



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**STANDING AND
TEMPORARY ORDERS**

AND CONTINUING RESOLUTIONS OF THE ASSEMBLY

December 2011

**Being the standing orders
adopted on 11 May 1989,
as amended on 11 May 1989; 7 June 1990;
21 June 1991; 18 August 1993; 16 June 1994;
15 September 1994; 9 March 1995;
4 May 1995; 1 June 1995;
11 December 1996; 30 April 1998;
28 May 1998; 27 August 1998; 10 March 1999;
30 August 2001; 28 August 2002;
18 February 2003; 20 February 2003;
13 March 2003; 18 November 2003; and 7 December 2004.**

A major review of Standing Orders was conducted throughout 2007 and revised Standing Orders and Continuing Resolutions were adopted by the Assembly on 6 March 2008.

Significant amendments are indicated throughout the document. There are also a number of minor amendments which are not flagged.

Details of all amendments can be found in Report 2 of the Standing Committee on Administration and Procedure, dated December 2007, which can be found at:

**[http://www.parliament.act.gov.au/committees/index1.asp?committee=52
&inquiry=232&category=19](http://www.parliament.act.gov.au/committees/index1.asp?committee=52&inquiry=232&category=19)**

**Amended 10 April 2008, 21 August 2008, 9 December 2008,
12 February 2009, 26 February 2009, 2 April 2009, 27 August 2009,
10 December 2009, 11 February 2010, 6 May 2010, 26 August 2010,
30 June 2011, 25 August 2011 and 8 December 2011**

Temporary orders are indicated in bold type and have been adopted for the 7th Assembly.

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**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY
STANDING ORDERS AND CONTINUING RESOLUTIONS OF THE ASSEMBLY**

CHAPTER 1

PROCEEDINGS FOR THE MEETING OF ASSEMBLY

This Chapter sets out the procedures for the first meeting of the Assembly following an election, including the swearing-in of Members.

Meeting of a new Assembly

1. When the Assembly first meets after an election, the procedure shall be as follows:
 - (a) Members shall assemble in the Legislative Assembly Chamber at the time appointed by the Speaker in the notice calling the Assembly together in accordance with section 17 of the *Australian Capital Territory (Self-Government) Act 1988*. (Amended 6 March 2008)

Clerk reads instrument

- (b) The Clerk shall read the notice convening the meeting of the Assembly. ¹
(Amended 6 March 2008)

Admission of Chief Justice

- (c) The Chief Justice of the Supreme Court of the Australian Capital Territory or a person authorised by the Chief Justice for the purpose shall enter the Chamber for the purpose of Members making an oath or affirmation. ²

Election notification and Members sworn

- (d) The official notification of the election of each Member shall be presented by the Clerk, and the Members shall then make and subscribe an oath or affirmation as prescribed by the *Australian Capital Territory (Self-Government) Act 1988*. ³

Speaker to be elected

- (e) The Assembly shall then proceed to elect a Speaker. ⁴

Clerk chairs Assembly

- (f) Until a Speaker is elected the Clerk shall chair the Assembly.

Chief Minister to be elected

- (g) The Assembly shall next proceed to the election of a Chief Minister for the Territory.⁵

¹ See section 17 of the *Australian Capital Territory (Self-Government) Act 1988*.

² See section 9 of the *Australian Capital Territory (Self-Government) Act 1988* and section 10A of the *Oaths and Affirmations Act 1984*.

³ See section 6A of the *Oaths and Affirmations Act 1984*.

⁴ See section 11 of the *Australian Capital Territory (Self-Government) Act 1988*.

⁵ See section 40 of the *Australian Capital Territory (Self-Government) Act 1988*.

CHAPTER 2

SPEAKER, CHIEF MINISTER, DEPUTY SPEAKER, LEADER OF THE OPPOSITION AND OFFICERS

This Chapter sets out the procedures for the election of the Speaker, the Chief Minister and the Deputy Speaker, confirmation of the Leader of the Opposition, and processes to deal with absences and vacancies in the offices of the Chief Minister, Speaker, Deputy Speaker and Clerk.

Election of Speaker

2. The election of the Speaker shall be conducted in the following manner:

A Member proposed as Speaker

- (a) At the first meeting of an Assembly after a general election, after the Members present have been sworn, or whenever the office of Speaker becomes vacant, a Member, addressing the Clerk, shall propose a Member who is present, to the Assembly for its Speaker and move that such Member take the Chair of the Assembly as Speaker. A Member when proposed shall inform the Assembly whether the nomination is accepted. *(Amended 6 March 2008)*

If unopposed, elected

- (b) The Clerk shall then ask if there is any further proposal and, if there is not, shall say that the time for proposals has expired. No Member may then address the Assembly or propose any other Member, and the Clerk shall declare the Member so proposed to have been elected as Speaker, and such Member shall take the Chair of the Assembly as Speaker. *(Amended 6 March 2008)*

When two or more Members proposed

- (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, ask if there is any further proposal and, if there is not, the Clerk shall say that the time for proposals has expired.

Debate and speech limitation

- (d) When the time for proposals has expired, debate may ensue, but it shall be relevant to the election.
- (e) A Member may not speak for more than 5 minutes.

Election to be proceeded with

- (f) If all Members are not present, the bells shall be rung as in a vote and the election shall then proceed as provided in this standing order. *(Amended 6 March 2008)*

Mode of decision between candidates

- (g) When only two candidates are proposed as Speaker, each Member shall deliver to the Clerk a ballot-paper in writing, containing the name of the candidate for whom that Member votes. The votes shall be counted by the Clerk and the candidate who has the greater number of votes shall be the Speaker, and take the Chair, provided the candidate also has a majority of the votes of the Members present and voting; if no candidate has such a majority a fresh ballot shall take place. If, after the counting of votes, neither candidate has the required majority 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.

Mode of decision when more than two candidates

- (h) When more than two candidates are proposed, the votes shall be taken in like manner. The candidate who has the greatest number of votes shall be the Speaker, provided the candidate also has a majority of the votes of the Members present and voting; if no candidate has such majority, the name of the candidate having the smallest number of votes shall be excluded from subsequent ballots, and a fresh ballot shall take place. This shall be done as often as necessary, until one candidate is declared to be elected as Speaker by such majority, when that candidate shall take the Chair.

Withdrawal of candidate

- (i) 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 that candidate had not been proposed.

Equality of votes

- (j) If at any ballot it is impossible by reason of the 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 a ballot-paper only the name of the candidate that Member wishes to retain. The candidate whose name appears upon the smallest number of ballot-papers shall then be excluded from subsequent ballots.
- (k) If by reason of equality of votes a ballot or special ballot is rendered inconclusive, the Clerk shall so declare and, unless by a withdrawal another ballot or (as the case may be) another special ballot is rendered unnecessary, another ballot or special ballot shall 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.

One candidate remaining

- (l) Whenever at any stage a withdrawal leaves only one candidate remaining that candidate shall, without further voting, be declared elected as Speaker and shall then take the Chair.

Speaker takes Chair

- (m) Having moved to the Chair, the Member elected returns acknowledgments to the Assembly for the honour conferred, and then sits in the Chair.

Election of Chief Minister

3. The election of the Chief Minister shall be conducted in the following manner:

Member proposed by motion

- (a) At the first meeting of an Assembly after a general election and after the Speaker has been elected, or whenever the office of Chief Minister becomes vacant, or immediately following the agreement of a motion of want of confidence in a Chief Minister in accordance with standing order 81, a Member shall propose a Member as Chief Minister, and move that such Member be elected Chief Minister for the Territory.

