Management Act* and the *Audit Act*;
  - (b) to report to the Legislative Assembly with such comments as it thinks fit, any items or matters in or arising in connection with those accounts, statements or reports, or in connection with the receipt or disbursement of the moneys to which they relate, to which the committee is of the opinion that the attention of Parliament should be drawn;
  - (c) to report to the Legislative Assembly any alteration which the committee thinks desirable in the form of the public accounts or in the method of keeping them or in the method of receipt, control, issue or payment of public moneys;
  - (d) to inquire into and report to the Legislative Assembly on any question in connection with the public accounts of the Northern Territory—
    - (i) which is referred to it by a resolution of the Assembly; or
    - (ii) which is referred to it by the Administrator or a Minister;
  - (e) to examine the reports of the Auditor-General tabled in the Legislative Assembly with the accounts of an Agency of the Northern Territory, including any documents annexed or appended to those reports, pursuant to the Audit Act; and
  - (f) to inquire into and report to the Legislative Assembly on any matters within the executive authority of ministers of the Territory to which the committee is of the opinion that the attention of the Assembly should be drawn.
- (3) The Committee shall examine only those accounts of receipts and expenditure of the Northern Territory and reports of the Auditor-General for financial years commencing after 30 June 1986 provided that this shall not prevent the consideration by the committee of matters included in reports of the Auditor-General for the year ending 30 June 1986 which have or may have a continuing effect on the form of the public accounts, the method of receipt, control, issue or payment of public moneys.
- (4) Prior to determining whether to undertake an inquiry into any matter which may have arisen in connection with the public accounts of the Northern Territory, pursuant to paragraphs (2)(a) and (e), with the concurrence of the committee, the Chair is empowered to write to the Chief Executive Officer of the relevant agency for a report on the matter.
- (5) The Committee shall take care not to inquire into any matters which are being examined by a Select Committee of the Assembly especially appointed to inquire into such matters and any question arising in connection therewith may be referred to the Assembly for determination.
- (6) The Committee shall elect a Government Member as Chair.
- (7) The Chair of the Committee may, from time to time, appoint a member of the Committee to be the Deputy Chair of the Committee and the Member so appointed shall act as Chair of the Committee at any time when there is no Chair or when the Chair is not present at a meeting of the Committee.
- (8) In the event of an equality of voting, the Chair, or the Deputy Chair when acting as Chair, shall have a casting vote.

- (9) The Committee shall have power to appoint sub-committees and to refer to any such sub-committee any matter which the Committee is empowered to examine.
- (10) Three Members of the Committee shall constitute a quorum of the Committee and two Members of a sub-committee shall constitute a quorum of the sub-committee.
- (11) The Committee or any sub-committee shall have power to send for persons, papers and records, to adjourn from place to place, to meet and transact business in public or private session and to sit during any adjournment of the Assembly.
- (12) The Committee shall be empowered to print from day to day such papers and evidence as may be ordered by it and, unless otherwise ordered by the committee, a daily *Hansard* shall be published of such proceedings of the committee as take place in public.
- (13) The Committee may proceed to the dispatch of business notwithstanding that all Members have not been appointed and notwithstanding any vacancy.
- (14) The Committee shall report annually and shall have leave to report from time to time and to report its proceedings and evidence taken; and any Member of the committee shall have power to add a protest or dissent to any Report.
- (15) Unless otherwise ordered by the Committee, all documents received by the Committee during its inquiry shall remain in the custody of the Assembly: provided that, on the application of a department or person, any document, if not likely to be further required, may, in the Speaker's discretion, be returned to the department or person from whom it was obtained.
- (16) The Committee shall be provided with all necessary staff, facilities and resources and shall be empowered, with the approval of the Speaker, to appoint persons with specialist knowledge for the purposes of the committee.

#### Policy Discussion

Existing paragraph 2(e) is omitted as paragraph 2(a) includes all reports under the *Audit Act*. Existing paragraph (3) excluding accounts prior to 1986 is omitted as being no longer relevant. Existing paragraph (4) providing that the Chair can write to a Chief Executive Officer for a report on a matter is omitted as such a request could be made without this provision. Existing paragraph (7) relating to the appointment of a Deputy Chair is omitted on the presumption that the proposed standing order enabling all committees to elect a Deputy Chair will be adopted. Existing paragraph (8) relating to the Chair's voting is omitted as such provision is made for committees generally. Existing paragraphs (10) to (13) and parts of (14) have been omitted as such provision is made for committees generally.

#### Proposed Standing Order No 195

#### **Public Accounts Committee**

- (1) Public Accounts Committee will be appointed at the commencement of each Assembly and have the following duties:
  - (a) to examine the accounts of the receipts and expenditure of the Northern Territory and each statement and report tabled in the Legislative Assembly, pursuant to the *Financial Management Act* and the *Audit Act*
  - (b) to report to the Legislative Assembly with such comments as it thinks fit, any items or matters in or arising in connection with those accounts, statements or reports, or in connection with the receipt or disbursement of the moneys to which they relate, to which the committee is of the opinion that the attention of Parliament should be drawn

- (c) to report to the Legislative Assembly any alteration which the committee thinks desirable in the form of the public accounts or in the method of keeping them or in the method of receipt, control, issue or payment of public moneys
- (d) to inquire into and report to the Legislative Assembly on any question in connection with the public accounts of the Northern Territory
  - (i) which is referred to it by a resolution of the Assembly or
  - (ii) which is referred to it by the Administrator or a Minister
- (e) to inquire into and report to the Legislative Assembly on any matters within the executive authority of Ministers of the Territory to which the committee is of the opinion that the attention of the Assembly should be drawn.
- (2) The Committee will consist of six Members.
- (3) The Committee must take care not to inquire into any matters which are being examined by a Select Committee of the Assembly especially appointed to inquire into such matters and any question arising in connection therewith may be referred to the Assembly for determination.
- (4) The Committee will elect a Government Member as Chair.
- (5) The Committee will have power to appoint sub-committees and to refer to any such sub-committee any matter which the Committee is empowered to examine.
- (6) The Committee will provide an annual report of its activities.

#### Existing Standing Order No 21B

#### Legal and Constitutional Affairs Committee

- (1) A committee to be known as the Committee on Legal and Constitutional Affairs shall be appointed at the commencement of each Assembly to inquire, report and make recommendations upon such constitutional and legal matters as may be referred to it by:
  - (a) the Attorney-General; or
  - (b) resolution of the Assembly.
- (2) The Committee shall consist of 5 members.
- (3) Any appointed alternate opposition member may participate in a meeting of the Committee or sub-committee as if they were a full member provided only that two opposition alternate members shall vote at a deliberative meeting of a Committee or sub-committee.
- (4) Any appointed alternate government member may participate in a meeting of the Committee or sub-committee as if they were a full member provided only that three government members shall vote at a deliberative meeting of a Committee or sub-committee.
- (5) In the event of an equality of voting, the Chair shall have a casting vote.
- (6) The Committee have power to appoint subcommittees and to refer to any such subcommittee any matter which the Committee is empowered to examine.
- (7) Three members of the Committee constitute a quorum of the Committee and three members of a subcommittee constitute a quorum of the subcommittee.
- (8) The Committee or any subcommittee have power to send for persons, papers and records, to adjourn from place to place, to meet and transact business in public or private session and to sit during any adjournment of the Assembly.
- (9) The Committee shall be empowered to print from day to day such papers and evidence as may be ordered by it and, unless otherwise ordered by the Committee, a daily <u>Hansard</u> shall be published of such proceedings of the Committee as take place in public.
- (10) The Committee have leave to report from time to time and any member of the Committee has power to add a protest or dissent to any report.
- (11) Unless otherwise ordered by the Committee, all documents received by the Committee during its inquiry shall remain in the custody of the Assembly provided that, on the application of a department or person, any document, if not likely to be further required, may, in the Speaker's discretion, be returned to the department or person from whom it was obtained.
- (12) Members of the public and representatives of the news media may attend and report any public sessions of the Committee, unless otherwise ordered by the Committee.

- (13) The Committee may authorise the televising of public hearings of the Committee under such rules as the Speaker considers appropriate.
- (14) The Committee shall be provided with all necessary staff, facilities and resources and shall be empowered, with the approval of the Speaker, to appoint persons with specialist knowledge for the purposes of the Committee
- (15) The Committee be empowered to consider the minutes of proceedings, evidence taken and records of similar Committees established in previous Assemblies.
- (16) The foregoing provisions of this resolution, so far as they are inconsistent with Standing Orders, have effect notwithstanding anything contained in the Standing Orders.

# Policy Discussion

Existing paragraphs (3) and (4) regarding alternate members have been omitted as they have not been used for some time and there is no identified need for them. Existing paragraphs (5) to (16) have been omitted as they relate to provisions applying to committees generally or are unnecessary.

#### Proposed Standing Order No 196

#### Legal and Constitutional Affairs Committee

- (1) A Legal and Constitutional Affairs Committee shall be appointed at the commencement of each Assembly to inquire into and report on such constitutional and legal matters as may be referred to it by:
  - (a) the Attorney-General, or
  - (b) a resolution of the Assembly.
- (2) The Committee will consist of 5 members.

#### Existing Standing Order No 22

# **Quorum in Standing Committee**

The quorum of a Committee shall be a majority of the Committee, unless otherwise ordered.

#### Policy Discussion

Providing for the quorum of committees need only be done once so the provision relating to standing committees only is omitted.

Omit the Standing Order.

# Existing Standing Order No 260

# **Appointment**

All committees, be they Standing, Select or Sessional, shall be appointed on motion, and shall, unless otherwise ordered, consist of the mover and other Members to be nominated; but if there be more nominations than places available on a committee, Members shall be appointed by ballot.

### **Policy Discussion**

The existing Standing Order provides for both the mechanism for creating committees by motion and appointing Members by ballot, with another Standing Order providing for membership changes. The proposed Standing Orders simplify that by putting the mechanism for creating a committee in one Standing Order and all provisions regarding membership in another. They also replace appointment by ballot with appointment by motion as has been the practice of the Assembly.

#### Proposed Standing Order No 197

# Appointment of Membership of Committees

The Assembly may appoint committees by motion moved on notice.

#### Existing Standing Order No 261

# Appointment of Select Committees

For every committee other than a Standing Committee, a day shall be fixed for the reporting of its proceedings to the Assembly, by which day the final report of the committee shall be presented by the Member chairing the committee, unless further time be moved and granted; but the Assembly may at any time prior to such day receive the final report of the committee.

#### Policy Discussion

The proposed Standing Order simplifies the wording but has the same effect.

#### Proposed Standing Order No 198

# Appointment of Select Committees

A motion to appoint a Select Committee must specify the day for the reporting of the committee's proceedings to the Assembly. The Member chairing the committee will present the final report of the committee on or before that day, unless the Assembly grants an extension of time.

#### Existing Standing Order No 262

#### Discharge

- (a) Members may be discharged from attending a committee, and other Members appointed, either by nomination or ballot, after notice has been given.
- (b) Special arrangements are required for a change in membership when the Assembly is not sitting and is not expected to meet for at least two weeks. The relevant Whip or Independent member must nominate any appointment or discharge of a Member of a committee in writing to the Speaker. The change in membership shall take effect from the time the Speaker receives the written nomination. At the next sitting, the Speaker shall report the change to the Assembly and the Assembly shall resolve the membership of the committee.

#### Policy Discussion

The proposed Standing Order consolidates the provisions relating to committee membership into the one order. It also provides that members are appointed by motion rather than by ballot, which has been the usual practice of the Assembly and is what is provided for in the House of Representatives Standing Orders.

The proposed Standing Order also enables the Whip to nominate membership changes at any time when the Assembly is not sitting, thereby allowing changes during the two weeks before a sitting, and omits the requirement that the Assembly confirm changes made by a Whip.

#### Proposed Standing Order No 199

#### Membership

- Members will be appointed to or discharged from a committee by motion moved on notice.
- (2) If the Assembly is not meeting, the relevant Whip or Independent member may nominate the appointment or discharge of a Member of a committee in writing to the Speaker. The change in membership must take effect from the time the Speaker receives the nomination. At the next meeting, the Speaker will report the change to the Assembly.

# Existing Standing Order No 263

# Speaker and Deputy Speaker on Committees

The Speaker and Deputy Speaker shall only be appointed to a committee if a Standing or other order requires the appointment, or if the office holder consents.

# **Policy Discussion**

No change recommended.

Proposed Standing Order No 200

# Speaker and Deputy Speaker on Committees

The Speaker and Deputy Speaker may only be appointed to a committee if a Standing or other order requires the appointment, or if they consent.

#### Existing Standing Order No 264

# Member with Pecuniary Interest not to Sit on Inquiry

No Member may sit on a committee if that Member has a particular direct pecuniary interest in a matter under inquiry by the committee. If the eligibility of a Member to sit on a committee is challenged, the committee may report the matter to the Assembly for resolution.

#### Policy Discussion

No change recommended. This Standing Order is identical to the House of Representatives.

# Proposed Standing Order No 201

# Member with Pecuniary Interest not to Sit on Inquiry

No Member may sit on a committee if that Member has a particular direct pecuniary interest in a matter under inquiry by the committee. If the eligibility of a Member to sit on a committee is challenged, the committee may report the matter to the Assembly for resolution.

## Existing Standing Order No 265

#### Quorum

Subject to Standing Order No 270A, in all committees, a majority of the committee shall form a quorum, unless otherwise ordered; and, if at any time a quorum be not present, the Member chairing shall suspend the proceedings of the committee until a quorum be present, or shall adjourn the committee.

#### Policy Discussion

It is proposed to make a quorum for a committee three members rather than a majority. This will make it easier to form quorum for six member committees, which require four members to form a majority. Both House of Representatives and NSW Legislative Assembly committees have a quorum of three, despite having larger committees than the NT.

The reference to Standing Order No 270A, which among other things provides for meeting by videoconference, is omitted to simplify the Standing Order.

The provision regarding failure to form a quorum is added to the Standing Order.

#### Proposed Standing Order No 202

#### Quorum

- (3) A quorum for a committee is three members, unless the Assembly orders otherwise. If at any time a quorum is not present, the Member chairing will suspend the proceedings until a quorum is present, or will adjourn the committee.
- (4) If a quorum is not present within 15 minutes from the time appointed for the meeting of a committee, any Member present may depart after recording their name with the Secretary, who will convene a meeting for another time.

## Existing Standing Order No 266

#### Meeting Lapses

If a quorum be not present within 15 minutes from the time appointed for the meeting of a committee, any Member present may retire after recording their name with the Secretary attending the committee who shall convene a meeting for another time

## Policy Discussion

It is proposed to move this provision on the procedure when a quorum is not formed to the Standing Order providing for quorum.

## Existing Standing Order No 267

## Meetings

Notice of first and subsequent meetings shall be given by the Secretary attending the committee:

- (a) pursuant to resolution of the committee;
- (b) on instruction of the Member chairing the committee; or

upon a request by a quorum of Members of the committee.

## **Policy Discussion**

It is proposed that the Standing Order be structured to make it clearer. It is also proposed to allow the Clerk to convene a meeting of the committee if there is no Member chairing the committee, which will typically be for the first meeting of the committee.

## Proposed Standing Order No 203

## **Convening Meetings**

Notice of meetings shall be given by the Secretary for the committee:

- (5) if there is no Chair of the committee, at the direction of the Clerk
- (6) pursuant to resolution of the committee
- (7) at the direction of the Chair of the committee or
- (8) upon a request by a majority of the committee.

## Existing Standing Order No 268

## Election of Member Chairing

- (a) Every committee, at its first meeting, before the commencement of business, shall elect one of its number to be the Member chairing the committee, provided that a Member chairing has not been appointed pursuant to the committee's Terms of Reference.
- (b) The Member chairing shall have two votes: a deliberative and a casting vote.

#### Policy Discussion

It is proposed to add to the standing order relating to Chairs to provide for Deputy Chairs and for a meeting to elect a Chair for the meeting in the absence of the Chair and Deputy Chair.