A Member when proposed shall inform the Assembly whether the nomination is accepted. *(Amended 6 March 2008)*

If unopposed, elected

- (b) The Speaker shall then ask if there is any further proposal and, if there is not, shall say that the time for proposals has expired. No Member may then address the Assembly or propose any other Member as Chief Minister. The Speaker shall then declare the Member proposed to have been elected as Chief Minister. *(Amended 6 March 2008)*

When two or more Members proposed

- (c) If more than one Member is proposed as Chief Minister, the Speaker shall, after the second proposal and after each subsequent proposal (if any), ask if there is any further proposal and, if there is no further proposal, the Speaker shall say that the time for proposals has expired.

Debate and speech limitation

- (d) When the time for proposals has expired, debate may ensue, but it shall be relevant to the election.
- (e) A Member may not speak for more than 5 minutes.

Election to be proceeded with

- (f) If all Members are not present, the bells shall be rung as in a vote and the election shall then proceed as provided in this standing order. *(Amended 6 March 2008)*

Mode of decision between candidates

- (g) When only two Members are proposed as Chief Minister, each Member shall deliver to the Clerk a ballot-paper in writing, containing the name of the candidate for whom that Member votes. The votes shall be counted by the Clerk and the candidate who has the greater number of votes shall be declared by the Speaker to be the Chief Minister, provided the candidate also has a majority of the votes of the Members present and voting; if no candidate has such a majority a fresh ballot shall take place. If, after the counting of votes, neither candidate has the required majority the Speaker 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.

Mode of decision when more than two candidates

- (h) When more than two Members are proposed as Chief Minister, the votes shall be taken in like manner. The candidate who has the greatest number of votes shall be the Chief Minister, provided the candidate also has a majority of the votes of the Members present and voting; if no candidate has such majority, the name of the candidate having the smallest number of votes shall be excluded from subsequent ballots, and a fresh ballot shall take place. This shall be done as often as necessary until one candidate is declared to be elected as Chief Minister by such majority.

Withdrawal of candidate

- (i) 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 that candidate had not been proposed.

Equality of votes

- (j) If at any ballot it is impossible by reason of the 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 a ballot-paper only the name of the candidate that Member wishes to retain. The candidate whose name appears upon the smallest number of ballot-papers shall then be excluded from subsequent ballots.
- (k) If by reason of equality of votes a ballot or special ballot is rendered inconclusive, the Speaker shall so declare and, unless by a withdrawal another ballot or (as the case may be) another special ballot is rendered unnecessary, another ballot or special ballot shall be taken. If, after the counting of votes, the equality continues the Speaker 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.

One candidate remaining

- (l) Whenever at any stage a withdrawal leaves only one candidate remaining, that candidate shall, without further voting, be declared elected as Chief Minister.

Election of Deputy Speaker

4. On the first day of meeting of the Assembly after an election, or whenever the office becomes vacant, a Member, not being a Minister, shall be elected by the Assembly to be Deputy Speaker.
5. The election of the Deputy Speaker shall be conducted by the Speaker in a similar manner to the election of the Speaker.

Leader of the Opposition

- 5A. The Leader of the Opposition of the Legislative Assembly for the Australian Capital Territory shall be the Leader of the largest non-government party with the consent of that Member. *(Inserted 11 May 1989 – Amended 21 June 1991)*
- 5B. In the event that the two largest non-government parties are of equal size, the Assembly may elect a Leader of the Opposition and the election shall be conducted by the Speaker in a similar manner to the election of Chief Minister. *(Inserted 11 May 1989 – Amended 21 June 1991)*

Absence of Speaker and Deputy Speaker

Absence of Speaker

6. Whenever the Assembly is meeting and is informed by the Clerk of the absence or impending absence of the Speaker, the Deputy Speaker, as Acting Speaker, shall perform the duties and have the powers of the Speaker as specified in the standing orders and continuing resolutions of the Assembly and in enactments. *(Amended 6 March 2008)*
- 6A. Whenever the Assembly is not meeting Members will be informed in writing by the Clerk of the absence or impending absence of the Speaker, and the Deputy Speaker, as Acting Speaker, shall perform the duties and have the powers of the Speaker as specified in the standing orders and continuing resolutions of the Assembly and in enactments. *(Inserted 6 March 2008)*

Speaker relieved by Deputy

7. The Deputy Speaker shall take the Chair whenever requested to do so by the Speaker during a sitting of the Assembly.

Assistant Speakers

8. The Speaker shall nominate at the commencement of every Assembly not more than 3 Members, not being Ministers, any one of whom shall act as Assistant Speaker. The Speaker may revoke the nomination of any Member. An Assistant Speaker may resign in writing to the Speaker. *(Amended 6 March 2008)*

Absence of Speaker and Deputy Speaker

9. Whenever the Assembly is informed by the Clerk of the absence of both the Speaker and the Deputy Speaker, the Members present may at once proceed to elect in the manner provided in standing order 2 one of their number who shall, subject to any other order of the Assembly, perform the duties of the Speaker during that absence. Otherwise the Assembly stands adjourned to the next sitting day.

Speaker relieved by Assistant Speaker

10. The Speaker, or Deputy Speaker, may call on any of the Assistant Speakers to take the Chair.

Vacancy in office of Speaker

11. When a vacancy has occurred in the office of the Speaker the Clerk shall report this to the Assembly as soon as possible, and the Assembly shall forthwith proceed to the election of a Speaker using the manner provided for in standing order 2. *(Amended 6 March 2008)*

Resignation of the Speaker

- 11A. A Member may resign from the position of Speaker, in writing, to the Clerk, and the resignation shall take effect upon receipt by the Clerk. If the Assembly is meeting when the Clerk receives the written notice of the resignation of the Speaker, the Clerk shall take action in accordance with standing order 11. If the Assembly is not meeting when the Clerk receives a written notice of resignation from the Speaker, the Clerk shall inform all Members in writing of the resignation, and the election of the Speaker shall take precedence over all other business at the next meeting of the Assembly. *(Inserted 6 March 2008)*

Vacancy in office of Chief Minister

12. When a vacancy has occurred in the office of the Chief Minister the Speaker shall report this to the Assembly as soon as possible, and the Assembly shall forthwith proceed to the election of a Chief Minister in the manner provided for in standing order 3. *(Amended 6 March 2008)*

Vacancy in office of Deputy Speaker

13. The Deputy Speaker may resign office by writing to the Speaker. When a vacancy has occurred in the office of the Deputy Speaker the Speaker shall report this to the Assembly as soon as possible, and the Assembly shall forthwith proceed to the election of a Deputy Speaker in the manner provided for in standing order 5. *(Amended 6 March 2008)*

Absence of, and vacancy in office of, Clerk

Unavoidable absence of Clerk

14. In the case of an unavoidable absence of the Clerk, all the duties of the Clerk shall be performed by the Deputy Clerk.

Vacancy in office of Clerk

15. During any vacancy in the office of Clerk, or while the Clerk is absent from duty, all powers, functions and duties of the Clerk shall be exercised and performed by the Deputy Clerk.

CHAPTER 3

ADMINISTRATION AND PROCEDURE COMMITTEE

This chapter sets out the procedures for the establishment, membership and role of the Standing Committee on Administration and Procedure.

Administration and Procedure Committee

16. (a) A Standing Committee on Administration and Procedure is established at the commencement of each Assembly to:
- (i) inquire into and report on, as appropriate:
 - (A) the Assembly's annual estimates of expenditure;
 - (B) the practices and procedure of the Assembly;
 - (C) the standing orders of the Assembly;
 - (ii) advise the Speaker on:
 - (A) Members' entitlements including facilities and services;
 - (B) the operation of the transcription service (*Hansard*);
 - (C) the availability to the public of Assembly documents;
 - (D) the operation of the Assembly library;
 - (iii) arrange the order of private Members' business and Assembly business;
- (b) the Committee shall consist of:
- (i) the Speaker;
 - (ii) the Government whip;
 - (iii) the Opposition whip; and
 - (iv) a representative of the crossbench (or if a single party, the whip of that party);
- (c) the Speaker shall be the Chair of the Committee; and
- (d) the Committee shall have the power to consider and make use of the evidence and records of the Standing Committee on Administration and Procedure appointed during the previous Assemblies. (*Amended 9 March 1995 and 4 May 1995; further amended 28 May 1998, 6 March 2008 and 8 December 2011*)
17. (*Standing order omitted 9 March 1995*).
18. (*Standing order omitted 9 March 1995*).
19. (*Standing order omitted 9 March 1995*).

CHAPTER 4

ADMINISTRATION

This chapter sets out the procedures relating to the Members' roll, record of attendance, leave of absence, resignation of a Member and Minutes of Proceedings, including custody of records.

Members' roll kept by Clerk

20. A roll of Members shall be kept by the Clerk, showing the names of the Members elected, the dates of that election, of making an oath or affirmation and of ceasing to be Members and the reason. *(Amended 6 March 2008)*

Record of attendance

21. The attendance of Members at each sitting of the Assembly shall be recorded in the Minutes of Proceedings.

Leave of absence

22. A Member may be granted leave of absence from the Assembly, on motion moved without notice, stating the reason for leave and the period of absence. The motion shall have priority over all other business. *(Amended 6 March 2008)*

Leave of absence excuses from service

23. A Member shall be excused from service in the Assembly, or any committee, as long as the Member has leave of absence.

Leave of absence forfeited

24. A Member who has been granted leave of absence shall forfeit the leave if the Member attends the Chamber of the Assembly before the end of the period of leave. *(Amended 6 March 2008)*

Resignation of Member

- 24A. A Member may resign as a Member of the Assembly by written notice to the Speaker or, in the absence of the Speaker from the Territory or from duty, the Deputy Speaker.⁶ *(Inserted 6 March 2008)*

Minutes of Proceedings

25. All proceedings of the Assembly shall be recorded by the Clerk, and such records shall constitute the Minutes of Proceedings of the Assembly and shall be signed by the Clerk.

Custody of records

26. Subject to standing order 212 under the direction of the Speaker, the Clerk shall have custody of the Minutes of Proceedings, and all documents presented to the Assembly. *(Amended 6 March 2008)*

⁶ Pursuant to section 13 of the *Australian Capital Territory (Self-Government) Act 1988*.

CHAPTER 5

SITTING AND ADJOURNMENT OF THE ASSEMBLY

This chapter sets out procedures relating to hours of meeting, quorums and adjournment.

Hour of meeting

27. Unless otherwise ordered, the Assembly shall meet at **10** am. (*Amended 4 May 1995, 7 December 2004 and 6 March 2008*) (*Temporary order 9 December 2008*)

Quorum⁷ at time of meeting

Chair taken, or Assembly adjourned

28. The Chair shall be taken at the time appointed on every day fixed for the meeting of the Assembly, but if a quorum 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.

If the Speaker is satisfied there is likely to be a quorum within a reasonable time, it shall be announced that the Chair will be taken at a stated time; if at that time there is not a quorum the Speaker shall adjourn the Assembly until the next sitting day.

Members not to leave before quorum present

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

Prayer or Reflection

30. Upon the Speaker taking the Chair at the commencement of each sitting, and a quorum of Members being present, the following shall be read:

Members, at the beginning of this sitting of the Assembly, I would ask you to stand in silence and pray or reflect on our responsibilities to the people of the Australian Capital Territory. (*Amended 1 June 1995*)

The Speaker shall also acknowledge, at the beginning of each period of sittings, that the Assembly is meeting on the lands of the traditional custodians. (*Amended 6 March 2008 and 2 April 2009*)

Quorum during sitting

Vote indicating lack of a quorum

31. If it appears from the result of a vote or ballot of the Assembly that a quorum is not present, the Speaker shall adjourn the Assembly; and no decision of the Assembly shall be considered to have been arrived at by such vote or ballot. (*Amended 6 March 2008*)

If the Speaker is satisfied there is likely to be a quorum within a reasonable time, it shall be announced that the Chair will be taken at a stated time; if at that time there is not a quorum the Speaker shall adjourn the Assembly until the next sitting day.

⁷ Subsection 18(1) of the *Australian Capital Territory (Self-Government) Act 1988* provides that a quorum is an absolute majority of the Members (i.e. 9 Members).

Lack of quorum noticed

32. If any Member takes notice that a quorum is not present the Speaker shall count the Assembly; if a quorum is not present within 4 minutes the Assembly shall be adjourned.

If the Speaker is satisfied there is likely to be a quorum within a reasonable time, the Speaker shall announce that the Chair will be taken at a stated time; if at that time there is not a quorum the Speaker shall adjourn the Assembly until the next sitting day.

All Members to remain while bells rung

33. When the attention of the Speaker has been called to the fact that there is not a quorum present and the bells are rung as in a vote, no Member shall leave the area within the seats allotted to Members until a quorum is present or 4 minutes have elapsed. (*Amended 6 March 2008*)

Adjournment and next meeting

Adjournment of Assembly

34. Unless otherwise ordered, at 6 pm on each sitting day, the Speaker shall propose the question – That the Assembly do now adjourn – which question shall be open to debate. No amendment may be moved to this question:

provided that:

- (a) if a vote is in progress at the time for interruption, that vote, and any vote consequent upon that vote, shall be completed and the result announced;
- (b) if, on the question – That the Assembly do now adjourn – being proposed, a Minister requires the question to be put forthwith without debate, the Speaker shall forthwith put the question;
- (c) a motion for the adjournment of the Assembly may be moved by a Minister at an earlier hour;
- (d) any business under discussion and not disposed of at the time of the adjournment shall be set down on the *Notice Paper* for the next sitting;
- (e) if the question – That the Assembly do now adjourn – is negatived, the Assembly shall resume the proceedings at the point at which they had been interrupted; and
- (f) at the conclusion of the time allotted for the adjournment, the Speaker shall forthwith adjourn the Assembly until the time of its next meeting. (*Amended 7 December 2004 and 6 March 2008*)

Minister may move adjournment

35. A motion for the adjournment of the Assembly may be moved only by a Minister. An amendment may not be moved to this motion.

Motion to fix next meeting

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

CHAPTER 6

RULES OF DEBATE

This chapter sets out the procedures relating to the rules of debate, including time limits.

Order

Order maintained by Speaker

37. Order shall be maintained in the Assembly by the Speaker.

When Speaker rises

38. Whenever the Speaker rises during proceedings, Members shall be silent and be seated, so that the Speaker may be heard without interruption.

Member speaking not to be interrupted

39. When a Member is speaking, no other Member may converse or make any noise or disturbance to interrupt that Member.

Members to acknowledge the Chair

40. Members shall acknowledge the Chair when entering or leaving the Chamber. *(Amended 6 March 2008)*

Members passing through Assembly

41. A Member may not pass between the Chair and any Member who is speaking.

Manner and right of speech

Members rise to address Speaker

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

Indulgence to Members unable to stand

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

Speaker calls on Members to speak

44. When two or more Members rise to speak the Speaker shall call on the Member who, in the Speaker's opinion, rose first. *(Amended 6 March 2008)*

When Member may speak

45. A Member may speak to any question before the Chair that is open to debate, when moving a motion that is open to debate, when moving an amendment, to ask or answer a question seeking information, when rising to order, or upon a matter submitted under standing orders, but not otherwise.⁸

⁸ For those questions not open to debate see standing order 63

Personal explanations

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

Except to explain words

47. A Member who has spoken to a question may again be heard to explain where some material part of that Member's speech has been misquoted or misunderstood, but shall not introduce any new matter, nor interrupt a Member speaking, and no debatable matter may be brought forward nor may any debate arise upon such explanation.

Right of reply

48. A reply shall be allowed to a Member who has moved a substantive motion or that a bill be agreed to in principle, and the reply shall be confined to matters raised during the debate.