#### Proposed Standing Order No 204

#### Committee Chairs

- (6) Each committee will have a Chair and a Deputy Chair.
- (7) The Deputy Chair will act as the Chair during the absence of the Chair during a meeting or during a vacancy in the position of Chair.
- (8) The Member chairing a meeting will have both a deliberative and a casting vote.
- (9) If the position of Chair or Deputy Chair is vacant, the committee shall elect a Member by ballot to fill the vacancy before conducting further business.
- (10) If neither the Chair nor Deputy Chair is present at a meeting, the members present shall elect another member to act as Chair at the meeting.

## **Existing Standing Order No**

No existing Standing Order

#### Policy Discussion

While existing Standing Orders make provisions for subcommittees, they do not empower committees to establish formal subcommittees without a specific reference from the Assembly.

It is proposed that a new Standing Order be added that will allow any committee to establish a subcommittee.

This will provide committees with greater flexibility in how to manage their work. For example, it the committee wished to hold a hearing at a time and place when only two members were available, a subcommittee could be established for that purpose.

#### Proposed Standing Order No 205

#### **Subcommittees**

- (5) A committee may appoint subcommittees of three or more of its members and may refer to a subcommittee any matter which the committee may examine.
- (6) A committee shall appoint the Chair of each subcommittee, who shall have a deliberative and a casting vote. If the Chair of a subcommittee is not present at a meeting of the subcommittee, the members of the subcommittee present shall elect another member of that subcommittee to act as Chair at the meeting.
- (7) A quorum of a subcommittee is two of its members.
- (8) Members who are not members of a subcommittee may participate in the public proceedings of the subcommittee but may not vote, move any motion or be counted for the purpose of a quorum.

## Existing Standing Order No 269

## Records of Proceedings and Documents

- (a) The Secretary shall record the proceedings of the committee or subcommittee in the Minutes of Proceedings. The minutes shall be confirmed by the committee or subcommittee and then signed by the Member chairing.
- (b) Documents presented to the committee or subcommittee shall be recorded in the Minutes of Proceedings.

## **Policy Discussion**

No substantive change.

Proposed Standing Order No 206

## Records of Proceedings and Documents

- (4) The Secretary shall record the proceedings of the committee or subcommittee in the Minutes of Proceedings. The minutes shall be confirmed by the committee or subcommittee and then signed by the Member chairing.
- (5) Documents presented to the committee or subcommittee shall be recorded in the Minutes of Proceedings.

## Existing Standing Order No 270A

## Proceedings and Sittings of Committee

- (a) A committee or subcommittee may conduct proceedings using any means approved by the Assembly and in the following manner:
  - (i) in private meeting;
  - (ii) by hearing witnesses, either in public or in private; and
  - (iii) in the form of any other meeting, discussion or inspection conducted under the practice of committees of the Assembly.
- (b) A committee may resolve to conduct proceedings using audio-visual or audio links with members of the committee or witnesses not present in one place. If audio-visual or audio link is used, committee members and witnesses must be able to speak to and hear each other at the same time regardless of location.
- (c) A committee or subcommittee may conduct proceedings at any time or place as it sees fit, except whilst the Assembly is sitting.
- (d) A committee or subcommittee shall not meet during sittings of the Assembly except by order of the Assembly.

## **Policy Discussion**

The requirement for a resolution by the committee before it can sit by video or audio link is removed so that a committee can do so if the need arises unexpectedly and it is not possible to form quorum without use of such a link.

Proposed is a consolidation of last two clauses to simplify the Standing Order without changing its operation.

Proposed Standing Order No 207

# Proceedings and Meetings of a Committee

- (4) A committee or subcommittee may conduct proceedings using any means approved by the Assembly and in the following manner
  - (d) in private meeting
  - (e) by hearing witnesses, either in public or in private and
  - (f) in the form of any other meeting, discussion or inspection conducted under the practice of committees of the Assembly.
- (5) A committee may conduct proceedings using audio-visual or audio links with members of the committee or witnesses not present in one place. If audio-visual or audio link is used, committee members and witnesses must be able to speak to and hear each other at the same time regardless of location.
- (6) A committee or subcommittee may conduct proceedings at any time or place as it sees fit, except that it shall not meet during meetings of the Assembly except by order of the Assembly.

## Existing Standing Order No 270B

#### Power to Call for Witnesses and Documents

- (a) A committee or subcommittee may call for witnesses to attend and for documents to be produced.
- (b) The Member chairing a committee or subcommittee shall direct the Secretary of the committee or subcommittee to invite or summon witnesses and to request or require documents to be produced as determined by the committee or subcommittee.

**Note:** Summons issued pursuant to section 18 of the *Legislative Assembly (Powers and Privileges) Act*.

#### **Policy Discussion**

The note will be incorporated into the text to make reference to the Standing Order relating to the issue of a summons to witnesses.

## Proposed Standing Order No 208

#### Power to Call for Witnesses and Documents

- (3) A committee or subcommittee may call for witnesses to attend and for documents to be produced.
- (4) The Member chairing a committee or subcommittee shall direct the Secretary of the committee or subcommittee to invite or summon witnesses pursuant to Standing Order 221 and section 18 of the *Legislative Assembly (Powers and Privileges) Act* and to request or require documents to be produced as determined by the committee or subcommittee.

## Existing Standing Order No 270C

## Power to Make Use of Records of Previous Committees

A committee or subcommittee may consider and make use of the evidence and records of similar committees appointed during previous Assemblies.

## **Policy Discussion**

No change.

Proposed Standing Order No 209

#### Power to Make Use of Records of Previous Committees

A committee or subcommittee may consider and make use of the evidence and records of similar committees appointed during previous Assemblies.

## Existing Standing Order No 271

#### Examination of Witnesses

- (a) The examination of witnesses before a committee shall be conducted by the Members of the committee in accordance with procedures agreed to by the committee and subject to the rules of the Assembly.
- (b) The examination of witnesses shall be recorded in a transcript of evidence.

## **Policy Discussion**

No change.

Proposed Standing Order No 210

#### Examination of Committee Witnesses

- (3) The examination of witnesses before a committee will be conducted by the Members of the committee in accordance with procedures agreed to by the committee and subject to the rules of the Assembly.
- (4) The examination of witnesses will be recorded in a transcript of evidence.

## Existing Standing Order No 272

## Strangers Admitted

When a committee is examining witnesses, strangers may be admitted but shall withdraw if requested by the Member chairing the committee or any Member of the committee and shall always withdraw when the committee is deliberating.

#### Policy Discussion

Proposed change to heading, replace the term 'strangers' with 'visitors', and to consolidate with Standing Order relating to admission of Members.

#### Proposed Standing Order No 211

## Admission to Hearings

- (3) When a committee is examining witnesses, visitors may be admitted but shall withdraw if requested by the Member chairing the committee or any Member of the committee and must withdraw when the committee is deliberating.
- (4) A Member of the Assembly, although not a member of a committee, may participate in the committee's public sessions and question witnesses, unless the committee orders otherwise, but may not vote and must withdraw when the committee is deliberating or taking evidence *in camera*.

## Existing Standing Order No 273

#### **Members Admitted**

A Member of the Assembly, although not a member of a committee, may participate in its public sessions and question witnesses, unless the committee orders otherwise, but shall not vote and shall always withdraw when the committee is deliberating or taking evidence *in camera*.

## **Policy Discussion**

It is proposed that the provision be consolidated into the Standing Order on admission to hearings. See proposed Standing Order No 211.

## Existing Standing Order No 274

#### Publication of Evidence

- (a) A committee or subcommittee may authorise publication of evidence given before it or documents presented to it.
- (b) A committee's or subcommittee's evidence, documents, proceedings and reports may not be disclosed or published to a person (other than a Member of the committee or a parliamentary employee assigned to the committee) unless they have been:
  - (i) reported to the Assembly; or
  - (ii) authorised by the Assembly, the committee or the subcommittee.
- (c) A committee may resolve to:
  - (i) publish media releases, discussion papers or other documents or preliminary findings; or
  - (ii) divulge evidence, documents, proceedings or reports on a confidential basis to persons for comment.
- (d) A committee may resolve to authorise a Member of the committee to give public briefings on matters related to an inquiry. An authorised Member may not disclose evidence, documents, proceedings or reports which have not been authorised for publication. The committee shall determine the limits of the authorisation.
- (e) Evidence taken by, documents presented to, minutes of proceedings and reports of a committee that have not been reported to the Assembly shall not, unless authorised by the Assembly or the committee, be disclosed or published by any Member of such committee or by any other person.

#### **Policy Discussion**

Slight wording change.

## Proposed Standing Order No 212

#### Publication of Evidence

- (3) A committee or subcommittee may authorise publication of evidence given before it or documents presented to it.
- (4) A committee's or subcommittee's evidence, documents, proceedings and reports may not be disclosed or published to a person (other than a Member of the committee or a parliamentary employee assigned to the committee) unless they have been:
  - (c) reported to the Assembly, or
  - (d) authorised for publication by the Assembly, the committee or the subcommittee.
- (6) A committee may resolve to:
  - (c) publish media releases, discussion papers or other documents or preliminary findings, or
  - (d) divulge evidence, documents, proceedings or reports on a confidential basis to persons for comment.

- (7) A committee may resolve to authorise a Member of the committee to give public briefings on matters related to an inquiry. An authorised Member may not disclose evidence, documents, proceedings or reports which have not been authorised for publication. The committee shall determine the limits of the authorisation.
- (8) Evidence taken by, documents presented to, minutes of proceedings and reports of a committee that have not been reported to the Assembly shall not, unless authorised by the Assembly or the committee, be disclosed or published by any Member of such committee or by any other person.

## Existing Standing Order No 275

## Power to Report from Time to Time

By leave of the Assembly, a committee may present to the Assembly, from time to time, progress reports of its proceedings with or without the evidence received.

## **Policy Discussion**

The requirement for leave from the Assembly to report from time to time is removed, and the wording simplified.

## Proposed Standing Order No 213

## Power to Report from Time to Time

A committee may report to the Assembly from time to time.

## Existing Standing Order No 276

## **Draft Report Considered**

- (a) The Member chairing a committee shall prepare a draft report and present it to the committee at a meeting convened for report consideration.
- (b) The report may be considered at once if copies have been circulated in advance to each member of the committee. The report shall be considered paragraph by paragraph. When consideration of the chapters of the report is completed, the appendices shall be considered in order.
- (c) After the draft report has been considered, the whole or any paragraph may be reconsidered and amended.
- (d) A Member objecting to any portion of the report may vote against it or move an amendment when the particular paragraph or appendix is under consideration.
- (e) A Member protesting about the report or dissenting from all or part of it may add a protest or dissenting report from the main report.

#### Policy Discussion

The term 'Member chairing the committee' is replaced with 'Chair of the committee' as the former term applies to a committee meeting, while the Standing Order, which relates to the preparation of the report, applies to activity outside a meeting.

#### Proposed Standing Order No 214

## **Draft Report Considered**

- (6) The Chair of a committee will prepare a draft report and present it to the committee at a meeting convened for report consideration.
- (7) The report may be considered at once if copies have been circulated in advance to each member of the committee. The report will be considered paragraph by paragraph. When consideration of the chapters of the report is completed, the appendices are then considered in order.
- (8) After the draft report has been considered, the whole or any paragraph may be reconsidered and amended.
- (9) A Member objecting to any portion of the report may vote against it or move an amendment when the particular paragraph or appendix is under consideration.
- (10) A Member protesting about the report or dissenting from all or part of it may add a protest or dissenting report from the main report.

## **Existing Standing Order No 277**

## Alternative Draft

If any Member, other than the Member chairing the committee, submits a draft report to the committee, the committee shall first decide upon with which report it will proceed.

## Policy Discussion

No change.

Proposed Standing Order No 215

## Alternative Draft

If any Member, other than the Member chairing the committee, submits a draft report to the committee, the committee first decides which report will proceed.

## Existing Standing Order No 278

## Adoption of Report

When a committee has settled consideration of a draft report or reports, it shall resolve to adopt a report or the report.

## **Policy Discussion**

The reference to multiple reports is removed as it is unnecessary.

## Proposed Standing Order No 216

## Adoption of Report

When a committee has settled consideration of a draft report, it will adopt the report.

## Existing Standing Order No 279

## **Endorsement of Report and Papers**

- (a) Every report of a committee shall be signed by the Member chairing the committee;
- (b) Any papers laid before the committee shall be endorsed by the Secretary of the committee;
- (c) Any protest or dissenting report shall be signed by the member or members protesting or dissenting.

## **Policy Discussion**

No change.

Proposed Standing Order No 217

## **Endorsement of Report and Papers**

- (4) Every report of a committee will be signed by the Member chairing the committee;
- (5) Any papers laid before the committee will be endorsed by the Secretary of the committee;
- (6) Any dissenting report must be signed by the Member or Members dissenting.

## Existing Standing Order No 280

## Presentation and Tabling of Report

- (a) The report of a committee shall be presented to and tabled in the Assembly by the Member chairing the committee, who may make a Tabling Statement.
- (b) Special arrangements are required for times when the Assembly is not sitting and a committee has completed a report of an inquiry. The committee may send the report to the Speaker or Deputy Speaker if the Speaker is unavailable. When the Speaker or Deputy Speaker receives the report:
  - (i) the report may be published; and
  - (ii) the Speaker or Deputy Speaker may give directions for the printing and circulation of the report.

The Member chairing the committee must then table the report in the Assembly as soon as possible.

## **Policy Discussion**

Standing Orders do not require committees to publish their minutes of proceedings and, as committee deliberations are confidential unless authorised for publication, committee minutes are not normally publicly available. Many Houses, such as the House of Representatives and NSW Legislative Assembly, require committees to table their minutes with their reports. This brings a higher level of public accountability to the committee's proceedings. It is proposed that the Assembly adopt this practice and require minutes to be tabled with reports. The minutes could be included in the reports or tabled as separate documents at the discretion of the committee.

The proposed standing order also incorporates the existing Standing Order on Action on Report.

The provision for sending a report to the Speaker is changed to use the wording of the Standing Order on Public Documents to refer to its publication being authorised and omits the provision regarding the Speaker giving directions for its printing.

## Proposed Standing Order No 218

## Tabling of Report

- (5) A Member of a committee will table the Committee's report together with the minutes of proceedings in the Assembly.
- (6) The Member tabling a report may make a Tabling Statement.
- (7) Upon tabling of a report and the conclusion of any tabling statement, any Member may move, without notice, "that the report be noted" or "that the report be adopted.
- (8) If the Assembly is not meeting, the Chair of the Committee may send the report to the Speaker or Deputy Speaker if the Speaker is unavailable. When the Speaker or Deputy Speaker receives the report its publication shall be deemed to be authorised by the Assembly. A Member of the committee must then table the report in the Assembly as soon as possible.

## **Existing Standing Order No 281**

## Action on Report

Upon presentation of a report, the Member chairing the committee or a Member nominated by the Member chairing the committee shall move without notice "that the report be printed" and may move "that the report be noted" or "that the report be adopted".

#### Policy Discussion

It is proposed that this Standing Order be incorporated into the Standing Order on tabling a report.

The provision is changed to allow any Member to move that the report be noted or adopted, and reference to printing the report is omitted as it is redundant.

## Existing Standing Order No 90 and 93AA

#### 90 Routine of Business

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

- (a) Tuesday and Thursday:
  - 1. Prayers
  - 2. Questions
  - 3. Government Business Notices and Orders of the Day
  - 4. At 2pm Notices
  - 5. Petitions
  - 6. Government Business Notices and Orders of the Day
  - 7. Ministerial Statements
  - 8. Papers
  - 9. Consideration of Committee Reports, Auditor-General's Reports and Government Responses
  - 10. Discussion pursuant to Standing Order 94 (Matter of Public Importance)

## (b) Wednesday

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

## 93AA Consideration of Committee 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: *FN33* 

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

#### Policy Discussion

Existing Standing Orders provide for debate on Government responses to committee reports but do not require any Government response.