Reply closes debate

49. In all cases the reply of the mover of the original motion closes the debate.

Member may not speak after question put

50. A Member may not speak to any question after it has been put by the Speaker and the voices have been given in the affirmative or negative. *(Amended 6 March 2008)*

Allusion to previous debate or proceedings

51. A Member may not allude to any debate or proceedings of the same calendar year unless such allusion is relevant to the matter under discussion.

Reflections upon votes

52. A Member may not reflect adversely upon any vote of the Assembly, except upon a motion that the vote be rescinded. *(Amended 6 March 2008)*

Use of Queen's, Governor-General's or Governor's name

53. A Member may not use the name of Her Majesty or her representatives in Australia disrespectfully in debate, nor for the purpose of influencing the Assembly in its deliberations.

Offensive words

54. A Member may not use offensive words against the Assembly or any Member thereof or against any member of the judiciary.⁹

⁹ Section 14 of the *Judicial Commissions Act 1996* states that: A Member of the Legislative Assembly shall not raise in the Assembly a matter that relates or may relate to the behaviour or physical or mental capacity of a judicial officer:- (a) except by way of a motion to have a specific allegation made in precise terms in respect of the judicial officer examined by a commission; and (b) unless that Member has given the Attorney-General not less than 5 sitting days notice of the motion and the Member has not been notified by the Attorney-General within that period in accordance with section 16 (2) that the Executive has been requested to appoint a commission to examine the allegation.

Personal reflections

55. All imputations of improper motives and all personal reflections on Members shall be considered highly disorderly.

Speaker to intervene

56. 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.

Speaker to determine offensive words

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

Members not to digress

58. A Member shall not digress from the subject matter of any question under discussion: provided that:

- (a) on a motion to adjourn the Assembly, irrelevant matters may be debated; and
- (b) on the motion for agreement in principle to appropriation bills for the ordinary annual services of the Executive, matters relating to public affairs may be debated.

Anticipating discussion

59. A Member may not anticipate the discussion of any subject which appears on the *Notice Paper*: provided that, in determining whether a discussion is out of 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.

Question may be required to be read

60. Any Member may require the question or matter in discussion to be read by the Speaker at any time during the debate, but not so as to interrupt a Member speaking: provided that this standing order shall not apply when the terms of the question or matter have been circulated among Members.

Interruptions not allowed – exceptions

61. A Member may not interrupt another Member whilst speaking, unless:
- (a) to call attention to a point of order;
 - (b) to call attention to the want of a quorum; or
 - (c) to move a closure motion.

Irrelevance or tedious repetition

62. Having called the attention of the Assembly to the conduct of a Member who persists in irrelevance or tedious repetition of the Member's own arguments or of the arguments used by other Members in debate, the Speaker may direct the Member to cease speaking.

Matters not open to debate

63. The following matters are not open to debate, shall be moved without argument or opinion offered, and shall be put forthwith from the Chair without amendment:
- (a) motion for adjournment of debate (standing order 65);
 - (b) motion to extend time for debate or speech (standing order 69);
 - (c) motion that the question be now put (standing order 70);
 - (d) motion that the bill (as amended) be agreed to (standing order 189); and
 - (e) motion that a Member be suspended from the service of the Assembly (standing order 203).

Not to obstruct business

64. Should any of the questions in standing order 63 be negated, no similar proposal shall be received if the Speaker is of opinion that it is an abuse of the orders or forms of the Assembly or is moved for the purpose of obstructing business.

Adjournment of debate

65. Except for a Member who has spoken to the question, or who has the right of reply, any Member may move the adjournment of the debate, which question shall be put forthwith and determined without amendment or debate. If the question is resolved in the affirmative, the Speaker shall then put a question to fix the time for the resumption of the debate.

Member moving adjournment entitled to call

66. The Member, upon whose motion any debate is adjourned by the Assembly, shall be entitled to speak first on the resumption of the debate.

If motion is negated, mover may speak later

67. In the event of a motion for the adjournment of the debate upon any question being negated, the Member moving the motion for such adjournment may address the Assembly later in the debate.

Resumption of interrupted proceedings

68. If the proceedings are interrupted by failure to obtain a quorum, the Speaker shall fix the time for the resumption of the debate on any business under discussion and not disposed of at the time of interruption. *(Amended 6 March 2008)*

Time limits for debates and speeches *(Temporary order 9 December 2008)*

69. 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. The Speaker may at his/her discretion direct the clock to be stopped. *(Amended 6 March 2008)*

Subject	Time
(a) Election of Speaker, Chief Minister, Deputy Speaker or Leader of the Opposition (<i>Amended 11 May 1989</i>) Each Member	5 minutes
(b) Motion for adjournment of the Assembly to terminate sitting (<i>Amended 4 May 1995</i>) Whole debate	no more than 30 minutes
Each Member	5 minutes
(c) Want of confidence motion provided under standing order 81 Mover.....	20 minutes
Chief Minister or a Minister delegated.....	20 minutes
Any other Member	15 minutes
(d) Bill be agreed to in principle Main Appropriation Bill for year Mover.....	not specified
First opposition member next speaking.....	not specified
First crossbench member next speaking.....	not specified
Any other Member.....	15 minutes
Other bills Mover.....	20 minutes
First government or opposition member next speaking.....	20 minutes
First crossbench member next speaking.....	20 minutes
Any other Member.....	15 minutes
(e) Detail stage of bill – each question before the Chair Executive bills Minister in charge	periods not specified
Any other Member – 2 periods each not exceeding.....	10 minutes
An appropriation bill for the ordinary annual services of the year Minister in Charge or Minister responsible for a department or appropriation unit.....	periods not specified
Any other Member – 2 periods each not exceeding.....	10 minutes
<i>(Amended 6 March 2008)</i>	
Other bills Member in charge.....	periods not specified
Any other Member – 2 periods each not exceeding.....	10 minutes

- (f) Urgent bills (under standing order 192)
- | | |
|-------------------------|------------|
| Bill be declared urgent | |
| Whole debate..... | 15 minutes |
| Each Member..... | 5 minutes |
| Allotment of time | |
| Whole debate..... | 15 minutes |
| Each Member..... | 5 minutes |
- (g) Matter of public importance (under standing order 79)
- | | |
|---------------------------|------------|
| Whole debate..... | 1 hour |
| Proposer..... | 15 minutes |
| Member next speaking..... | 15 minutes |
| Any other Member..... | 10 minutes |
- (h) Suspension of standing orders (under standing order 272)
- | | |
|-------------------|------------|
| Whole debate..... | 15 minutes |
| Each Member..... | 5 minutes |
- (Amended 6 March 2008)*
- (i) Debates not otherwise provided for
- | | |
|---|-------------------|
| Mover..... | 15 minutes |
| First government or opposition member next speaking..... | 15 minutes |
| First crossbench member next speaking..... | 15 minutes |
| Any other Member..... | 10 minutes |
- (j) Extension of time – A Member may, by leave, be given an extension of time for one period which is half of the original period allotted. *(Amended 6 March 2008)*

Closure

70. After any question has been proposed from the Chair, a motion may be made by any Member, without notice, and whether any other Member is speaking or not, “That the question be now put”, and, unless it shall appear to the Speaker that such motion is an abuse of the rules of the Assembly, or an infringement of Members’ rights, the question “That the question be now put”, shall be put forthwith and determined without amendment or debate.

Privilege

71. See Standing Order 276 *(Standing order renumbered 6 March 2008)*

Point of order and Speaker’s ruling

Point of order

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

Proceedings on question of order

73. Upon a question of order being raised, the Member called to order shall cease speaking and sit and, after the question of order has been stated to the Speaker by the Member raising it, the Speaker shall rule on the matter. The Speaker may at his/her discretion direct the clock to be stopped. *(Amended 6 March 2008)*

CHAPTER 7

BUSINESS

This chapter sets out the procedures relating to business of the Assembly, including the routine of business, matters of public importance and want of confidence in the Chief Minister.

Routine of business

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

Prayer or reflection
Presentation of petitions
Notices and orders of the day
Questions without notice
Presentation of papers
Ministerial statements, by leave
Matter of public importance
Notices and orders of the day:

provided that at 2 pm on each day the Speaker shall interrupt the business before the Assembly in order that questions without notice shall be called on, (*Temporary order 9 December 2008*) and

- (a) if a vote is in progress at the time fixed for interruption, that vote, and any vote consequent upon that vote, shall be completed and the result announced; and
- (b) the Speaker shall fix a later hour for the resumption of the debate on any business under discussion and not disposed of at the time of interruption.
(*Amended 4 May 1995, 1 June 1995 and 2 April 2009*).

Presentation of papers and reports

75. Papers and reports of standing and select committees may be presented at any time when other business is not before the Assembly.

New business

76. New business may not be taken after 11 pm, unless otherwise ordered prior to 11 pm.
(*Amended 6 March 2008*)

Business – precedence over

77. Executive business shall, on each day of sitting, have precedence over all private Members' and Assembly business, except that:

- (a) on sitting Wednesdays, private Members' business shall have precedence over Executive business; (*Amended 11 December 1996*).
- (b) on sitting Thursdays, Assembly business shall have precedence over Executive business in the ordinary routine of business for 45 minutes from the conclusion of consideration of any Executive notices of intention to present bills;

provided further that:

- (c) if a vote is in progress at the time precedence expires, that vote or any vote consequent upon that vote shall be completed and the result announced;

- (d) when there is no question before the Chair during private Members' business and at any time during the consideration of Assembly business any Member may move that Executive business be called on and the question on such motion shall be put forthwith without amendment or debate; (*Amended 11 December 1996*)
- (e) when the time for precedence to Assembly business expires, any Member may move that the time allotted to Assembly business be extended by 30 minutes and the question on such motion shall be put forthwith without amendment or debate; and
- (f) the Speaker shall fix the next sitting Wednesday for the resumption of the debate on any business under discussion and not disposed of at the expiration of the time allotted to private Members' business and the next sitting Thursday for the resumption of the debate on any business under discussion and not disposed of at the expiration of the time allotted to Assembly business or at the time Assembly business is interrupted.

For the purpose of this standing order and standing order 16, Assembly business is:

- (g) any notice of a motion or order of the day relating to the establishment or membership of a committee or the referral of a matter to a committee;
- (h) any order of the day for the consideration of a motion moved upon the presentation of a committee discussion paper, committee report or the Government response to a committee report;
- (i) any notice of motion or order of the day to amend, disallow, disapprove or declare void and of no effect any instrument made under any Act of the Assembly which provides for the instrument to be subject to amendment, disallowance or disapproval of the Assembly or subject to a resolution of the Assembly declaring the instrument to be amended or void and of no effect or any other order of the day to consider such a motion; and (*Amended 4 May 1995*)
- (j) any notice of motion or order of the day which deals with the administration of the Assembly or the manner in which the Assembly conducts its proceedings. (*Amended 6 March 2008*)

Order of private Members' business

77A. An order of the day relating to a notice of motion under private Members' business having been moved and debated and either:

- (a) adjourned pending the Assembly's suspension for lunch; or
- (b) interrupted pursuant to standing order 74 and the Speaker setting a later hour of the day for the consideration of the matter;

this order has precedence over all other private Members' business, in accordance with standing orders 74 and 77, if debate has been adjourned by the Assembly until a later hour that day. (*Inserted 6 March 2008*)

Order of Executive business

78. Subject to standing order 77, the Manager of Government Business may arrange the order of Executive business notices and orders of the day on the *Notice Paper*. (*Amended 4 May 1995*)

Matter of public importance

79. A Member may propose to the Speaker that a matter of public importance be submitted to the Assembly for discussion **on sitting days other than those in which private Members' business has precedence**. Written notice of the matter shall be given to the Speaker not less than 1 ½ hours before the time fixed for the meeting of the Assembly; if the Speaker determines that the matter is in order, it shall be submitted to the Assembly. If more than one matter is proposed for the same day, the Speaker shall determine by lot before the commencement of the sitting the matter to be submitted to the Assembly for discussion that day. *(Amended 4 May 1995) (Temporary order 9 December 2008)*

Ministers to act for each other

80. A Minister, in the absence of another Minister, may act for and on behalf of that Minister in relation to any business before the Assembly of which that other Minister has charge.

Precedence to want of confidence motion

81. A motion of no confidence in the Chief Minister, of which at least one week's notice has been given, shall, until it is disposed of, take precedence over all other business. Such motion must be carried by an absolute majority of the Members.¹⁰

Leave of the Assembly

82. Leave of the Assembly may only be granted if no Member present objects. *(Amended 6 March 2008)*

¹⁰ See section 19 of the *Australian Capital Territory (Self-Government) Act 1988*.

CHAPTER 8

PETITIONS

This chapter sets out the procedures relating to petitions.

Petitions to be lodged with Clerk and to bear certificate

83. Every petition shall be lodged with the Clerk by 5 pm on the day previous to the meeting of the Assembly at which it is proposed that it be presented; when presented the petition must bear a certificate signed by the Clerk or the Deputy Clerk that it conforms with the standing orders.

Petitions which do not conform with the Standing Orders

- 83A. Petitions which do not conform with the standing orders may be lodged with the Clerk and may be presented by a Minister in accordance with standing order 74. The Minister may indicate the subject matter of the paper and the number of signatories. *(Adopted 4 May 1995 and amended 6 March 2008).*

Time for presenting certain petitions

84. A petition referring to a motion or an order of the day may be presented when such motion or order of the day is called on. A petition presented in this manner must contain certification from the Clerk or Deputy Clerk that it is in order. *(Amended 6 March 2008)*

To be addressed to the Assembly, legible, and free of sponsorship

85. Every petition shall be addressed to the Assembly, shall refer to a matter within the power of the Assembly, shall request action by the Assembly, and shall be fairly written, typewritten, printed or reproduced by mechanical process, without interlineation or erasure. *(Amended 6 March 2008)*

To be from residents/citizens of the Australian Capital Territory

86. Petitions must only contain signatures of residents/citizens of the Australian Capital Territory. *(Amended 6 March 2008)*

To be in English or accompanied by translation

87. Every petition shall be in the English language or be accompanied by a translation certified to be correct. A person certifying a translation to be correct shall affix his or her name and address to the translation.

To be signed on the same sheet

88. Every petition shall contain the signature and address of at least one person on the sheet on which the petition is inscribed.

To be signed by persons themselves

89. Each signature must be made by the person signing in his or her own handwriting: provided that persons unable to write shall affix their marks in the presence of a witness, who shall, as such, also affix his or her signature and address, and the address of the petitioner. *(Amended 6 March 2008)*

Signatures not to be transferred

90. Every signature must be written on a page bearing the terms of the petition, or the action asked for by the petition. Signatures must not be copied, pasted or transferred on to the petition or placed on a blank page on the reverse of a sheet containing the terms of the petition. *(Amended 6 March 2008)*

To be received only as from persons signing

91. All petitions shall be received only as the petitions of the parties signing the same.

From corporations

92. A petition from a corporation must be made under its common seal; otherwise it will be received as the petition of the individuals who signed it. *(Amended 6 March 2008)*

Documents not to be attached

93. Letters, affidavits, or other documents, may not be attached to a petition.

Must be respectful and within ministerial responsibility

94. Every petition shall be respectful, decorous and temperate in its language, and shall not contain irrelevant statements. If, in the opinion of the Speaker, the subject matter is not within the ministerial responsibility of the Territory or is critical of a character or conduct of a person, contains unbecoming expressions, is not respectful, decorous or temperate in its language or offends any standing order other than those relating to petitions, the paper shall be returned to the Member who lodged it. *(Amended 6 March 2008)*

Must be lodged by a Member

95. Petitions for presentation to the Assembly can be lodged with the Clerk only by Members, but Members cannot lodge petitions from themselves and shall be free from any indication that a Member may have sponsored or distributed the petition. *(Amended 6 March 2008)*