The House of Representatives has made the following order of continuing effect:

- (1) Within a period of six months from the presentation in the House of a report by a House or Joint Committee, the Government shall present its response to the recommendations contained in the report to the House.
- (2) If a period of six months has elapsed from a report being presented and a response has not been presented, the relevant Minister (or Minister representing the Minister) shall:
  - (a) present to the House at the next available opportunity a signed statement stating the reasons for the delay in presentation of the response, and
  - (b) make himself or herself available to appear at the next reasonably available opportunity following a request by the relevant committee to answer its questions on that statement.
- (3) If a response has not been presented in the required time and an explanatory statement has not been presented and questions on the statement not answered to the satisfaction of the committee, the committee may bring the matter to the attention, if appropriate, of the Auditor-General for assistance in resolving matters referred to in the report or to the Speaker for assistance in resolving the response process.

## The NSW Standing Order 303A provides:

- (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 relevant Minister(s), 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 Minister 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 tabled and printed, and may be circulated.
  - (b) Reported to the House at its next sitting.

On the basis of discussions at the recent ANZACATT conference which analysed current jurisdictional requirements for Government to respond to Committee reports, it is proposed that the Assembly adopt a Standing Order requiring a Government response to committee reports as set out below.

The Standing Orders Committee may wish to consult Government on the proposal.

#### Proposed Standing Order No 219

## Government Responses to Committee Reports

- (6) 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 relevant Minister(s), who must within six months of a report being tabled, report to the Assembly what action, if any, the Government proposes to take in relation to each recommendation of the committee.
- (7) If at the time at which the Minister seeks to report to the Assembly, the Assembly is not meeting, a Minister may present the response to the Clerk.
- (8) A response presented to the Clerk is:
  - (c) on presentation, and for all purposes, deemed to have been tabled and its publication authorised by the Assembly
  - (d) reported to the Assembly at its next meeting.
- (9) If a Government response to a committee report has not been tabled within six months of the report being tabled, the relevant Minister (or Minister representing the Minister) will:
  - (a) present to the Assembly at the next available opportunity a signed statement stating the reasons for the delay in presentation of the response, and
  - (b) make themselves available to appear at the next reasonably available opportunity following a request by the relevant committee to answer its questions on that statement.
- (10) The Speaker is to provide a report to the Assembly twice yearly on the status of Government responses to committee reports.

## **CHAPTER 17**

**WITNESSES** 

## Existing Standing Order No 284

#### Summons

Witnesses, not being Members, shall be ordered to attend before the Assembly, or a Committee of the Whole, or before a select committee, by summons under the hand of the Clerk of the Assembly.

Note: Summons issued pursuant to section 18 of the *Legislative Assembly (Powers and Privileges) Act*.

#### Policy Discussion

It is proposed that the Standing Order be reworded to make it clearer and consistent with the *Legislative Assembly (Powers and Privileges) Act* by including summonses from the Secretary of a Committee (the Act uses the term 'Clerk of the committee' but Standing Orders use the term 'secretary').

Reference to producing papers is also included, consistent with the Act.

## Proposed Standing Order No 220

#### Summons

The Assembly or a committee may order a witness, not being a Member, to attend before it or to produce papers to it by summons issued pursuant to section 18 of the *Legislative Assembly (Powers and Privileges) Act.* The Clerk, or in the case of an order from a committee either the Clerk or the Secretary of the committee, shall issue the summons so ordered.

## Existing Standing Order No 285

## Non-Attendance

If a witness fails or refuses to attend or to give evidence, the Assembly, on being acquainted therewith, shall deal with the matter.

## **Policy Discussion**

Proposed minor change to heading.

Proposed Standing Order No 221

## Non-Attendance of Witness

If a witness fails or refuses to attend or to give evidence, the Assembly will be advised and deal with the matter.

## Existing Standing Order No 286

## Member Ordered to Attend

When the attendance of a Member is ordered by the Assembly for examination by the Assembly or a Committee of the Whole, they shall be summoned by the Speaker to attend in their place.

## **Policy Discussion**

Proposed to replace the word 'summon' with 'called' to better distinguish the procedure from the power to summon witnesses under the *Legislative Assembly (Powers and Privileges) Act* and to make the heading clearer.

## Proposed Standing Order No 222

## Assembly Examining Members

When the attendance of a Member is ordered by the Assembly for examination by the Assembly or a Committee of the Whole, they will be called by the Speaker to attend in their place.

## Existing Standing Order No 287

## Assembly to be Informed

If a select committee desires the attendance of a Member as a witness, the Chair shall, in writing, request them to attend; but should they refuse to attend, or to give evidence or information as a witness to the committee, the committee shall acquaint the Assembly therewith, and not again summon such Member to attend the committee.

#### Policy Discussion

Proposed to delete the word 'select' so the Standing Order applies to all committees, make the heading clearer, and replace 'summon' with 'request' to better distinguish the procedure from the power to summon witnesses under the *Legislative Assembly (Powers and Privileges) Act*.

## Proposed Standing Order No 223

## Committee Examining Members

If a committee desires the attendance of a Member as a witness, the Chair shall, in writing, request them to attend; but should they refuse to attend, or to give evidence or information as a witness to the committee, the committee informs the Assembly, and will not request the Member to attend the committee again.

## Existing Standing Order No 288

## Members Charged

Upon any committee receiving information that charges a Member of the Assembly, the committee shall not proceed with the examination of the witness on that particular detail but shall report the matter to the Assembly at the first opportunity.

#### Policy Discussion

The existing Standing Order reflects the rule that only the Assembly or the Privileges Committee can consider allegations against a Member. The equivalent provision in the House of Representatives Standing Orders more fully describes how to handle such matters; requiring the notification of the Member named and providing an opportunity to respond and giving the Committee the discretion to not refer a matter to the Assembly if it is without substance. It is proposed that the Assembly adopt the House of Representatives procedures.

## Proposed Standing Order No 224

## Committee Receiving Allegations Against Members

- (3) Only the Privileges Committee may inquire into or make findings about the conduct of a Member, unless the Assembly directs another committee to review the conduct of a Member.
- (4) If a committee (other than the Privileges Committee) receives information or an allegation about a Member, the committee shall inform the Member and give the Member an opportunity to make a submission about the matter. Unless the committee considers the matter is without substance, it shall report the matter to the Assembly and wait for its directions.

## **STANDING ORDER No (deleted)**

## Existing Standing Order No 289

## Witness in Custody

When a witness is in the custody of the keeper of any prison, such keeper may be ordered to bring the witness in safe custody for examination, and from time to time as often as their attendance is thought necessary, and the Speaker may issue a warrant accordingly.

#### Policy Discussion

The House of Representatives omitted its Standing Order relating to witnesses in prison in 1998. *House of Representatives Practice*, relying on *May's Parliamentary Practice*, presumes that the Speaker could issue a warrant.

Section 7(3) of the *Legislative Assembly (Powers and Privileges) Act* provides that a person required to attend before the Assembly or a committee shall not be required to attend before a court or tribunal and not be arrested or detained in a civil cause.

It does not provide further regarding persons in prison. Consequently, any power of the Assembly to compel the attendance of a prisoner would rely on the common law and be a matter of conjecture.

As the attendance of a prisoner would normally be a matter of negotiation with the custodial authority, there is no clear statutory basis for the issue of a warrant to a keeper of a prison, and the House of Representatives has seen fit no longer provide a similar Standing Order, it is proposed that the Standing Order be deleted.

## **Existing Standing Order No 290**

## **Protection of Witnesses**

All witnesses examined before the Assembly, or any committee thereof, are entitled to the protection of the Assembly in respect of anything that may be said by them in their evidence.

## Policy Discussion

No change proposed.

Proposed Standing Order No 225

## **Protection of Witnesses**

All witnesses examined before the Assembly, or any committee, are entitled to the protection of the Assembly in respect of anything that may be said by them in their evidence.

## Existing Standing Orders Nos 291 - 3 & 295

## 291 Before Assembly

A witness before the Assembly or a Committee of the Whole shall be examined at the Bar unless the Assembly or the committee otherwise orders.

## 292 Examination before Assembly

When a witness appears before the Assembly they shall be examined by the Speaker, and any questions addressed by Members are taken to be put through the Speaker.

## 293 Examination by Committee of the Whole

In a Committee of the Whole, any Member may put questions directly to a witness.

#### 295 Member Examined

A Member of the Assembly shall be examined in their place.

## **Policy Discussion**

The House of Representatives Standing Orders are of similar effect to the existing Standing Orders 291 to 293 but consolidate the provisions into one clear provision. It is proposed that the words of that Standing Order be adopted as being simpler.

## Proposed Standing Order No 226

#### Examination of witnesses

- (5) A Member giving evidence to the Assembly will be examined in his or her place.
- (6) A witness (other than a Member) must be examined at the Bar, unless the Assembly otherwise orders.
- (7) The Speaker examines the witness, and questions by Members are taken to be asked through the Speaker.
- (8) A witness before a committee or subcommittee is examined according to the procedure agreed on by the committee.

## **STANDING ORDER No (deleted)**

## Existing Standing Order No 294

## Witness to Withdraw

If any question be objected to, or other matter arise, a witness shall withdraw while the same is under discussion.

## **Policy Discussion**

The Standing Order is redundant as other Standing Orders require that committees deliberate in private. It is therefore proposed that the Standing Order be deleted.

## Existing Standing Order No 296

## Restriction on Officers

No officer of the Assembly or person employed to record or transcribe evidence before the Assembly or any committee thereof may give evidence elsewhere in respect of any proceedings or examination of any witness without special leave of the Assembly.

## Policy Discussion

Heading change proposed and deletion of word 'special'.

## Proposed Standing Order No 227

## Officers giving Evidence about Proceedings

No officer of the Assembly or person employed to record or transcribe evidence before the Assembly or any committee of the Assembly may give evidence elsewhere in respect of any proceedings or examination of any witness without the leave of the Assembly.

# **CHAPTER EIGHTEEN**

# PROCEDURE FOR THE FIRST MEETING AND THE OFFICERS OF THE ASSEMBLY

## Existing Standing Order No 3

## Meeting of a New Assembly after a General Election

On the first sitting day of the session of the Assembly after a general election, Members having assembled at the time appointed —

- (a) The Clerk shall read the notice calling the Assembly together.
- (b) The Deputy of the Administrator appointed under Section 41(1) of the *Northern Territory (Self-Government) Act 1978 (C'th)* shall then be introduced by the Serjeant-at-Arms to the Assembly Chamber and the Clerk shall read the Deputy's Commission.
- (c) The Deputy shall then inform Members that the Administrator will at a later time attend the Assembly to declare the causes for calling the Assembly together.
- (d) The writ or copy-writ of the election of each Member will be laid upon the Table by the Clerk, and Members will make and subscribe the oaths or affirmations of allegiance and of office, in the form set forth in the schedule to the *Northern Territory (Self-Government) Act 1978 (Cth)*, as amended.
- (e) The Assembly will then proceed to elect a Speaker (S. O. 7).
- (f) Until a Speaker is elected, the Clerk will act as Chair of the Assembly.
- (g) The Speaker, having presented themself to the Administrator and after reporting the fact to the Assembly, will inform the Assembly at what time the Administrator will declare the causes of calling the Assembly together and the sitting may be suspended until that time.
- (h) When the Administrator has arrived at the Assembly Chamber, the Serjeant-at-Arms will announce the arrival and conduct the Administrator to the Chair, the Speaker leaving the Chair and taking one to the right of the Administrator.
- (j) The Administrator will proceed to declare the causes for calling the Assembly together from the Chair.
- (k) The Administrator will then provide a copy of the speech to the Speaker and then withdraw from the Assembly Chamber.
- (m) After the Administrator has withdrawn some formal business shall be transacted.
- (n) The Assembly may then proceed with ordinary business.
- (p) The Speaker shall then report to the Assembly the receipt of a copy of the Administrator's Speech.
- (q) On the Speech having been reported by the Speaker, a motion for an Address-in-Reply will be moved and seconded.

## Policy Discussion

The procedure outlined in this Standing Order has not occurred since the 1990s. The Deputy doesn't attend the first sittings and there is no two staged approach as outlined.

There is an opportunity to have the Standing Order reflect what occurs in practice and the re-written version below does that. Paragraph 11 allows for the deletion of the device of "formal business" if desired.

## Proposed Standing Order No 228

#### Meeting of a New Assembly after a General Election

On the first meeting day of the session of the Assembly after a general election, Members will assemble at the time appointed and the following procedure will take place.

- (14) The Clerk reads the notice calling the Assembly together.
- (15) The Administrator or the Deputy to the Administrator will be introduced by the Serjeant-at-Arms to the Assembly Chamber and proceed to the Chair.
- (16) The writ of the election of each Member will be laid upon the Table by the Clerk, and Members will make and subscribe the oaths or affirmations of allegiance and of office, in the form set forth in the schedule to the *Northern Territory (Self-Government) Act* and the Administrator will sign the oaths/affirmations.
- (17) The Administrator or the Deputy of the Administrator will then announce his/her departure for the Assembly to elect a Speaker.
- (18) The Clerk will act as Chair of the Assembly to officiate over the election of a Speaker.
- (19) Upon election, the Speaker assumes the Chair and suspends the meeting of the Assembly to present him/herself to the Administrator and introduce all Members to the Administrator.
- (20) The Assembly resumes with the Speaker announced by the Serjeant at Arms and the Speaker then taking the Chair to inform the Assembly the Administrator will attend to declare the causes of calling the Assembly together.
- (21) The Serjeant-at-Arms then announces the arrival of the Administrator and conducts the Administrator to the Chair; the Speaker leaves the Chair to sit to the right of the Administrator.
- (22) The Administrator declares the causes for calling the Assembly together.
- (23) The Administrator then provides a copy of the speech to the Speaker and withdraws from the Chamber.
- (24) After the Administrator has withdrawn, some formal business demonstrating the independence of the Assembly may be transacted or the Assembly may proceed directly with ordinary business.
- (25) The Speaker then reports to the Assembly the receipt of a copy of the Administrator's Speech.
- (26) The Speech having been reported by the Speaker, a motion for an Address-in-Reply will be moved by a Minister and seconded and each Member wishing to speak will be called to speak in reply.

## Existing Standing Order No 4

## Presentation of Address in Reply

The Address-in-Reply, as adopted by the Assembly, shall be presented to the Administrator by the Speaker, accompanied by any Members who may think fit to attend, and the Speaker shall report the Administrator's reply to the Assembly.

## **Policy Discussion**

The Speaker accompanied by the Clerks and the Serjeant with the Mace proceed with Members to attend Government House to present the contributions of all members and then the Speaker tells the Assembly it has been done. It's a nice morning tea kind of affair once every four years. There is no real policy matter for consideration as a result.

## Proposed Standing Order No 229

## Presentation of Address in Reply

The Address-in-Reply, as adopted by the Assembly, will be presented to the Administrator by the Speaker, accompanied by any Members who wish to attend, and the Speaker will report the Administrator's reply to the Assembly.

#### Existing Standing Order No 5

#### References to Administrator

Where, in these Standing Orders, the Administrator is referred to, such reference shall be read as extending and applying to the person for the time being acting as Administrator of the Northern Territory.

# **Policy Discussion**

This Standing Order is proposed for deletion as it has now been included in the definitions under proposed Standing Order No 2.

### Existing Standing Order No 6

#### Meeting for New Sessions after Prorogation

On the first day of the session of the Assembly after prorogation, Members having assembled at the time appointed by the Administrator, the Clerk shall read the Notice calling the Assembly together and the Assembly shall await the arrival of the Administrator. Thereafter the proceedings shall be as in the case of the first meeting after a general election [SO 2(h) to (a)].

#### Policy Discussion

The Assembly has not been prorogued and a new session commenced since the Fourth Assembly in 1986. However it remains an option and the Standing Order is retained with amendment to reflect the new numbering.

The existing Standing Order's reference to SO 2(h) to (a) is gibberish, it should have read SO3(h) to (q)

#### Proposed Standing Order No 230

### Meeting for New Sessions after Prorogation

On the first day of the session of the Assembly after prorogation, Members assemble at the time appointed by the Administrator, the Clerk reads the Notice calling the Assembly together and the Assembly proceedings follow the routine in Standing Order 229(7) to (13).