Members to sign and indicate number of petitioners

96. Every Member lodging a petition with the Clerk for presentation to the Assembly shall sign the beginning of that petition and indicate the number of eligible petitioners. *(Amended 6 March 2008)*

Standing orders to be observed

97. Every Member lodging a petition shall take care that the petition conforms to these standing orders. *(Amended 6 March 2008)*

Clerk to announce particulars of petitions lodged

98. The Clerk shall make an announcement as to the petitions lodged for presentation to the Assembly, indicating in the case of each petition the Member who lodged it, the identity and number of the eligible petitioners and the subject matter of the petition, and any Ministerial responses to petitions previously presented. No discussion upon the subject matter of a petition shall be allowed at the time of presentation. *(Amended 6 March 2008)*

Question on presentation

99. Upon the presentation of a petition to the Assembly, or on the next sitting day, a Member may move without notice that a particular petition be referred to a committee. *(Amended 6 March 2008)*

Referred to Ministers – Minister’s response

100. A copy 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. A Minister must respond to that petition within 3 months of the tabling of the petition by lodging a response with the Clerk for presentation to the Assembly, such response being announced at the end of the petitions announcement. *(Amended 6 March 2008)*

CHAPTER 9

NOTICES OF MOTION

This chapter sets out the procedures relating to notices of motion.

Notice of motion – how given

101. Notice of motion shall be given by delivering a copy of its terms to the Clerk in the Chamber during a sitting. The notice must be signed by the Member. (*Amended 6 March 2008*)
102. A notice of motion shall be entered by the Clerk on the *Notice Paper* at the first convenient opportunity.
103. A notice of motion given by a Member in accordance with standing order 81 shall be reported to the Assembly by the Clerk at the first convenient opportunity and shall not be entered by the Clerk on the *Notice Paper* until so reported.

Given for absent Member

104. A Member, in the absence of another Member and at that Member's request, may give a notice of motion for that Member and shall put that Member's name on the notice. The Member giving the notice shall also sign the notice.

Order of notices

105. Subject to the provisions of standing orders 16 (a) (iii) and 78, notices shall be entered by the Clerk on the *Notice Paper*, in priority of orders of the day, in the order in which they were given. (*Amended 27 August 1998*)

May be divided

106. 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 into two or more notices. The Member lodging the notice shall be notified of the revision. (*Amended 6 March 2008*)

Unbecoming notice amended

107. A notice of motion which, in the opinion of the Speaker, is too long, contains unbecoming expressions, or offends against any standing order, shall be amended by the Speaker before it appears on the *Notice Paper*. The Member lodging the notice shall be notified of the revision. (*Amended 6 March 2008*)

No contingent notice

108. A Member shall not give a contingent notice of motion.
109. (*Standing order omitted 6 March 2008*)

Terms altered

110. A Member who has given a notice of motion may alter its terms by notifying the Clerk in writing within such time as will enable the alteration to be made on the *Notice Paper*.

Withdrawal of notice

111. A Member who has given a notice of motion may withdraw the notice by notifying the Clerk in writing at any time prior to that proposed for moving the motion.

Operation of notice

112. A notice of motion becomes effective only when it appears on the *Notice Paper*.

CHAPTER 10

QUESTIONS SEEKING INFORMATION

This chapter sets out the procedures for questions seeking information, including the answers to questions without notice.

Questions without notice and questions on notice

113. (a) A Member may ask a question in writing to be placed on the *Notice Paper* for written reply.
- (b) During question time, a Member may ask a question without notice for immediate answer. *(Amended 6 March 2008)*

Questions without notice – number of questions

- 113A. Questions without notice shall not be concluded until all non-Executive Members rising have asked at least one question. *(Adopted 15 September 1994)*

Supplementary questions

- 113B. Immediately following the answer to a question, one supplementary question may be asked by the Member who asked the original question: provided that the supplementary question is relevant to the original question or arises out of the answer given, contains no preamble, introduces no new matter and is put in precise and direct terms. The Speaker may allow two further supplementary questions from other non-Executive Members, provided that the questions are relevant to the original question or the answers given. *(Inserted 6 March 2008. Amended 27 August 2009)*

- 113C On each sitting Tuesday and Wednesday each non-Executive Member may propose to the Speaker one question which may be asked of a rostered Minister provided that no Ministers shall be rostered on consecutive sitting days.**

The roster shall be determined by the Legislative Assembly by resolution.

Notice of the question shall be provided to the Speaker not later than 1.5 hours before the time fixed for the meeting of the Assembly.

If the Speaker determines that a question is in order, the Speaker may choose by lot up to five questions, and these shall be published prior to the time the Assembly meets.

At the conclusion of questions without notice, the Speaker shall call each Member whose question has been chosen to ask their question and one supplementary.

Ministers shall have two minutes to answer the question and any supplementary.
(Temporary order 25 August 2011)

Questions to Ministers

114. Questions may be put to a Minister relating to public affairs with which that Minister is officially connected, to proceedings pending in the Assembly or to any matter of administration for which that Minister is responsible.

Questions to Speaker

115. Questions may be put to the Speaker relating to any matter of administration for which the Speaker is responsible.

Questions to other Members

116. 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.

Rules for all questions

117. The following general rules shall apply to questions:
- (a) questions shall be brief and relate to a single issue;
 - (b) questions shall not contain:
 - (i) statements of fact or names of persons unless they are strictly necessary to render the question intelligible and the facts can be authenticated;
 - (ii) arguments;
 - (iii) inferences;
 - (iv) imputations;
 - (v) epithets;
 - (vi) ironical expressions; or
 - (vii) hypothetical matters;
 - (c) questions shall not ask Ministers:
 - (i) for an expression of opinion;
 - (ii) to announce Executive policy, but may seek an explanation regarding the policy of the Executive and its application, and may ask the Chief Minister whether a Minister's statement represents Executive policy; or
 - (iii) for a legal opinion;
 - (d) questions shall not be asked which reflect on or are critical of the character or conduct of those persons whose conduct may only be challenged on a substantive motion, and notice must be given of questions critical of the character or conduct of other persons;
 - (e) questions shall not refer to proceedings in committee not yet published or anticipate the outcome of a committee inquiry;
 - (f) the Speaker may direct that the language of a question be changed, if, in the opinion of the Speaker, it is unbecoming or does not conform with the standing order;
 - (g) a question fully answered cannot be re-asked. *(Amended 6 March 2008)*

Answers to questions without notice

118. The answer to a question without notice:
- (a) shall be concise and **directly relevant** to the subject matter of the question *(Temporary order 9 December 2008)*; and
 - (b) shall not debate the subject to which the question refers; and

- (c) shall, in the case of the original question, be not longer than four minutes in length, and in the case of any supplementary question asked, not longer than two minutes in length. The Speaker may, at his/her discretion, order the clock to be stopped. *(Adopted 18 November 2003. Amended 27 August 2009)*

And the Speaker may direct a Member to terminate an answer if of the opinion that these provisions are being contravened or that the Member has had a sufficient opportunity to answer the question. *(Amended 6 March 2008)*

A Member who believes a response given to a question was in the form of a ministerial statement, may seek the leave of the Speaker to respond to the statement at the conclusion of Question Time for a period not exceeding five minutes. *(Temporary order 9 December 2008)*

Request for explanation concerning unanswered question

- 118A. If a Minister does not answer a question on notice (including a question taken on notice during questions without notice) asked by a Member, within 30 days of the asking of that question, and does not, within that period, provide to the Member who asked the question an explanation or statement satisfactory to that Member of why an answer has not yet been provided, then:
- (a) at the conclusion of questions without notice on any day after that period, that Member may ask the relevant Minister for such an explanation or a statement in relation to the question; and
 - (b) the Member may, at the conclusion of the explanation or statement, move without notice “That the Assembly takes note of the explanation”; or
 - (c) in the event that the Minister does not provide an explanation or statement to the satisfaction of the Member, that Member may, without notice, move a motion with regard to the Minister’s failure to provide an answer, or an explanation or a statement. *(Adopted 4 May 1995. Amended 6 March 2008)*

119. *(Standing order omitted 6 March 2008)*

Questions on Notice

120. Questions on Notice shall be given by a Member delivering it 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. *(Amended 6 March 2008)*

121. *(Standing order omitted 6 March 2008)*

Answers to questions on notice

122. The answer to a question on notice shall be given by delivering it to the Clerk. A copy shall be supplied to the Member who asked the question and the question and answer shall be printed in *Hansard*.

CHAPTER 11

MOTIONS, QUESTIONS, VOTES AND RESOLUTIONS

This chapter sets out the procedures when dealing with motions, questions before the Assembly, votes and the rescinding of votes or resolutions.

No motion without previous notice

123. A Member may not, except by leave of the Assembly, or unless it is otherwise provided by the standing orders, move any motion except pursuant to a notice appearing on the *Notice Paper*.

Precedence of motions

124. Motions shall have precedence over each other according to the order in which they appear on the *Notice Paper*. A motion may be postponed on motion without notice moved by the Member who gave notice of the motion.

Motions not called on

125. Subject to the provisions of standing order 78 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, after the motions of which notice for that day have been given.

Removal of notices from the *Notice Paper*

- 125A. After notifying the mover, the Clerk shall remove from the *Notice Paper* any notice of motion which has not been called on for eight sitting weeks. (*Inserted 6 March 2008*)

Precedence to vote of thanks or condolence

126. As a courtesy, the Assembly will ordinarily grant precedence to a motion moved without notice for a vote of condolence or thanks of the Assembly. (*Amended 6 March 2008*)

Member absent when notice called on

127. If a Member is not present in the Chamber when a notice of motion given by that Member is called on, it shall be withdrawn from the *Notice Paper*, unless another Member, at the request of the proposer, thereupon fixes a future time for moving the motion.

Member fails to move

128. If a Member, when the notice of motion given by the Member is called on, fails to move the motion, it shall be withdrawn from the *Notice Paper* unless the Member thereupon fixes a future time for moving the motion.

Question proposed by Speaker

129. When a motion has been moved, a question thereupon shall be proposed to the Assembly by the Speaker, and the motion shall be in the possession of the Assembly, and cannot be withdrawn without leave.

Anticipation of business

130. A matter on the *Notice Paper* must not be anticipated by a matter of public importance, an amendment or other less effective form of proceeding such as a speech in the adjournment debate, question on notice or an amendment. *(Amended 6 March 2008)*

Motion superseded or withdrawn, again moved

131. A motion which has been superseded or, by leave of the Assembly withdrawn, may be moved again.

Question put

132. As soon as the debate upon a question has been concluded, the Speaker shall put the question to the Assembly.

Question divided

133. The Assembly may order a question to be divided and may order reports of committees and other matters be considered by parts. *(Amended 6 March 2008)*

Question determined by majority of voices

134. A question being put shall be resolved in the affirmative or negative, by the majority of voices, "Aye" or "No".

Speaker states result

135. The Speaker shall state whether, in the Chair's opinion, the "Ayes" or the "Noes" are in the majority; if the opinion is challenged the question shall be decided by vote.

Same question may be disallowed

136. The Speaker may disallow any motion or amendment which is the same in substance as any question, which, during that calendar year, has been resolved in the affirmative or negative, unless the order, resolution or vote on such question or amendment has been rescinded.

Resolution or vote rescinded

137. A resolution or other vote of the Assembly, may be read and rescinded; no such resolution or other vote may be rescinded within the same calendar year, unless 3 days' notice is given: provided that to correct irregularities or mistakes one day's notice shall be sufficient, or the corrections may be made at once by leave of the Assembly.

CHAPTER 12

AMENDMENTS

This chapter sets out the procedures relating to amendments.

Different forms of amendments

138. A question having been proposed may be amended by:
- (a) omitting certain words only;
 - (b) omitting certain words in order to substitute other words; or
 - (c) inserting or adding words.

Amendments – proposed

139. A proposed amendment to any motion before the Assembly must, for purposes of record, be in writing and be signed by the mover.

Relevancy of amendment

140. Every amendment must be relevant to the question which it is proposed to amend.

Inconsistent amendment not to be moved

141. An amendment shall not be moved if it is inconsistent with a previous decision on the question.

No amendment of earlier part

142. An amendment may not 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.

Order of moving amendments

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

Proposed amendment withdrawn

144. A proposed amendment may, by leave, be withdrawn.

Amendments to proposed amendments

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

Question as amended put

146. When amendments have been made, the main question shall be put as amended.

When amendments moved but not made

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

CHAPTER 13
ORDERS OF THE DAY

This chapter sets out the procedures relating to orders of the day.

Order of the day defined

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

Precedence over orders of the day

149. Subject to standing orders 16 (1) (c) and 78, orders of the day shall have precedence over each other according to the order in which they appear on the *Notice Paper*.
(Amended 27 August 1998 and 6 March 2008)

Order postponed

150. An order of the day may be postponed on motion without notice by any Member.
(Amended 6 March 2008)

Orders of the day not called on

151. If, at the adjournment of the Assembly, any orders of the day on the *Notice Paper* have not been called on, such orders of the day shall be set down on the *Notice Paper* for the next sitting day.

Order discharged

152. When an order of the day is reached, it may, on motion without notice moved by the Member in charge of it, be discharged.

Removal of private Members' business orders of the day from the *Notice Paper*

- 152A. After notifying the Member in charge, the Clerk shall remove from the *Notice Paper* any:
- (a) private Members' business order of the day, excluding bills; and
 - (b) Assembly business order of the day to take note of a paper or report: which has not been called on for eight sitting weeks. (Amended 26 August 2010)

CHAPTER 14

VOTING/DIVISIONS

This chapter sets out the procedures relating to voting in the Assembly.

Vote called for

153. Whenever the Speaker states, on putting a question, that the “Ayes” or the “Noes” (as the case may be) are in the majority, that opinion may be challenged by a Member requesting a call of the Assembly. *(Amended 6 March 2008)*

Member to vote in accordance with voice

154. Members shall vote in accordance with their voices (either “Aye” or “No”) and their votes shall be so recorded.

Member calling for vote

155. A Member calling for a vote shall remain seated until after the Assembly is called and shall vote with those who, in the opinion of the Speaker, were in the minority when the voices were taken.

Conflict of interest

156. A Member who is a party to, or has a direct or indirect interest in, a contract made by or on behalf of the Territory or a Territory authority shall not take part in a discussion of a matter, or vote on a question, in a meeting of the Assembly where the matter or question relates directly or indirectly to that contract. Any question concerning the application of this standing order shall be decided by the Assembly. ¹¹

Member not to vote unless present when call taken

157. A Member shall not be entitled to vote unless, when the call of the Assembly is taken, that Member is in the Member’s allotted seat. A Member wishing to abstain from voting must absent themselves from the Chamber. *(Amended 6 March 2008)*

Bells rung – sand-glass turned

158. Before a vote is taken, the Clerk shall ring the voting bells and turn a 4 minute sand-glass and the vote shall not be proceeded with until after the lapse of 4 minutes, as indicated by the sand-glass.

Standing order may be waived

159. The Speaker may dispense with the requirement of standing order 158 if it is apparent that all Members who can be present are in the Chamber.

Question stated – call of Assembly

160. When Members are in their places, the Speaker shall state the question and then direct the Clerk to call the Assembly. The Clerk shall then call the names of the Members in alphabetical order and each Member on being called shall signify “Aye” or “No” accordingly.

¹¹ See section 15 of the *Australian Capital Territory (Self-Government) Act 1988*.