#### Existing Standing Order No 7

### Election of Speaker

The election of a Speaker shall be conducted in the following manner —

- (a) At the opening of an Assembly, after the Members present have been sworn, or whenever the office of Speaker becomes vacant, a Member addressing the Clerk, shall propose some Member then present to the Assembly for its Speaker and move that such Member "do take the Chair of this Assembly as Speaker" which motion shall be seconded. A Member, when proposed and seconded, shall inform the Assembly whether they accept the nomination or not.
- (b) The Clerk shall then ask "is there any further proposal?", and if there is no further proposal, the Clerk shall say "the time for proposals has expired". No Member may then address the Assembly or propose any other Member, and the Clerk shall, without question put, declare the Member so proposed and seconded to have been elected as Speaker, and such Member shall be conducted to the Chair by their proposer and seconder, and shall take the Chair of the Assembly as Speaker.
- (c) If more than one Member is proposed as Speaker the Clerk shall, after the second proposal and after each subsequent proposal (if any) is made and seconded, ask "is there any further proposal?", and if there is no further proposal the Clerk shall say "the time for proposals has expired".
- (d) When the time for proposals has expired, debate may ensue, but it shall be relevant to the election.
- (e) No Member may speak for more than 5 minutes.
- (f) At any time during the debate a motion may be moved by a Member rising in their place, and without notice, and whether any other Member is addressing the Chair or not, "that the question be now put" [(d) above].

The Clerk shall then put the question, without debate, "that the question be now put". In the event of the numbers being equal the question shall be decided in the negative. Upon the carrying of the question "that the question be now put" or upon the cessation of the debate otherwise, the election shall be proceeded with as provided in this Standing Order.

- (g) Before the Assembly proceeds to a ballot the bells shall be rung as for a division.
- (h) When only 2 Members are proposed and seconded as Speaker, each Member present shall deliver to the Clerk a ballot paper in writing, containing the name of the candidate for whom he votes and the votes shall be counted by the Clerks at the Table; and the candidate who has the greater number of votes shall be the Speaker and be conducted to the Chair.
- (j) When more than 2 Members are so proposed and seconded the votes shall be taken in like manner, and the Member who has the greatest number of votes shall be the Speaker, provided it is a majority of the votes of the Members present; but if no candidate has such majority, the name of the candidate having the least number of votes shall be excluded from subsequent ballots, and a fresh ballot shall take place; and this shall be done as often as necessary, until one candidate is declared to be elected as Speaker by such majority, when such Member shall be conducted to the Chair.
- (k) If at any ballot it is impossible by reason of an equality of votes to determine which name shall be excluded from subsequent ballots, a special ballot shall take place at which there shall be submitted only the names of those candidates who have received equal votes. At such special ballot each member shall write on their ballot paper only the name of the candidate they wish to retain. The candidate whose name appears upon the least number of ballot papers shall then be excluded from subsequent ballots.

- (m) At any time after the result of the first ballot is declared, but before the commencement of the second or subsequent ballot, a candidate may withdraw from the election which shall then proceed as if they had not been nominated.
- (n) If by reason of an equality of votes a ballot or special ballot is rendered inconclusive; the Clerk shall so declare and unless by a withdrawal another ballot or special ballot is rendered unnecessary, shall cause another such ballot or special ballot to be taken. If after the counting of votes the equality continues the Clerk shall so declare. Thereupon the sitting shall be suspended for 30 minutes and when the Assembly reassembles the votes shall be taken again, unless this is rendered unnecessary by a withdrawal.
- (p) In the event of there still being an equality of votes, the Clerk shall declare such to be the case, and shall determine by lot which of the candidates, having the same number of votes, shall be withdrawn, as though that member had obtained the lesser number of votes.
- (q) Whenever at any stage a withdrawal leaves only one candidate remaining they shall, without further voting, be declared elected as Speaker and shall then be conducted to the Chair.
- (r) Having been conducted to the Chair, the Member elected gives their acknowledgments to the Assembly for the honour conferred and thereupon sits down in the Chair and then the Mace (which before lay under the Table) shall be laid upon the Table.

#### **Policy Discussion**

The process remains the same and the description is simplified in the proposed re-draft.

#### Proposed Standing Order 231

# Election of a Speaker

The election of a Speaker will be conducted in the following manner.

- (19) At the opening of an Assembly, after the Members have been sworn in or made an affirmation or at any time the office of Speaker is vacant then an election shall be conducted by the Clerk acting as Chair.
- (20) A Member will be called by the Clerk to nominate a Member who is present to be elected as Speaker by saying; I nominate the Member for X to be the Speaker of this Assembly.
- (21) The motion must be seconded.
- (22) The Clerk will ascertain if the nominee accepts the nomination or not.
- (23) The Clerk then asks is there any further proposal? and if there is no further proposal, the Clerk shall say the time for proposals has expired. No Member may then address the Assembly or propose any other Member, and the Clerk shall, without question put, declare the Member so proposed and seconded to have been elected as Speaker, and the Member will then be conducted to the Chair by their proposer and seconder, and take the Chair of the Assembly as Speaker.
- (24) If more than one Member is proposed the Clerk shall, after the second proposal and after each subsequent proposal (if any) is made and seconded, ask is there any further proposal?, and if there is no further proposal the Clerk shall say the time for proposals has expired.

- (25) When the time for proposals has expired, Members may debate the nominations.
- (26) No Member may speak for more than 5 minutes.
- (27) At any time during the debate a motion may be moved that the question be put. The Clerk shall then put the question, without debate. In the event of the numbers being equal, the question is decided in the negative. Upon the carrying of the question or upon the cessation of the debate otherwise, the election proceeds.
- (28) Before the Assembly proceeds to a ballot the bells must be rung for three minutes.
- (29) Each Member present will deliver to the Clerk a ballot paper in writing, containing the name of the candidate for whom he/she votes and the votes will be counted by the Clerks at the Table; and the candidate who has the greater number of votes will be the Speaker and conducted to the Chair.
- (30) The Member who has the greatest number of votes is elected Speaker, provided it is a majority of the votes of the Members present; but if no candidate has a majority, the name of the candidate having the least number of votes shall be excluded from subsequent ballots, and a fresh ballot must take place; and this will be done as often as necessary, until one candidate is declared to be elected as Speaker by a majority of Members present.
- (31) If at any ballot it is impossible by reason of an equality of votes to determine which name is excluded from subsequent ballots, a special ballot must take place at which there is submitted only the names of those candidates who have received equal votes. At a special ballot each Member will write on their ballot paper only the name of the candidate they wish to retain. The candidate whose name appears upon the least number of ballot papers is excluded from subsequent ballots.
- (32) At any time after the result of the first ballot is declared, but before the commencement of the second or subsequent ballot, a candidate may withdraw from the election which proceeds as if they had not been nominated.
- (33) If by reason of an equality of votes a ballot or special ballot is rendered inconclusive; the Clerk declares so and unless by a withdrawal another ballot or special ballot is rendered unnecessary, causes another ballot or special ballot to be taken. If after the counting of votes the equality continues the Clerk declares so. The meeting is then suspended for 30 minutes and when the Assembly reassembles the votes are taken again, unless this is rendered unnecessary by a withdrawal.
- (34) In the event of there still being an equality of votes, the Clerk declares such to be the case, and determines by lot which of the candidates, having the same number of votes, is withdrawn, as though that Member had obtained the lesser number of votes.
- (35) Whenever at any stage a withdrawal leaves only one candidate remaining they are declared elected as Speaker and conducted to the Chair.
- (36) Having been conducted to the Chair, the Member elected gives their acknowledgment to the Assembly for the honour conferred and sits in the Chair and the Mace (which lay under the Table) is now laid upon the Table.

#### Existing Standing Order No 8

# Appointment of Deputy Speaker and Chair of Committees

- 1) At the commencement of each Assembly, or whenever the office becomes vacant, a Member shall be appointed by the Assembly to be the Deputy Speaker and Chair of Committees of the Assembly to take the Chair of all Committees of the Whole. The Deputy Speaker to be Acting Speaker at any time the Speaker is absent or unable to perform the function of the Speaker in accordance with section 25 of the Northern Territory (Self-Government) Act (C'th).
- (2) The Deputy Speaker and Chair shall be appointed in the following manner:
  - (a) A motion shall be moved, without notice, that a Member be appointed Deputy Speaker/Chair of this Assembly, which motion shall be seconded.
  - (b) The Speaker shall then ask if there is any further motion and, if there is not, shall say that the time for motions has expired. No member may then address the Assembly or move any motion for the appointment of a Member as Deputy Speaker/Chair, and the Speaker shall, without question put, declare the member named in the motion to have been appointed Deputy Speaker/Chair.
  - (c) If more than one motion for the appointment of the Deputy Speaker/Chair is moved and seconded, the Speaker shall, after the second motion and after each subsequent motion (if any), ask if there is any further motion and, if there is not, shall say that the time for motions has expired.
  - (d) When the time for motions has expired, debate may ensue, but it shall be relevant to the election.
  - (e) No Member shall speak for more than 5 minutes.
  - (f) At any time during the debate, a motion without notice may be moved by a Member rising in their place, and whether any Member is addressing the Chair or not, "that the question be now put", which question shall be put forthwith and decided without amendment or debate.

Upon the carrying of the question "that the question be now put", or upon the cessation of the debate otherwise, the appointment of the Deputy Speaker/Chair shall be proceeded with as provided in this Standing Order.

- (g) Before the Assembly proceeds to a ballot, the bells shall be rung as for a division.
- (h) When only 2 motions for the appointment of Deputy Speaker/Chair are moved and seconded, each Member present shall deliver to the Clerk a ballot paper in writing, containing the name of the Member named in one or other of the motions for whom they vote, and the votes shall be counted by the Clerks at the Table; and the Member who has the greater number of votes shall be the Deputy Speaker/Chair.
- (j) When more than 2 motions for the appointment of Deputy Speaker/Chair are moved and seconded, the votes shall be taken in the same manner, and the member who has the greatest number of votes shall be the Deputy Speaker/Chair, provided they have a majority of votes of the Members present; but if no Member has such majority, the name of the Member having the least number of votes shall be excluded from subsequent ballots, and a fresh ballot shall take place; and this shall be done as often as necessary until one member has a majority of votes of Members present when they shall be Deputy Speaker/Chair.
- (k) If, after any ballot other than a ballot which takes place in accordance with paragraph (m) of this Standing Order, in which the names of only 2 Members are submitted, there is

an equality of votes, the Speaker shall exercise their casting vote and the Member for whom the casting vote is given shall be the Deputy Speaker/Chair.

- (m) If, after any ballot in which the names of more than 2 Members are submitted, it is impossible by reason of an equality of votes to determine which name shall be excluded from subsequent ballots—
  - (i) if there is an equality of votes for 2 Members, the Speaker shall exercise their casting vote and the name of the Member for whom the casting vote is not given shall be excluded from subsequent ballots;
  - (ii) if there is an equality of votes for more than 2 Members, a special ballot shall take place at which there shall be submitted only the names of those members who have received equal votes and in which case each member shall write on their ballot paper only the names of the Members they wishes to retain. The name of the member who receives the least number of votes shall be excluded from subsequent ballots. If, by reason of a continued equality of votes, the special ballot is inconclusive, then, unless a name is withdrawn, the sitting shall be suspended for 30 minutes. When the sitting is resumed, the votes shall be taken again unless this is rendered unnecessary by a withdrawal; and
  - (iii) in the event or there still being an equality of votes, the Speaker shall declare such to be the case and shall determine by lot which of the candidates having the same number of votes shall be withdrawn, as if that member had the least number of votes.
- (n) At any time after the result of the first ballot is declared, but before the commencement of any subsequent ballot, a member whose name was submitted in the first ballot may withdraw and all further proceedings shall take place as if a motion for their appointment as Deputy Speaker/Chair had not been moved.
- (p) Whenever a withdrawal leaves only one Member in respect of whom a motion for appointment as Deputy Speaker/Chair is before the Assembly, that Member shall be declared to have been appointed Deputy Speaker/Chair.

FN2 SO 8, 9, 10 amended by Second Report of Standing Orders Committee, 10<sup>th</sup> Assembly, recommendations adopted 29 November 2005 (Minutes page 113).

#### **Policy Discussion**

The term 'appointment' is a misnomer and is replaced with the term 'elected'. Some other minor adjustments clarify the procedure.

A question also arises about when the position becomes vacant. When a Speaker resigns they inform the Administrator. When a Deputy Speaker resigns they inform the Assembly through the Speaker and by convention when a Deputy Speaker accepts high office which is not compatible with remaining Deputy Speaker, such as becoming a Minister the office becomes vacant.

A question arises where a Deputy Speaker has taken up Ministerial office and is appointed pursuant to s.37 of the *Self Government Act* and then subsequently loses that office and during their period as a Minister the Assembly did not sit to elect a new Deputy Speaker. Is the Office vacant on resumption of sittings?

The proposed Standing Order will clarify that a Member who is not a Minister may be a Deputy Speaker. This follows the wording of Standing Order No 4 in the ACT Legislative Assembly.

This Standing Order is also the procedure under the *Self Government Act* for the Deputy Speaker to become the Acting Speaker as required. The appointment process under the Self Government Act is fulfilled by the operation of the Standing Order.

#### Proposed Standing Order No 232

### Election of Deputy Speaker and Chair of Committees

At the commencement of each Assembly, or whenever the office becomes vacant by virtue of a previous Deputy Speaker resigning by informing the Speaker, or by being appointed to Ministerial office pursuant to s.37 of the *Self Government Act*, a Member who is not a Minister will be elected by the Assembly to be the Deputy Speaker and Chair of Committees of the Assembly to take the Chair of Committee of the Whole.

The Deputy Speaker is the Acting Speaker at any time the Speaker is absent or unable to perform the function of the Speaker in accordance with section 25 of the *Northern Territory (Self-Government) Act*.

The Deputy Speaker and Chair is elected in the following manner.

- (15) A motion is moved, without notice, that a Member be elected Deputy Speaker/Chair of this Assembly, and the motion must be seconded.
- (16) The Speaker then asks if there is any further motion and, if there is not, will say that the time for motions has expired. No member may then address the Assembly or move any motion for the election of a Member as Deputy Speaker/Chair, and the Speaker, without question put, will declare the Member named in the motion to have been elected Deputy Speaker/Chair.
- (17) If more than one motion for the election of the Deputy Speaker/Chair is moved and seconded, the Speaker will, after the second motion and after each subsequent motion (if any), ask if there is any further motion and, if there is not, will say that the time for motions has expired.
- (18) When the time for motions has expired, debate may ensue, but it must be relevant to the election.
- (19) No Member may speak for more than 5 minutes.
- (20) At any time during the debate, a motion without notice may be moved by a Member rising in their place, and whether any Member is addressing the Chair or not, "that the question be now put", which question is put forthwith and decided without amendment or debate.
- (21) Upon the carrying of the question "that the question be now put", or upon the cessation of the debate otherwise, the election of the Deputy Speaker/Chair proceeds as provided in this Standing Order.
- (22) Before the Assembly proceeds to a ballot, the bells must be rung as for a division.
- (23) When only two motions for the election of Deputy Speaker/Chair are moved and seconded, each Member present delivers to the Clerk a ballot paper in writing, containing the name of the Member named in one or other of the motions for whom they vote, and the votes are counted by the Clerks at the Table; and the Member who has the greater number of votes is the Deputy Speaker/Chair.
- (24) When more than two motions for the election of Deputy Speaker/Chair are moved and seconded, the votes are taken in the same manner, and the Member who has the greatest number of votes is the Deputy Speaker/Chair, provided they have a majority of votes of the Members present; but if no Member has such majority, the name of the Member having the least number of votes is excluded from subsequent

ballots, and a fresh ballot takes place; and this is done as often as necessary until one Member has a majority of votes of Members present when they become Deputy Speaker/Chair.

- (25) If, after any ballot other than a ballot which takes place in accordance with paragraph (m) of this Standing Order, in which the names of only two Members are submitted, there is an equality of votes, the Speaker must exercise their casting vote and the Member for whom the casting vote is given becomes the Deputy Speaker/Chair.
- (26) If, after any ballot in which the names of more than two Members are submitted, it is impossible by reason of an equality of votes to determine which name shall be excluded from subsequent ballots:
  - (d) if there is an equality of votes for two Members, the Speaker exercises their casting vote and the name of the Member for whom the casting vote is not given is excluded from subsequent ballots
  - (e) if there is an equality of votes for more than two Members, a special ballot takes place at which there are submitted only the names of those Members who have received equal votes and in which case each Member will write on their ballot paper only the names of the Members they wish to retain. The name of the Member who receives the least number of votes shall be excluded from subsequent ballots. If, by reason of a continued equality of votes, the special ballot is inconclusive, then, unless a name is withdrawn, the sitting is suspended for 30 minutes. When the meeting is resumed, the votes are taken again unless this is rendered unnecessary by a withdrawal, and
  - (f) in the event or there still being an equality of votes, the Speaker shall declare such to be the case and determine by lot which of the candidates having the same number of votes is withdrawn, as if that Member had the least number of votes.
- (27) At any time after the result of the first ballot is declared, but before the commencement of any subsequent ballot, a Member whose name was submitted in the first ballot may withdraw and all further proceedings shall take place as if a motion for their election as Deputy Speaker/Chair had not been moved.
- (28) When a withdrawal leaves only one Member in respect of whom a motion for election as Deputy Speaker/Chair is before the Assembly, that Member is declared to have been elected Deputy Speaker/Chair.

#### Existing Standing Order No 9

### Absence of Speaker

Whenever the Assembly is informed by the Clerk of the absence of the Speaker the appointed Deputy Speaker shall, subject to any other Order of the Assembly, perform the duties of the Speaker during that absence.

# Policy Discussion

The existing Standing Order is ambiguous about the manner of informing Members and makes no distinction between sitting and non-sitting days. There is no need to advise Members of any absence on a non-sitting day as the Speaker may be in a position to perform his or her duties remotely by telephone, email or other means if not situated in the building on any given day.

There is no need to canvass 'any other order of the Assembly'. The Standing Orders provide for the election of the Deputy Speaker and this just clouds matters.

#### Proposed Standing Order No 233

### Absence of Speaker on a Meeting Day

If the Speaker is absent from a meeting of the Assembly, the Clerk will inform the Assembly at the commencement of the meeting and the Deputy Speaker will take the Chair.

#### Existing Standing Order No 10

# Absence of Speaker and Chair

Whenever the Assembly is informed by the Clerk of the absence of both the Speaker and Deputy Speaker, the Members present, if a quorum, shall proceed to elect, subject to any other order of the Assembly, an Acting Speaker to perform the duties of the Speaker during that absence.

When a Speaker has not been appointed by the Assembly the Administrator for the Northern Territory may appoint a Speaker in accordance with s.26 of the *Northern Territory (Self-Government) Act (C'th)*.

#### **Policy Discussion**

The proposed Standing Order clarifies language and procedure.

### Proposed Standing Order No 234

#### Absence of Speaker and Deputy Speaker at Same Time

When the Assembly is informed by the Clerk of the absence of both the Speaker and Deputy Speaker, the Members present, if a quorum exists, will proceed to elect an Acting Speaker to take the Chair for the duration of the absence/s.

If a Speaker has not been appointed by the Assembly, the Administrator may appoint a Speaker in accordance with s.26 of the *Northern Territory (Self-Government) Act.* 

### Existing Standing Order No 11

# Deputy Speaker to take Chair

The Chair of Committees shall take the Chair as Deputy Speaker whenever requested so to do by the Speaker during a sitting of the Assembly, without any formal communication to the Assembly.

# **Policy Discussion**

This procedure is well known and poorly described. The proposed Standing Order clarifies the procedure and will eliminate the need for a separate Standing Order (existing Standing Order No 13)

Proposed Standing Order No 235

# Deputy Speaker to take Chair

The Deputy Speaker or an Acting Deputy Speaker may assume the Chair as required.

#### Existing Standing Order No 12

# **Deputy Chair of Committees**

The Speaker shall nominate at the commencement of every Assembly not less than 2 Members to be Deputy Chairs of Committees, any of whom shall act as Chair of Committees when requested so to do by the Deputy Speaker/Chair, or when the Speaker or the Chair are absent. The Speaker may revoke the nomination of any Member and at any time may nominate additional Members.

#### Policy Discussion

The requirement to nominate 'not less than 2 Members' has not always been observed.

The existing practice is for the signing of a warrant which is an unnecessary hang over of previous procedure. The Standing Order is the authority and the nomination and revocation may be announced from the Chair.

It is proposed to make it more flexible as per the re-draft below.

#### Proposed Standing Order No 236

### Acting Deputy Speakers and Deputy Chairs of Committees

From time to time, the Speaker may nominate (and may also revoke a nomination) for a Member or Members to act as Deputy Speaker and as Deputy Chair of Committees to take the Chair if requested by the Speaker or Deputy Speaker.

#### Existing Standing Order No 13

#### Deputy Chair May take Chair

The Speaker, if the Chair of Committees be absent, or the Chair of Committees when acting as Deputy Speaker, may call on any of the Deputy Chairs to take the Chair as Deputy Speaker.

# **Policy Discussion**

Self-explanatory but obsolete, see proposed Standing Order No 236.

#### Existing Standing Order 14

#### Office of Speaker Vacant

When a vacancy has occurred in the office of Speaker, the Clerk shall report the same to the Assembly at its next sitting day, and the Assembly shall either forthwith, or at its next sitting day, proceed to the election of a new Speaker in the manner provided by these Standing Orders [SO 11].

#### Policy Discussion

This Standing Order is unnecessary because Proposed Standing Order No 232 (and its predecessor Existing Standing Order No 11) clearly states the process for the election of a new Speaker "at any time the office of Speaker is vacant." The Standing Order could be omitted.

#### Existing Standing Order No 15

#### Absence of Clerk

In the case of unavoidable absence or illness of the Clerk, their duties shall be performed by the Deputy Clerk, or, should the latter be absent, by the senior Clerk-Assistant.

#### Policy Discussion

The wording is a little quaint and it is proposed to make it clear that absence is the trigger, illness is not.

The Standing Order will apply to sittings and a Speaker's Determination applies to absence on leave on non-sitting days.

# Proposed Standing Order No 237

# Clerk Absent from Meeting of the Assembly

If the Clerk is absent from the Assembly on a day the Assembly meets then the Deputy Clerk will perform the duties of the Clerk. If both the Clerk and Deputy Clerk are absent on a meeting day, the First Clerk Assistant will perform the duties of the Clerk and the next most senior Clerk Assistant will perform the duties of the Deputy Clerk.

# Existing Standing Order No 16

#### Office of Clerk Vacant

During any vacancy in the office of Clerk all powers, functions, and duties of the Clerk shall be exercised and performed by the Deputy Clerk.

# Policy Discussion

This Standing Order is arguably redundant because vacancy is the same as absence on a sitting day and a Speaker's Determination can appoint an Acting Clerk for non-sitting periods as required. However for abundant caution the Standing Order is replicated.

# Proposed Standing Order No 238

#### Office of Clerk Vacant

During any vacancy in the office of Clerk all powers, functions, and duties of the Clerk will be exercised and performed by the Deputy Clerk.

# **CHAPTER NINETEEN**

ATTENDANCE, SEATING, LEAVE OF ABSENCE, MINUTES AND RECORDS

# Existing Standing Order No 23

#### Attendance Recorded

The attendance of Members at each sitting of the Assembly shall be recorded in the Minutes of Proceedings.

# **Policy Discussion**

The proposed Standing Order will encompass the content of existing Standing Order No 27 as well, making that redundant. So attendance AND absence is covered in one Standing Order.

# Proposed Standing Order No 239

#### Member Attendance and Absence Recorded

Member attendance and absence on a day the Assembly meets will be recorded in the Minutes of Proceedings.

# Existing Standing Order No 24

# Seating

Any question with regard to the seats to be occupied by Members shall be determined by the Speaker.

# **Policy Discussion**

No substantial change is proposed except for brevity and title.

Proposed Standing Order No 240

# Member Seating in Chamber

Member seating is a matter for determination by the Speaker.

#### Existing Standing Order No 25

#### Leave of Absence

Leave of absence may be given by the Assembly to any Member, on motion without notice, stating the cause and period of absence; and such motion may be moved at any time provided that no other question is before the Chair.

#### Policy Discussion

This motion is particularly required if a Member wants or needs to be away for three days or more and not breach the *Self Government Act* requirements which would result in a disqualification pursuant to section 21.

Existing Standing Order No 26 states: A Member shall be excused from service in the Assembly or on any committee so long as they have leave of absence.

It is proposed this be explicit in this Standing Order rather than have a separate one.

### Proposed Standing Order No 241

#### Member Absent on Leave

The Assembly may grant a leave of absence for any Member by agreeing to a motion moved which explains the reason and period of absence. If granted, the Member is excused from attending a meeting of the Assembly or any Committee for the duration. Such a motion may be moved without notice at any time when there is no question before the Chair.

# Existing Standing Order No 27

#### Leave Recorded

The Clerk shall record in the Minutes of Proceedings the names of Members absent having leave of absence.

#### Policy Discussion

The revision of Existing Standing Order No 23 with proposed Standing Order No 240 including the recording of 'absence' makes this redundant.

# Existing Standing Order No 28

# Leave Forfeited if Member Attends the Assembly

Any Member with leave of absence shall forfeit the same if they attend the service of the Assembly before the expiration of such leave.

# **Policy Discussion**

Self-explanatory, minor change included in new draft.

### Proposed Standing Order No 242

# Leave Forfeited if Member Attends the Assembly

A Member given leave forfeits the remainder of their leave if they attend the Assembly before the leave period expires.

#### Existing Standing Order No 29

# Minutes of Proceedings

All proceedings of the Assembly shall be recorded by the Clerk. Such records shall constitute the Minutes of Proceedings of the Assembly and shall be signed by the Clerk.

# **Policy Discussion**

The Minutes of Proceedings are the official record of what takes place during proceedings and the *Self Government Act* requires minutes to be kept and made available upon request.

The requirement to physically sign the minutes is superseded by electronic record keeping and the publication of the minutes with the Parliamentary Record.

In practice the content of the minutes are settled at the conclusion of each sitting day and double checked in a post sitting meeting with all Clerks at the Table the next day.

The practice in the Legislature of the Province of Prince Edward Island in Canada is for the Assembly itself to settle the Minutes of the previous sitting day at the commencement of each siting day in private immediately after prayers and before the Assembly is opened to the public.

Options are open for discussion by the Committee.

### Proposed Standing Order No 243

#### Minutes of Proceedings to be Kept

The Clerk will record and make available minutes of each meeting day's proceedings.

#### Existing Standing Order No 30

### Custody of Records and Return of Documents

The custody of the Minutes of Proceedings, records, and all documents whatsoever laid before the Assembly shall be in the Clerk, who shall neither take, nor permit to be taken, any such Minutes of Proceedings, records, or documents from the precincts, without the leave of the Speaker: provided that, on the application of a department or person, any original document laid on the Table, if not likely to be further required by Members, may, in the Speaker's discretion, be returned to the department or person from whom it was obtained.

### **Policy Discussion**

It is important for the Standing Orders to provide that the custody of documents is in the Assembly and the Clerk is the keeper of those on behalf of the Speaker and the Members.

House of Representatives Standing Order No 28 is a simpler version which states: *Under the direction of the Speaker, the Clerk shall have custody of the Votes and Proceedings, records and all documents presented to the House.* 

There has been no request for original documents to be returned to Departments in recent years. With the advent of scanning and electronic copies it is unlikely that a Department would have their only copy lodged with the Assembly or one of its Committees in any case.

It is proposed to replicate the House of Representatives and provide some further flexibility for the Speaker as below.

#### Proposed Standing Order No 244

#### Custody of all Records

Under the direction of the Speaker, the Clerk has custody of all documents created by and presented to the Assembly and the Speaker has discretion to release any original documents lodged by another party.

# **CHAPTER TWENTY**

**PRIVILEGE** 

#### Existing Standing Order No 83

# **Privilege Motions**

A matter of privilege, unless suddenly arising in relation to proceedings before the Assembly, shall not be brought before the Assembly except in accordance with the following procedures:

- (1) A Member intending to raise a matter of privilege shall notify the Speaker, in writing, of the matter.
- (2) The Speaker shall consider the matter and determine, as soon as practicable, whether a motion relating to the matter should have precedence of other business, having regard to the criteria set out in any relevant resolution of the Assembly.
- (3) The Speaker's decision shall be communicated to the Member and, if the Speaker thinks it appropriate or determines that a motion relating to the matter should have precedence, to the Assembly.
- (4) A Member shall not take any action in relation to, or refer to, in the Assembly, a matter which is under consideration by the Speaker in accordance with this Standing Order.
- (5) Where the Speaker 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 other business before the Assembly, give notice of a motion to refer the matter to the Committee of Privileges and that motion shall take precedence of all other business on the day for which the notice is given.
- (6) A determination by the Speaker that a motion relating to a matter should not have precedence of other business does not prevent a Member, in accordance with other procedures, taking action in relation to, or referring to, that matter in the Assembly, subject to the rules of the Assembly.
- (7) Where notice of a motion is given under paragraph (5) and the Assembly is not expected to meet within the period of one week occurring immediately after the day on which the notice is given, the motion may be moved on that day.

#### Policy Discussion

The procedure in the Northern Territory does not permit a matter of privilege to be raised when the Assembly is not sitting and does not give the Speaker discretion to refer matters raised with her/him to the Committee of Privileges without referral to the Assembly.

The wording of this Standing Order is direct copy of Standing Order 81 in the Senate, which reflects the heritage of the Legislative Assembly Standing Orders as last reviewed in 1985 by the then Clerk, a previous usher of the Black Rod in the Senate.

The procedure is not the same in the Queensland Assembly or in the House of Representatives. We look to these jurisdictions, first as a unicameral jurisdiction with a mature and sophisticated Ethics Committee regime post Fitzgerald Inquiry and the other being the jurisdiction of referral for our general guidance.

Whether there is any reason to change the procedure in the Northern Territory is a matter for the Standing Orders Committee to consider in the context of the existing arrangements and whether innovations in other jurisdictions are preferred.

The test for the Speaker in the Legislative Assembly is outlined in the Resolution of the Assembly (an Order of Continuing Effect since 23 May 1996) which is entitled *Criteria to be taken into account by Speaker in determining whether a motion arising from a matter of* 

privilege should be given precedence of other business, and must be read in conjunction with subclause (2) in the existing Standing Order above.

The test the Speaker applies is not a *prima facie* case test as in the House of Representatives. It is a lesser test. The reason for this was the consideration at the time that the Speaker should not be placed in a position of determining whether a *prima facie* case exists, akin to a committal hearing, based merely on the allegation alone.

The test in the House of Representatives applies a *prima facie* case analysis to permit the Speaker to either grant precedence on the day or to refer a matter to the Committee of Privileges when the House is not sitting (see Standing Order 52).

If there is no contemplation in the Northern Territory to permit the Speaker this additional power (to refer matters when the Assembly is not sitting) then there is arguably no need to give the Speaker the responsibility of determining a *prima facie* case of contempt.

In Queensland, Standing Order 269 gives the Speaker the power to refer matters of alleged contempt directly to the Ethics Committee once the Speaker considers the 'degree of importance' of the matter.

It may be preferable to retain the existing arrangements, because to give the Speaker the specific power and responsibility to apply a higher level test is perhaps somewhat onerous, open to criticism and arguably politicises the role of Speaker when the Assembly itself is best placed to decide whether a matter is referred to the Committee of Privileges or not.

The Speaker's only role is to determine whether precedence should be accorded to bring the motion on for immediate debate, this should be retained and it is suggested the test in the Order of Continuing Effect from May 1996 also be incorporated into the re-drafted Standing Order as below, consequentially making that Order redundant.

#### Proposed Standing Order No 245

#### Procedure for Consideration of Privilege Motions

A matter of privilege suddenly arising during the course of a meeting of the Assembly may be raised at the time it is alleged to have occurred and all other business will be suspended until the matter is disposed of.

At all other times, a matter of privilege may only be raised by written notification to the Speaker seeking precedence over other matters on the Notice Paper and the following procedure will apply.

- (11) On receipt of a written request outlining the alleged breach of privilege seeking precedence to move the Assembly consider the matter, the Speaker will determine as soon as possible whether the proposed motion relating to the matter should have precedence over all other business.
- (12) When considering whether to grant precedence the Speaker must have regard to the principle that the Assembly's power to adjudge and deal with contempt is only to be used when it is necessary to provide reasonable protection to the Assembly and its Committees and for Members against improper acts which would obstruct them in the performance of their duties.
- (13) Precedence will not be granted if the Speaker takes the view the matter raised is trivial or not requiring the immediate and urgent attention of the Assembly.

- (14) Precedence will not be granted if another remedy exists to deal with the alleged contempt or breach of privilege.
- (15) The Speaker's decision will be communicated to the applicant Member in writing.
- (16) If the Speaker grants precedence, the Speaker will announce to the Assembly that precedence has been granted for a motion to be moved immediately.
- (17) If the motion pertains to alleged behaviour of another Member there is no obligation on the Speaker to forewarn the other Member.
- (18) Until the Speaker responds in writing to the applicant Member, that Member may take no further action in the Assembly on the matter raised with the Speaker.
- (19) If the Speaker determines that the proposed motion relating to the matter should not be accorded precedence, the applicant Member may give notice at the usual time according to the Assembly's adopted Routine of Business of a motion to be moved on a subsequent meeting day.
- (20) Where notice of a motion is given under paragraph (9) and the Assembly is not expected to meet within one week immediately after the day on which the notice is given, the motion may be moved on the same day after notice was given.

#### Existing Standing Order No 84

#### Motions Concerning Contempts

#### A motion to:

- (a) determine that a person has committed a contempt; or
- (b) impose a penalty upon a person for a contempt,

shall not be moved unless notice of the motion has been given not less than seven days before the day for moving the motion.

#### Policy Discussion

The application of this Standing Order would arise from a report back to the Assembly from a recommendation of the Committee of Privileges and that finds contempt has occurred.

There is no apparent compelling policy reason for the seven days' notice provision.

Once a report is received from a Committee it is considered upon report to the Assembly, and the House of Representatives Practice states (page 773) that in cases where persons have been found by the committee to be guilty of committing a breach of privilege or contempt, early consideration is usually given by the House. If consideration is made an order of the day for a future day it will have precedence over all other business.

The Standing Order in the Northern Territory is a direct copy of Senate Standing Order No 82. Thinking contextually, the Australian Senate sits on approximately 60 sitting days in 2014 compared to 34 in the Northern Territory and thus there is more opportunity to consider a matter under this rule.

It is suggested the rule either be removed altogether or be amended to provide one day's notice.

#### Proposed Standing Order No 246

#### Motions Concerning A Finding of Contempt

#### A motion to:

- (3) determine that a person has committed a contempt, or
- (4) impose a penalty upon a person for a contempt.

may be moved at least one meeting day after notice of the motion has been given.

# Existing Standing Order No 85

# Privilege in Committee

When a matter of privilege is raised in a Committee of the Whole, the Chair shall vacate the Chair and report to the Assembly forthwith

#### Policy Discussion

Self-explanatory Standing Order which does however leave the matter hanging somewhat and a re-draft is prosed to show that it's a matter immediately to be dealt with.

# Proposed Standing Order No 247

# Matter of Privilege Suddenly Arising in Committee of the Whole

When a Member raises a matter of privilege suddenly arising during proceedings in the Committee of the Whole, the Chair immediately reports to the Speaker who will report the matter to the Assembly for immediate consideration.

# **CHAPTER TWENTY ONE**

**BALLOTING** 

# Existing Standing Order No 297

# As Required

A ballot shall be taken whenever the Assembly thinks fit.

# **Policy Discussion**

Minor re-wording only is suggested.

Proposed Standing Order No 248

# Ballot to be Conducted upon Agreement by Assembly

A ballot may be taken whenever the Assembly agrees to conduct a ballot.

# Existing Standing Order No 298

#### Bells

Before the Assembly proceeds to any ballot, the bells shall be rung as for a division.

# Policy Discussion

This Standing Order calls Members to the Chamber to participate in a ballot. A minor rewording is proposed with a changed title.

# Proposed Standing Order No 249

# Bells to Be Rung to Signify a Ballot is Proceeding

Before the Assembly proceeds to any ballot, the division bells will ring for three minutes.

#### Existing Standing Order No 299

#### **Procedure**

Unless otherwise expressly provided, a ballot shall be taken in the following manner — Each Member present shall give to the Clerk a list of names of such Members as he may think fit and proper to be chosen at the ballot; and if any list contains a greater or lesser number of names than are to be chosen it shall be void and rejected. When all the lists are collected, the Clerks at the Table shall ascertain and report to the Speaker the names of the Members having the greatest number of votes, which Members shall be declared to be chosen. In the event of an equality of votes, the names of the Members concerned shall be submitted to a further ballot. In the event of there still being an equality of votes, the Speaker shall give their casting vote and the member for whom the Speaker gives a casting vote shall be duly appointed.

#### Policy Discussion

Requires some clear English tidy up as suggested below.

### Proposed Standing Order No 250

#### **Procedure for Conducting a Ballot**

Unless otherwise expressly provided, a ballot will be conducted by the Clerk who will be provided a name or list of names by each Member present. If any list contains a greater or lesser number of names than are to be chosen it is immediately invalid and not counted.

When all the lists are collected, the Clerk will report to the Speaker the name or names of the Members having the greatest number of votes, and these Members are declared as appointed.

In the event of an equality of votes, the names of the Members are submitted to a further ballot. In the event of there still being an equality of votes, the Speaker exercises a casting vote and the Member for whom the Speaker gives a casting vote is appointed.

# **CHAPTER TWENTY TWO**

**PAPERS AND DOCUMENTS** 

# Existing Standing Order No 251

# May Be Ordered

Papers may be ordered to be laid before the Assembly and the Clerk shall communicate to the Minister concerned all orders for papers made by the Assembly; and such papers when received shall be laid on the Table by the Clerk.

# **Policy Discussion**

Minor adjustment to the title and wording is required, no substantive policy change is suggested.

# Proposed Standing Order No 251

### Papers and Documents may be Ordered by the Assembly

Papers may be ordered to be laid before the Assembly. The Clerk will convey the order of the Assembly to the Minister concerned and when received the papers will be laid on the Table by the Clerk.

# Existing Standing Order No 252

#### Form of Address

Motions for the production of documents or correspondence addressed to the Administrator, or for any information emanating from the Administrator, shall be in the form "That an Address be presented to the Administrator", to that effect.

# Policy Discussion

No change is proposed for this rarely, if ever used procedure.

# Proposed Standing Order No 252

# Form of Address Seeking Documents in relation to the Administrator

Motions for the production of documents or correspondence addressed to the Administrator, or for any information emanating from the Administrator, shall be in the form "That an Address be presented to the Administrator", to that effect.

#### Existing Standing Order No 253

#### Presentation

Papers may be presented by the Speaker or pursuant to statute or by command of the Administrator or by leave of the Assembly. Papers may be presented in the Assembly or may instead be delivered to the Clerk. who shall cause them be recorded in the Minutes of Proceedings. Papers so delivered to the Clerk shall be deemed to have been presented to the Assembly on the day on which they are recorded in the Minutes of Proceedings.

#### Policy Discussion

This Standing Order is descriptive and does not include papers required to be tabled by the Assembly or arising from Assembly orders, such as Committee reports.

It is proposed to include that requirement and to clarify the title and the procedure in the updated language.

# Proposed Standing Order No 253

#### Presentation of Papers and Documents to the Assembly and Deemed Papers

Papers may be presented in the Assembly by the Speaker, by a Committee Chair furnishing a report from a Committee, by any prior resolution of the Assembly, as required by any statute, by command of the Administrator, or by leave of the Assembly.

Papers may be either presented in the Assembly or may be deemed to have been presented by delivering them to the Clerk, who will record them in the Minutes of Proceedings as *Deemed Papers*.

#### Existing Standing Order No 254

#### Public Documents

Unless otherwise ordered, all papers and documents presented to the Assembly shall be considered public and the publication of such documents shall be deemed to have been authorized by the Assembly. Papers not ordered to be printed may be inspected at the offices of the Assembly by Members and, with permission of the Speaker, by other persons, and copies thereof or extracts there from may be made.

### **Policy Discussion**

The Standing Order makes it clear what a tabled paper is and how it can be accessed.

The existing Standing Order requires Speaker permission for a member of the public to look at a tabled paper. In practice this does not occur and it is proposed the practice be reflected in the re-drafted Standing Order.

It is also proposed that a fee be available to be levied if a member of the public or the media requires a substantial amount of copying to be made.

### Proposed Standing Order No 254

# **Tabled Papers are Public Documents**

Unless otherwise ordered, all papers and documents presented to the Assembly shall be considered public and the publication of such documents is authorised.

Papers are available for inspection at the offices of the Assembly by Members and by other persons. Copies of an entire document or in part may be made, and a fee may be levied by the Clerk for the cost of copying any material.

#### Existing Standing Order No 255

### Documents Relating to Public Affairs

A document relating to public affairs quoted from by a Minister, unless stated by the Minister to be of a confidential nature, or such as should more properly be obtained by Address, shall, if required by any Member, be laid on the Table.

#### Existing Standing Order No 256

#### Document Quoted may be Ordered to be Tabled

A document quoted from by a Member: not being a Minister may be ordered by the Assembly to be laid upon the Table; such order may be made without notice immediately upon the conclusion of the speech of the Member who has quoted therefrom.

#### Policy Discussion

Existing Standing Orders 255 and 256 are often confused and used interchangeably. On that basis it is suggested they either be deleted or only existing Standing Order 255 be continued in a redrafted form.

While the House of Representatives at Standing Order 201 requires a document quoted from by a Minister to be tabled, it does not include a Standing Order which could be construed as oppressive to a Member.

Oppressive because under the existing Northern Territory Standing Orders it is open for a Minister to resist tabling by a claim of confidentiality, but it is not open to a Member

The standard operating procedure is a Member raising of a point of order and for the Speaker to say:

Was the Minister quoting from a document? Is it a public document or personal notes? The Minister generally replies Personal notes Mr/Madam Speaker.

The Speaker then says No point of order.

Arguably the procedure is disruptive to proceedings, theatrical and could be done away with. In the alternative the re-draft below is suggested.

#### Proposed Standing Order No 255

### Documents Quoted from may be Ordered to be Tabled

A document which relates to public affairs which is quoted from by a Minister must be tabled upon request by any Member unless the Minister states the document quoted from is confidential.

### Existing Standing Order No 257

#### **Motions**

On any paper being presented to the Assembly as provided in this Chapter, a Member may move without notice either or both of the motions –

- (1) that the paper be printed;
- (2) that the Assembly take note of the paper;

provided that, if the motions are not moved at the time of the presentation of the paper, they may be moved, on notice, on a subsequent day.

### **Policy Discussion**

The Standard procedure is slightly reworded in the draft below for consideration.

Consideration could also be given here to what 'printed' means. See discussion in the context of Ministerial Statements where the concept of 'printing has been replaced with a proposed availability in accessible format.

This change also provides a motion not to expressly prevent publication should that be the will of the Assembly.

#### Proposed Standing Order No 256

### Motions on Tabled Papers

When a paper is tabled in the Assembly as provided in this Chapter, a Member may move without notice, or subsequently with notice:

- (4) that the paper be made available in an accessible format
- (5) that the Assembly take note of the paper
- (6) that the publication of the paper not be permitted

### **CHAPTER TWENTY THREE**

**VISITORS (STRANGERS)** 

### Existing Standing Order No 248

### Seating in Galleries

Only the Speaker shall have the privilege of admitting strangers into the Speaker's gallery. Provided seating is available, every Member may admit a minimum of two strangers to the public gallery each day, by written order to the Serjeant-at-Arms. The Speaker may also admit distinguished strangers to a seat on the floor of the Chamber.

#### Policy Discussion

The procedure outlined here is a mix of rules reflecting a busy public gallery and the rights of the Speaker.

The Speaker has not recently accorded distinguished visitors a chair on the floor, however the opportunity has not recently arisen to permit such an honour being accorded to a visiting head of government, head of state or Speaker from another jurisdiction.

It is proposed the Standing Order be re-worded as below.

### Proposed Standing Order No 257

### Seating of Visitors

The Speaker determines who may sit in the Speaker's Gallery and may admit distinguished visitors to a seat on the floor of the Chamber. When required, Members may reserve two seats in the public galleries for their visitors by advising the Serjeant at Arms.

### Existing Standing Order No 249

### Strangers to Withdraw

If at any sitting of the Assembly, or in committee, any Member takes notice that strangers are present, the Speaker or the Deputy Speaker and Chair, as the case may be, shall forthwith put the question "that strangers be ordered to withdraw", which shall be decided without debate: provided that The Speaker or the Deputy Speaker and Chair may whenever they think fit, order the withdrawal of strangers.

#### Policy Discussion

The last occasion when the public galleries were cleared for a private sitting in the House of Representatives was during World War Two in 1942 and in the House of Commons during debate on sensitive anti-terrorism laws some twelve years ago.

Tradition dictates in the House of Commons that a Member calls a Point of Order, looks to the galleries and says *Madam/Mr Speaker*, *I spy Strangers* whereupon the Speaker puts the question *that Strangers do withdraw* and the question is put without debate, and if passed, the Speaker orders the gallery to be cleared immediately.

Since 1875 the Commons has required a majority vote after a single Member called which resulted in the removal of the Prince of Wales from the gallery. No such majority is required in our Standing Orders.

There is no inherent right for the public to be admitted to view proceedings of the Assembly. The privilege is accorded by consent of the Assembly. And the Speaker may clear galleries to maintain order at any time for any reason but most likely if there is a threat to good order in proceedings.

In more modern terminology the word *strangers* has been replaced with *visitors*. This would also stop the broadcasting and there would be no *Hansard* report.

### Proposed Standing Order No 258

#### Visitors Ordered to Leave

Any Member may move without notice that visitors must leave any meeting of the Assembly or committee. The question "visitors must immediately leave" will be put by the Speaker and decided without debate. The Speaker or the Chair of the Committee of the Whole may also at any time require the departure of visitors.

### Existing Standing Order No 250

### **Chamber Restricted**

On any day when the Assembly or a Committee of the Whole is sitting no Member shall bring any stranger into the Chamber

### **Policy Discussion**

The wording is ambiguous. Strangers are not permitted on the floor of the Chamber; it has nothing to do with a Member attempting to get one in.

### Proposed Standing Order No 259

### Chamber access for Members Only

Only Members are permitted on the floor the Chamber during meetings of the Assembly and the Committee of the Whole. On other days, the permission of the Speaker is required for a visitor to enter onto the floor of the Chamber.

### **CHAPTER TWENTY FOUR**

### ADDRESSES TO THE HEAD OF STATE

### Existing Standing Order No 300

#### How Moved

Whenever it be deemed proper to present an Address to Her Majesty, to the Governor-General or to the Administrator, the same shall be moved, except in cases of urgency, after notice in the usual manner.

### **Policy Discussion**

The only proposed change is the old fashioned language. If there is 'urgency' the Standing Order can be suspended or leave can be granted.

### Proposed Standing Order No 260

### Motions to Address the Head of State or Representative

A motion may be moved on notice to present an Address to Australia's Head of State, their representative in either Australia or in the Northern Territory.

### Existing Standing Order No 301

### Address to Royal Family

Addresses of congratulation or condolence to members of the Royal Family may be moved by a Minister without notice.

### **Policy Discussion**

The last occasion when this Standing Order was used was in congratulating the Duke and Duchess of Cambridge on the birth of an heir to the Australian throne.

No change is proposed.

Proposed Standing Order No 261

### Address of Congratulations or of Condolence to The Royal Family

Addresses of congratulation or condolence to members of the Royal Family may be moved by a Minister without notice.

### Existing Standing Order No 302

### Addresses to Queen Sent to Administrator by Speaker

Addresses to Her Majesty, to the Governor-General or to members of the Royal Family shall be transmitted to the Administrator by the Speaker, who shall request the Administrator to cause the same to be forwarded for presentation

### **Policy Discussion**

Old fashioned language is deleted and the proposed re-draft refers to the procedure for the two previous Standing Orders to be communicated to the Crown.

#### Proposed Standing Order No 262

### Addresses to Head of State or Royal Family to be via the Administrator

All Addresses made pursuant to Standing Order 261 and 262 will be forward to the Administrator of the Northern Territory by the Speaker who will request the Administrator forward the Address for presentation to Australia's Head of State or their representative.

### Existing Standing Order No 303

### Presentation of Address to the Administrator

Addresses to the Administrator shall be presented by the Speaker, unless the Assembly otherwise orders.

### Policy Discussion

This occurs below in proposed Standing Order No 265 in the context of the Speech in Reply but is otherwise not in common use.

The intention is for the Address to be presented 'in person' and so that is the only change proposed.

### Proposed Standing Order No 263

### Presentation of Address to the Administrator

Addresses to the Administrator shall be presented in person by the Speaker, unless the Assembly otherwise orders.

### Existing Standing Order No 304

### When Presented by Whole Assembly

When an Address is ordered to be presented by the whole Assembly, the Speaker, with Members of the Assembly, shall proceed to such place as the Administrator may appoint and, being admitted to the Administrator's presence, The Speaker shall read the Address to the Administrator, the Members who moved and seconded such Address being on the Speaker's left.

### Policy Discussion

This occurs once every four years or after each prorogation and commencement of a new session of the Assembly.

See also Standing Order No 229 which arguably duplicates this process.

A minor re-draft is proposed.

Proposed Standing Order No 264

### When an Address is Presented by the Whole Assembly

When an Address is ordered to be presented by the whole Assembly, the Speaker, accompanied by Members of the Assembly, will proceed to the place the Administrator appoints and the Speaker will read the Address to the Administrator. The Members who moved and seconded the Address will stand on the Speaker's left.

### Existing Standing Order No 305

### Administrator's Reply

The Administrator's reply to any Address presented by the whole Assembly shall be reported by the Speaker.

### **Policy Discussion**

No change is proposed.

Proposed Standing Order No 265

### Administrator's Reply

The Administrator's reply to any Address presented by the whole Assembly is to be reported by the Speaker.

### **CHAPTER TWENTY FIVE**

THESE STANDING ORDERS

### Existing Standing Order No 306

### Suspension

In cases of necessity, any Standing or Sessional Order or order of the Assembly may be suspended on motion moved without notice: provided that such motion is carried by an absolute majority of the whole number of Members.

### **Policy Discussion**

A question has arisen as to *what constitutes necessity*? No ruling has been made on the matter. The Assembly has operated on the view that if the required absolute majority of 13 Members support a suspension then necessity has been demonstrated.

It is proposed to delete this qualification of 'necessity' and to make these Standing Orders more user friendly to specify that an absolute majority in the Assembly is 13 Members.

#### Proposed Standing Order No 266

### Suspension of Standing Orders

When there is no question before the Chair, any Standing or Sessional Order or other Order of the Assembly may be suspended by a vote of an absolute majority of 13 or more Members when a motion is moved without notice.

### Existing Standing Order No 307

#### Motion on Notice

When a motion for the suspension of any Standing or Sessional Order or order of the Assembly appears on the Notice Paper, such motion may be carried by a majority of votes.

### **Policy Discussion**

This is poorly worded. 'May' doesn't equal 'must' and yet that is what it means here. The redraft specifies the rule and is consistent with the preceding Standing Order.

### Proposed Standing Order No 267

### Majority required to Suspend Standing Orders with Notice Given

When a motion for the suspension of any Standing or Sessional Order or Order of the Assembly appears on the Notice Paper, the motion must be supported by a majority of Members present in order to take effect.

### Existing Standing Order No 308

#### Limitation

A suspension of Standing Orders is limited in its operation to the particular purpose for which suspension has been sought

### Policy Discussion

Speaker's procedural Bulletin on May 2014 states:

On Thursday 15<sup>th</sup> of May a question of what the suspension of Standing Orders means became a topic of some concern in the Assembly.

When a Member seeks to suspend Standing Orders pursuant to Standing Order 306 and the Assembly has agreed, then the Standing Orders which would have prevented the question being put are suspended. It does not follow that for the entire debate all Standing Orders do not apply.

The normal requirements of ordered debate continue to apply.

No change is proposed to this rule, only so much of Standing Orders required to be suspended, are suspended.

Proposed Standing Order No 268

### Limitation on Consequence of Suspension of Standing Orders

A suspension of Standing Orders is limited in its operation to the particular purpose for which suspension has been sought.

### Existing Standing Order No 309

### To Continue in Force

The whole of these Standing Orders shall continue in force until altered, amended, or repealed.

### **Policy Discussion**

This report to the Standing Orders Committee is intended to provide for an extensive alteration to the entire suite of existing Standing Orders. This particular Standing Order will be replicated in the new Standing Orders if approved and adopted by the Assembly for 2015.

### Proposed Standing Order No 269

### Status of Standing Orders

These Standing Orders will continue in force until altered, amended, or repealed.

The August 2014 meeting of the Standing Orders Committee decided to give consideration to which Sessional Orders and other Orders might become Standing Orders. The brief analysis below will be submitted for consideration during early 2015 for decision.

# Sessional Orders and Orders of Continuing Effect Consideration of whether they are converted to Standing Orders

#### 1. ROUTINE OF BUSINESS OF THE ASSEMBLY:

That the Assembly shall proceed each day with its ordinary business in the following routine:-

- (a) Tuesday and Thursday:
  - 1. Pravers
  - 2. Questions
  - 3. Government Business Notices and Orders of the Day
  - 4. At 2pm Notices
  - 5. Petitions
  - 6. Government Business Notices and Orders of the Day
  - 7. Ministerial Statements
  - 8. Papers
  - 9. Consideration of Committee Reports, Auditor—General's Reports and Government Responses
  - 10. Discussion pursuant to Standing Order 94 (Matter of Public Importance)
- (b) Wednesday
  - 1. Prayers
  - 2. Questions
  - 3. Government Business Notices and Orders of the Day
  - 4. At 2pm Notices
  - 5. Petitions
  - 6. Government Business Notices and Orders of the Day
  - 7. Ministerial Statements
  - 8. Papers
  - 9. Consideration of Committee Reports, Auditor—General's Reports and Government Responses
  - 10. Discussion pursuant to Standing Order 94 (Matter of Public Importance)
  - 11. General Business Notices and Orders of the Day 5.30pm to 9pm

[23 October 2012]

### **Policy Discussion**

Consistent with the flexibility of the party with the majority of Members in the Assembly controlling the routine of business, this is suggested to remain a Sessional Order and reflect the routine at Standing Order 89 as adapted for the time being.

# 2. LEGAL AND CONSTITUTIONAL AFFAIRS AND SUBORDINATE LEGISLATION AND PUBLICATIONS COMMITTEES, AMALGAMATION — SESSIONAL ORDER:

That the Legal and Constitutional Affairs Committee be assigned the powers and functions of the Subordinate Legislation and Publications Committee as laid out in Standing Orders. [23 October 2012]

### **Policy Discussion**

These Committees have been amalgamated and thus it may be time to formalise that or make the Standing Orders flexible enough to accommodate this form Assembly to Assembly. Otherwise status quo.

# 3. AUTOMATIC ADJOURNMENT OF THE ASSEMBLY, SUSPENDED — SESSIONAL ORDER:

That the automatic adjournment provided by Standing Order 41A and Standing Order 41B providing that no new business be taken after 9.00pm for each sitting day be suspended.[23 October 2012]

### **Policy Discussion**

This suspends a procedure for the 12<sup>th</sup> Assembly. An option is to change the Standing Order

#### RESOLUTIONS OF CONTINUING EFFECT

#### **BROADCASTING OF ASSEMBLY AND COMMITTEE PROCEEDINGS**

That unless otherwise ordered this Assembly authorises the broadcast, rebroadcast and televising of all or portions of the debates or proceedings of the Assembly or a committee for the purposes of section 23 of the *Legislative Assembly (Powers and Privilege) Act* in accordance with the following provisions:

- (10) Recordings and broadcasts may be made only from the Legislative Assembly sound and vision monitoring system, unless otherwise approved by the Speaker or his or her delegate and in accordance with guidelines determined by the Speaker from time to time;
- (11) Recording and broadcast of sound and vision of committee proceedings are subject to any conditions or restrictions agreed to by that committee;
- (12) Broadcasts of excerpts shall be used only for the purposes of fair and accurate reports of proceedings, and shall not be used for:
  - (a) political party advertising or election campaigns;
  - (b) satire or ridicule; or
  - (c) commercial sponsorship or commercial advertising;
- (13) Reports of proceedings shall be such as to provide a balanced presentation of differing views;
- (14) Excerpts of proceedings which are subsequently withdrawn may be broadcast only if the withdrawal is also reported;
- (15) Excerpts must be placed in context. Commentators should identify members, at least by name;
- (16) Events in the galleries are not part of the proceedings and excerpts in relation to such events, as far as practicable, should not be used;
- (17) Where excerpts are used on commercial networks, the stations should try to ensure that advertising before and after excerpts is of an appropriate nature;
- (18) Where the audio excerpts of the proceeding are used on television, their use may be that of audio over still frames or overlay material;
- (19) Any other conditions determined by the Speaker; and
- (20) Non-compliance with these guidelines listed above may incur penalties imposed by the Speaker. [13 February 2013]



LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

SPEAKER'S DETERMINATION DLA05 OF 2014

MEDIA COVERAGE OF PARLIAMENTARY PROCEEDINGS

I, KEZIA DORCAS TIBISAY PURICK, Speaker of the Legislative Assembly of the Northern Territory, hereby determine the following conditions for the broadcasting, rebroadcasting and televising of proceedings of the Assembly and its committees:

#### 1. GENERAL

- 1.1 All individuals working for media organisations to cover proceedings of the Legislative Assembly of the Northern Territory must be accredited by the Speaker or the Speaker's delegate.
- 1.2 Accreditation may be granted by the Speaker or Speaker's delegate upon receipt of a written request from the Editor/Chief of Staff on behalf of a licensed electronic or print media organisation and may include requests for individual accreditation for nominated staff members of that organisation.
- 1.3 A licensed electronic or print media organisation may seek enduring accreditation for itself and/or nominated staff members by the method outlined in 1.3 above;
- 1.4 An accredited media organisation may seek to vary individual accreditation by making the relevant request to the Speaker in writing;
- 1.5 By requesting and being granted accreditation, a media organisation and/or staff member representing an organisation implicitly undertakes to observe and comply with the conditions set out in this Determination;
- 1.6 The Speaker or Speaker's delegate may at any time revoke accreditation for any media organisation or any individual working for a media organisation.

#### 2. DEFINITIONS

- 2.1 'accredited media organisation or personnel' means an organisation or an individual working for that organisation, each of whom have been authorised by the Speaker or the Speaker's delegate as a Media/Press Gallery Member and who may carry out coverage of the Assembly's proceedings pursuant to the conditions of this Determination:
- 2.2 'Assembly's Proceedings' means the business transacted by the Legislative Assembly on designated sitting days, and the public hearings of the Estimates Committee and Government-Owned Corporations Scrutiny Committee proceedings;
- 2.3 'cover' means take notes or record by electronic means the Assembly's proceedings subject to the limitations contained in this Determination. Coverage includes still and video photographic recordings and sound for electronic and print media and includes web cast of the Assembly's proceedings on the Legislative Assembly web site;
- 2.4 'electronic media' means licensed television and radio broadcasters and Internet-based news media;
- 2.5 'enduring accreditation' means authority to cover the Assembly's proceedings pursuant to the conditions of this Determination for the life of that Assembly. That is, from the first time the Assembly convenes following a General Election until that Assembly is prorogued prior to the next General Election;
- 2.6 'galleries' means all galleries, both public and press/media, surrounding the Chamber of the Legislative Assembly;
- 2.7 'print media' means licensed publications, including newspapers and magazines;
- 2.8 'record' means to take notes or use electronic means to capture the Assembly's proceedings subject to the limitations contained in this Determination. 'Record' includes still and video photographic vision and sound for electronic and print media and includes capturing the web cast of the Assembly's proceedings from the Legislative Assembly web site.

# 3. CONDITIONS OF RECORDING AND BROADCASTING OF THE ASSEMBLY'S PROCEEDINGS

- 3.1 Directions of the Speaker, Deputy Speaker or Acting Deputy Speaker on the floor of the Chamber must be observed at all times:
- 3.2 Recording of a Member who has the call will be no closer than a head-and-shoulders shot of the Member concerned:
- 3.3 Under no circumstances shall a recording be made of papers on a Member's desk, material on a Member's computer screen or any Member who does not have the call of the Speaker;
- 3.4 The only exception to Conditions 3.2 and 3.3 above is for wide shots of the entire Chamber that do not encroach on any Member's privacy, papers on the Member's desk or images on the Member's computer screen:
- 3.5 No record of the Assembly's proceedings taken by electronic or print media organisations gathered in any way contrary to these conditions may be broadcast or printed.

#### 4. CONDUCT OF ACCREDITED MEDIA PERSONNEL

- 4.1 Electronic instruments such as mobile telephones, pagers and modems must be switched off whilst media personnel are in the Chamber or galleries.
- 4.2 Laptop and iPad computers are not permitted in the galleries at any time when the Assembly is sitting.
- 4.3 Any media personnel who wish to broadcast from the gallery using social media must seek the prior approval of the Speaker;
- 4.4 Media personnel will observe silence whilst in the galleries and avoid any conduct that would draw attention to the galleries;
- 4.5 An appropriate dress standard will be maintained whilst covering events in the Chamber:
- 4.6 No media personnel will signal or otherwise communicate (this includes text messaging) with camera operators on the floor of the Chamber;
- 4.7 Unacceptable conduct in the galleries includes draping items over the rail, standing in the doorway, conversing aloud and eating or drinking;
- 4.8 Accredited media personnel will be provided with access to Parliament House. The Director of Security should be contacted to arrange access:
- 4.9 Accredited media personnel may not enter party rooms on Level 2 or the corridors adjacent to the Chamber on Level 2, nor may they enter the dining areas, Members and Guests Lounge or CPA Lounge on Level 4 without the prior approval of the Speaker;
- 4.10 Media conferences and interviews are not permitted in the public areas of Parliament House.

This authorisation does not extend to broadcast or re-broadcast by any third party, or to pooled/shared footage or unauthorised material provided by a third party.

## 5. DIRECT BROADCAST AND RE-BROADCAST OF PARLIAMENTARY PROCEEDINGS FROM INTERNET WEB STREAM

- 5.1 Direct broadcast and re-broadcast of all parliamentary proceedings from the Internet web stream is authorised:
  - (a) through the Northern Territory Government Intranet/Internet web cast network; and
  - (b) through the in-house Master Antenna Television (MAT) system;
- 5.2 Direct broadcast and re-broadcast of proceedings from the Internet web stream is authorised to an approved broadcaster subject to the conditions set out in this Determination.

### 6. PENALTIES FOR NON-COMPLIANCE

6.1 Failure to comply with the conditions set out in this Determination may result in accreditation being withdrawn immediately by the Speaker or the imposition of other penalties by the House Committee.

Dated this 17<sup>th</sup> day of DECEMBER 2013

KEZIA DORCAS TIBISAY PURICK Speaker

### **Policy Discussion**

The Order should be a Standing Order and the Determination remains separate and underpinning.

The Standing Orders could include this aspect in Chapter 19 relating to recording and Minutes. The Speaker has amended the Determination in 2015 to permit Media Gallery Members to type on tablet and phone devices while in the Gallery.

#### PARLIAMENTARY PRIVILEGE RESOLUTIONS

### Procedures to be followed by Assembly Committees for the Protection of Witnesses

That, unless otherwise ordered and not withstanding anything contained in the Standing Orders, the following procedures be followed by Committees of the Assembly when dealing with witnesses and prospective witnesses:

- (1) a witness shall be invited to attend a Committee meeting to give evidence: A witness shall be summoned to appear (whether or not the witness was previously invited to appear) only where the Committee has made a decision that the circumstances warrant the issue of a summons:
- (2) where the Committee desires that a witness produce documents relevant to the Committee's inquiry, the witness shall be invited to do so, and an order that documents be produced shall be made (whether or not an invitation to produce documents has previously been made) only where the Committee has made a decision that the circumstances warrant such an order:
- (3) a witness shall be given reasonable notice of a meeting at which the witness is to appear, and shall be supplied with a copy of the Committee's terms of reference, a statement of the matters expected to be dealt with during the witness's appearance, and a copy of these procedures: Where appropriate, a witness may be supplied with a transcript of relevant evidence already taken;
- (4) if possible, a witness shall be given opportunity to make a submission in writing before appearing to give oral evidence;
- (5) where appropriate, reasonable opportunity shall be given for a witness to raise any matters of concern to the witness relating to the witness's submission or the evidence the witness is to give before the witness appears at a meeting;
- (6) a witness shall be given reasonable access to any documents that the witness has produced to the Committee;
- (7) a witness shall be offered, before giving evidence, the opportunity to make application, before or during the hearing of the witness's evidence, for any or all of the witness's evidence to be heard in private session, and shall be invited to give reasons for any such application: If the application is not granted, the witness shall be notified of reasons for that decision;
- (8) only in the most extraordinary circumstances shall the Committee table in the Assembly or publish evidence given in private session and before giving any evidence in private session, a witness shall be informed that it is within the power of the Committee to authorise publication of such evidence and that the Assembly has the power to order the production and publication of such evidence:
- (9) a Member, in a protest or dissent added to a report, shall not disclose evidence taken in camera unless so authorised by the Committee;
- (10) should the Committee consider it essential that evidence given or information received in private session be published or that it is essential that such evidence or information be included in the Committee's report the Chairman or Secretary of the Committee shall make every effort to discuss the matter with the relevant witness in an effort to minimise any potential damage to the witness which may flow from that publication or usage:
- (11) the Chairman shall take care to ensure that all questions put to witnesses are relevant to the Committee's inquiry and that the information sought by those questions is necessary for the purpose of that inquiry: Where a Member of the Committee requests discussion of a ruling of the Chairman on this matter,

the Committee shall deliberate in private session and determine whether any question which is the subject of the ruling is to be permitted;

(12) where a witness objects to answering any question put to the witness on any ground, including the ground that the question is not relevant or that the answer may incriminate the witness, the witness shall be invited to state the ground upon which objection to answering the question is taken. Unless the Committee determines immediately that the question should not be pressed, the Committee shall then consider in private session whether it will insist upon an answer to the question, having regard to the relevance of the question to the Committee's inquiry and the importance to the inquiry of the information sought by the question: If the Committee determines that it requires an answer to the question, the witness shall be informed of that determination and the reasons for the determination, and shall be required to answer the question only in private session, unless the Committee determines that it is essential to the Committee's inquiry that the question be answered in public session; and

where a witness declines to answer a question to which the Committee has required an answer, the Committee shall report the facts to the Assembly;

- (13) where a Committee has reason to believe that evidence about to be given may reflect adversely on a person, the Committee shall give consideration to hearing that evidence in private session;
- (14) where a witness gives evidence reflecting adversely on a person and the Committee is not satisfied that that evidence is relevant to the Committee's inquiry, the Committee shall give consideration to expunging that evidence from the transcript of evidence, and to forbidding the publication of that evidence;
- (15) where evidence is given which reflects adversely on a person and action of the kind referred to in paragraph (14) is not taken in respect of the evidence, the Committee shall provide reasonable opportunity for that person to have access to that evidence and to respond to that evidence by written submission and appearance before the Committee.
- (16) a witness may make application to be accompanied by counsel and to consult counsel in the course of a meeting at which the witness appears: In considering such an application, the Committee shall have regard to the need for the witness to be accompanied by counsel to ensure the proper protection of the witness: If an application is not granted, the witness shall be notified of reasons for that decision;
- (17) a witness accompanied by counsel shall be given reasonable opportunity to consult counsel during a meeting at which the witness appears;
- (18) an officer of a department of the Territory or of the Commonwealth shall not be asked to give opinions on matters of policy and shall be given reasonable opportunity to refer questions asked of the officer to superior officers or to a Minister:
- (19) reasonable opportunity shall be afforded to witnesses to make corrections of errors of transcription in the transcript of their evidence and to put before the Committee additional material supplementary to their evidence; and
- (20) where the Committee has any reason to believe that any person has been improperly influenced in respect of evidence which may be given before the Committee, or has been subjected to or threatened with any penalty or injury in respect of any evidence given, the Committee shall take all reasonable steps to ascertain the facts of the matter: Where the Committee considers

that the facts disclose that a person may have been improperly influenced or subjected to or threatened with penalty or injury in respect of evidence which may be or has been given before the Committee, the Committee shall report the facts and its conclusions to the Assembly. [20 August 1992]

#### Policy Discussion

There is no reason that after 23 years in existence, this cannot be contained in the Chapter on Privilege (Chapter 20) or the Chapter on Committees.

Criteria to be taken into account by Speaker in determining whether a motion arising from a matter of privilege should be given precedence of other business.

Notwithstanding anything contained in the Standing Orders, and unless otherwise ordered, in determining whether a motion arising from a matter of privilege should have precedence of other business, the Speaker shall have regard only to the following criteria:

- (a) that principle that the Assembly's power to adjudge and deal with contempts should be used only where it is necessary to provide reasonable protection for the Assembly and its committees and for Members against improper acts tending substantially to obstruct them in the performance of their functions and should not be used in respect of matters which appear to be of a trivial nature or unworthy of the attention of the Assembly; and
- (b) the existence of any remedy other than that power for any act which may be held to be a contempt.[23 May 1996]

#### Policy Discussion

This material should be in the Standing Orders at Chapter 20 as a one stop place for a consolidated approach and a better understanding of how to raise a matter for privilege.

The redrafted Standing Order contemplates this and incorporates the content.

#### Procedures for the Protection of Witnesses before the Privileges Committee

That, in consideration of any matter referred to it which may involve, or gives rise to any allegation of, a contempt, the Committee of Privileges shall observe the procedures set out in this resolution, in addition to the procedures required by the Assembly for the protection of witnesses before committees. Where this resolution is inconsistent with the procedures required by the Assembly for the protection of witnesses, this resolution shall prevail to the extent of the inconsistency.

- (1) A person shall, as soon as practicable, be informed, in writing, of the nature of any allegations, known to the Committee and relevant to the Committee's inquiry, against the person, and of the particulars of any evidence which has been given in respect of the person;
- (2) The Committee shall extend to that person all reasonable opportunity to respond to such allegations and evidence by:
  - (a) making written submission to the Committee;
  - (b) giving evidence before the Committee;
  - (c) having other evidence placed before the Committee; and

- (d) having witnesses examined before the Committee.
- (3) Where oral evidence is given containing any allegation against, or reflecting adversely on, a person, the Committee shall ensure as far as possible that that person is present during the hearing of that evidence, and shall afford all reasonable opportunity for that person, by counsel or personally, to examine witnesses in relation to that evidence:
- (4) A person appearing before the Committee may be accompanied by counsel, and shall be given all reasonable opportunity to consult counsel during that appearance;
- (5) A witness shall not be required to answer in public session any question where the Committee has reason to believe that the answer may incriminate the witness:
- (6) Witnesses shall be heard by the Committee on oath or affirmation;
- (7) Hearing of evidence by the Committee shall be conducted in public session, except where:
  - (a) the Committee accedes to a request by a witness that the evidence of that witness be heard in private session;
  - (b) the Committee determines that the interests of a witness would best be protected by hearing evidence in private session; or
  - (c) the Committee considers that circumstances are otherwise such as to warrant the hearing of evidence in private session.
- (8) The Committee may appoint, on terms and conditions approved by the Speaker, counsel to assist it;
- (9) The Committee may authorise, subject to rules determined by the Committee, the examination by counsel of witnesses before the Committee;
- (10) As soon as practicable after the Committee has determined findings to be included in the Committee's report to the Assembly, and prior to the presentation of the report, a person affected by those findings shall be acquainted with the findings and afforded all reasonable opportunity to make submissions to the Committee, in writing and orally, on those findings. The Committee shall take such submissions into account before making its report to the Assembly;
- (11) The Committee may recommend to the Speaker the reimbursement of costs of representation of witnesses before the Committee. Where the Speaker is satisfied that a person would suffer substantial hardship due to liability to pay the costs of representation of the person before the Committee, the Speaker may make reimbursement of all or part of such costs as the Speaker considers reasonable; and
- (12) Before appearing before the Committee a witness shall be given a copy of this resolution. [23 May 1996]

#### Policy Discussion

This material should also be in the Standing Orders at Chapter 20 as a one stop place for a consolidated approach and a better understanding of how to raise a matter for privilege.

### **Exercise of Freedom of Speech**

- (1) That the Assembly considers that, in speaking in the Assembly or in a committee, Members should take the following matters into account:
  - (a) the need to exercise their valuable right of freedom of speech in a responsible manner;
  - (b) the damage that may be done by allegations made in Parliament to those who are the subject of such allegations and to the standing of parliament;
  - (c) the limited opportunities for persons other than members of Parliament to respond to allegations made in parliament;
  - (d) the need for Members, while fearlessly performing their duties, to have regard to the rights of others; and
  - (e) the desirability of ensuring that statements reflecting adversely on persons are soundly based.
- (2) That the Speaker, whenever the Speaker considers that it is desirable to do so, may draw the attention of the Members to the spirit and the letter of this resolution. [5 May 2005]

### **Policy Discussion**

This material should also be in the Standing Orders at Chapter 20 as a guide in the one stop place for a consolidated approach and a better understanding of how to raise a matter and balance the lack of the average citizen's right of reply with the power of the Member.

#### PROCEDURAL ORDERS AND RESOLUTIONS OF THE ASSEMBLY

#### Debate on motions and amendments to motions

The basic rule of debate which applies is that unless there is a right of reply (or in committee) no Member may speak more than once to the same question.

#### Other rules include:

- (1) When a Member speaks and concludes the speech without moving an amendment, the Member cannot subsequently move an amendment;
- (2) A Member who has spoken to a question, or has moved an amendment to the question, may not be called to move another amendment (or to adjourn debate) but may speak to a further amendment proposed by another Member;
- (3) A Member who moves an amendment may not speak again on the original question after the amendment has been disposed of having spoken to the original question when it was before the Assembly;
- (4) After an amendment has been moved any Member speaking subsequently is taken to have spoken to the original question and the amendment and therefore cannot speak again to the original question after the amendment has been disposed of;
- (5) A Member who has already spoken to the original question prior to the moving of an amendment may speak to the question on the amendment but must confine remarks to the amendment;
- (6) A Member who has spoken to the original question and an amendment may speak to the question on any further amendment but must confine remarks to the further amendment. [5 May 2005]

#### Policy Discussion

There is no evident need for this explanation. It could either be deleted or included in Standing Orders.

#### **Parliamentary Pairs**

That unless otherwise ordered the following arrangements for the administration of Parliamentary Pairs be an Order of the Assembly:

- (1) The operation of a system of Parliamentary Pairs be managed by the Government and Opposition Whips;
- (2) Details of the names of paired members be sent to the Table Office by the Government Whip's office prior to the commencement of a sitting week or as soon as possible following each division:
- (3) The details of any pairs be published in the Minutes of Proceedings and the Parliamentary Record;
- (4) The administration of the arrangements for the Parliamentary Pairs system be subject to the following guidelines:

#### **Method of Application**

An application for a "pair" shall be made where possible in writing to the Whip of the opposing political party in the Assembly i.e. by a Government Member, through the Government Whip, to the Opposition Whip or Independent member and by an Opposition member, though the Opposition Whip, or Independent Member to the Government Whip.

In the case of sickness or pressing personal reasons (family sickness, bereavement etc) verbal notification to the opposing Whip or independent member shall be sufficient.

### **Method of Approval**

Approval of a "pair" shall be given in writing by the opposing Whip or Independent Member to the applicant and a copy forwarded to his/her Leader for information.

### Approval to be Binding

Once an application for a "pair" has been approved in writing it is binding on all parties for all business before the Assembly for the duration of the period for which the "pair" application has been approved.

#### **Reasons for Pair**

"Pairs" should be granted in the event of personal or family sickness, bereavements and attendance at Ministerial Council and related meetings and inter-parliamentary conferences.

#### **Cessation of Pairs**

Should any Member be found to be in violation of the conditions for which his/her "pair" has been approved the "pair" shall cease from a time mutually agreed by the Government and Opposition Whip.

Should any difficulty be experienced in relation to the arrangement for the "cessation of pairs" the Chief Minister, Leader of the Opposition and respective Whips will meet to further consider the matter.

In the event that a violation of the agreed "Pairing" arrangement is drawn to the attention of the Speaker at the time of a division in the Assembly the Speaker may suspend the further consideration of the item of business before the Assembly forthwith and until further notice.

[9 September 2008]

#### Policy Discussion

Remain as a resolution in Sessional Orders where it could also be deleted altogether as pairs are an informal arrangement between parties in every other jurisdiction.

#### 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. [21 October 2010]

### Policy Discussion

Remain as a resolution in Sessional Orders.

#### Conditions for Incorporation of Material in the Hansard Record

Any written material a Member proposes be incorporated must conform with the Rules of Debate in the Standing Orders.

When considering the giving of leave, the Speaker will consider whether the material proposed for incorporation is in accordance with the rules of debate and does not contravene any of the Standing Orders.

The Speaker will also consider the material in the context of where it is proposed to be incorporated. For example where a member proposes to incorporate a speech which would take 20 minutes to read in the adjournment debate, leave is unlikely to be granted as it gives that member an advantage over other members who have stood twice to deliver that amount of material orally.

The Speaker will not give leave from the chair for the remainder of a speech to be incorporated.

The speaker may give leave from the chair for short lists of names to be incorporated, otherwise the process is:

All material proposed to be incorporated must be delivered electronically to the office of the Speaker at least 24 hours ahead of the time proposed for incorporation. Email the proposed material to <a href="mailto:la.speaker@nt.gov.au">la.speaker@nt.gov.au</a>.

The Member will still be required to stand and seek leave from the Speaker to incorporate the material which was delivered as above. [11 February 2014]

### **Policy Discussion**

Remain as a resolution in Sessional Orders.

#### **ASSEMBLY COMMITTEES**

### **Release of Committee Evidence**

### That —

- (1) the Legislative Assembly authorises the Speaker of the Legislative Assembly to permit any person to examine and take extracts from evidence submitted to, or documents and records of, committees of the Legislative Council, and the Legislative Assembly, which are in the custody of the Legislative Assembly and which have been in its custody for at least 5 years: provided that such evidence was not taken in camera or that such documents and records are not of a confidential or restricted nature; and provided further that the Speaker report to the Assembly each disclosure of evidence and or documents and records permitted pursuant to this resolution and the person or persons to whom disclosure has been made; and
  - (2) the foregoing resolution has effect notwithstanding anything contained in Standing Orders. [22 August 1984]

### Policy Discussion

After 31 years it might be time for this to go into the Standing Orders.

#### **Committee of Members' Interests**

This Assembly, pursuant to section 3 of the *Legislative Assembly (Disclosure of Interests) Act 2008*, assign the Standing Orders Committee to act as the Committee of Members'
Interests for the purposes of this Act.[11 February 2009]

### **Policy Discussion**

Remain as a resolution in Sessional Orders.

### **Standing Orders Committee Membership**

That, the membership of the Standing Orders Committee be expanded to include the addition of an Independent member of parliament, where the parliament has an Independent member. [18 August 2009]

### **Policy Discussion**

Remain as a resolution in Sessional Orders.

#### Public Accounts Committee - Increase to Number of Members to serve on Committee:

That, notwithstanding anything contained in Standing Orders, the number of Members to serve on the Public Accounts Committee be increased to six. [24 October 2012]

#### Policy Discussion

Remain as a resolution in Sessional Orders.