Members present must vote
Member presiding has deliberative vote

161. On the call of the Assembly being commenced, every Member within the seats allotted to Members shall vote and Members may not move from their places until the result is announced. The Member presiding has a deliberative vote only.

Speaker declares result
Votes equal – question negatived

162. The Clerk shall then present the list to the Speaker who will declare the result to the Assembly. When the votes are equal, the question shall be resolved in the negative.

Point of order during vote

163. Should a point of order arise during a vote, it shall be decided by the Speaker.

Votes lists recorded

164. The Clerk shall record lists of votes in the Minutes of Proceedings.

In case of error Assembly again votes

165. In case of confusion or error concerning the numbers reported, unless the same can be otherwise corrected, the Assembly shall proceed to another vote.

Record corrected

166. If a complaint is made to the Assembly that a vote has been inaccurately reported, the Speaker may cause the record to be corrected.

CHAPTER 15

BILLS

This chapter sets out the procedures relating to the initiation and passage of Bills in the Assembly.

Initiation

How initiated

167. A bill shall be initiated by the calling on of a notice of presentation; or in accordance with the provisions of standing order 200. (*Amended 6 March 2008*)

Notice of presentation

168. (a) Notice of intention to present a bill shall be given by a Member by delivering a copy of its terms to the Clerk in the Chamber during a sitting;
- (b) a notice of intention to present a bill shall specify the long title of the bill, and shall be signed by the Member; (*Amended 6 March 2008*)
- (c) on the calling on of the notice a Member shall present to the Assembly two printed copies of the bill signed by that Member and an explanatory statement to the bill; and (*Amended 20 February 2003 and 30 June 2011*)
- (d) 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. (*Amended 4 May 1995*)

Title – clauses to come within title

169. The long title of a bill must agree with the notice of intention to present it, and every component of the bill must come within the long title. (*Amended 6 March 2008*)

Irregular bill to be withdrawn

170. Every bill not prepared according to the standing orders shall be ruled out of order by the Speaker and withdrawn from the *Notice Paper*. (*Amended 6 March 2008*)

In principle agreement

Motion for in principle agreement

171. When a bill has been presented, the Member shall move, “That this bill be agreed to in principle” and the debate on the question shall then be adjourned to a future day on the motion of another Member.

Agreement in principle to be determined at a later meeting

172. The question “That this bill be agreed to in principle” shall not be determined by the Assembly during the sitting **period** at which the bill is first introduced, except in the case of a bill declared to be an urgent bill. (*Temporary order 9 December 2008*)

Amendments to be relevant

173. An amendment may be moved to the question “That this bill be agreed to in principle”. The amendment must be relevant to the bill, must not anticipate an amendment which may be moved at the detail stage, and must make clear whether or not the bill will proceed to further stages of passage. (*Amended 6 March 2008*)

Proceedings following in principle agreement

Reference to select or standing committee

174. At any time after the presentation of a bill to the Assembly, including immediately after a bill has been agreed to in principle but not after the completion of the detail stage, a Member may move that the bill be referred to a select or standing committee. *(Amended 6 March 2008)*

Committee proceedings not noticed until reported

175. When a bill has been referred to a committee in accordance with standing order 174 it cannot be dealt with by the Assembly until the committee has reported. *(Amended 6 March 2008)*

Proceedings following reference to committee

176. When a bill has been referred to a select or standing committee and has been reported on, the Assembly shall proceed to the next stage of the bill as reported at the next sitting. *(Amended 6 March 2008)*
177. *(Standing Order omitted 6 March 2008)*

Detail stage of bill

Leave to dispense with detail stage

178. After a bill has been agreed to in principle, and there are no proceedings under standing order 174, the Assembly shall forthwith proceed to the detail stage unless the Assembly grants leave to dispense with the detail stage.

Title and preamble stand postponed

Clauses considered

179. At the detail stage, the title and the preamble stand postponed without question proposed, and the clauses (including the headings) shall be considered in their order, a question being proposed by the Speaker on each clause "That the clause be agreed to". *(Amended 6 March 2008)*

Order in considering bill

180. Unless the Assembly otherwise orders, the following order shall be observed in considering the components of a bill:
- (a) clauses as printed and new clauses (including their headings), in their numerical order;
 - (b) schedules as printed and new schedules, in their numerical order;
 - (c) postponed clauses (not having been specifically postponed until after certain other clauses);
 - (d) dictionary;
 - (e) preamble; and
 - (f) long title.

In considering the main appropriation bill for the year, any schedule expressing the services for which the appropriation is to be made shall be considered before the clauses and, unless the Assembly otherwise orders, the schedule shall be considered by proposed expenditures in the order in which they are shown.

In reconsidering a bill, the same order shall be followed as far as possible. *(Amended 6 March 2008)*

Admissible amendments

181. An amendment may be moved to any part of the bill, provided it is within the long title and relevant to the subject matter of the bill, and otherwise conforms with the standing orders. *(Amended 6 March 2008)*

Amendments in writing and circulated

182. An amendment can only be proposed if:
- (a) it is in writing and is signed by the mover; and
 - (b) copies of the amendment are immediately available for circulation to Members. *(Amended 6 March 2008)*

- 182A. An amendment to be proposed by the Government to its own bill must be considered and reported on by the Scrutiny Committee before it can be moved.**

By leave of the Assembly, this standing order may be dispensed with on the grounds that an amendment is:

- (a) urgent; or**
- (b) minor or technical in nature; or**
- (c) in response to comment made by the Scrutiny Committee.** *(Temporary order adopted 26 February 2009)*

Relevancy of debate

183. The debate shall be confined to the components of the bill (as set out in standing order 180) or amendment before the Assembly. *(Amended 6 March 2008)*

Clause or other component of the bill put as amended

184. If any clause or other component of the bill is amended, a further question shall be proposed, "That the clause (or other component), as amended, be agreed to". *(Amended 6 March 2008)*

Clause or other component may be postponed

185. A clause (or other component) of a bill or a clause (or other component) which has been amended may be postponed. *(Amended 6 March 2008)*

Amendment of title

186. If any amendment has been made in the bill, necessitating an amendment to the long title, such title shall be amended, and a question proposed, "That the title, as amended, be agreed to". *(Amended 6 March 2008)*

Reconsideration of bill

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

Inadmissible amendments

188. An amendment or new clause or other component of a bill (see standing order 180) shall not be moved if it is substantially the same as one already negatived or, if it is inconsistent with one that has been already agreed to, unless the bill has been reconsidered. *(Amended 6 March 2008)*

Bill agreed to

189. When the detail stage has been completed, the question “That this bill (as amended) be agreed to” shall be put forthwith and determined without amendment or debate.

Bill passed – no further question

190. After the bill has been agreed to pursuant to standing order 189, no further question on the bill shall be put, and the bill shall have passed the Assembly.

Corrections to a bill

191. (a) Under the authority of the Speaker, the Clerk may make the following formal amendments to a bill passed by the Assembly before the bill is presented to the Speaker to request notification:
- (i) amendments to correct clerical, grammatical or typographical errors;
 - (ii) amendments consequential on the passage of the bill, including:
 - (A) amendments necessary or desirable to the title, long title or method of citation;
 - (B) amendments to correct the citation of an Act;
 - (C) renumbering of provisions and updating of cross-references.
- (b) The Speaker must advise the Assembly when the amendments are made.”
(Amended 6 March 2008 and 2 April 2009)

Urgent bills

192. If a Member in charge of a bill, or a Member acting on behalf of that Member, declares that a bill is urgent, the question “That this bill be considered an urgent bill” shall be put. If the question is agreed to, the Member may forthwith move a motion specifying the time which shall be allotted to the various stages of the bill. Debate on any question shall be subject to standing order 69(f) – Allotment of time. *(Amended 6 March 2008)*

Certificate of bill having passed

193. After a Bill has been passed, the Clerk shall certify a copy as a true copy of the Bill passed by the Assembly, and the Speaker shall then ask the Parliamentary Counsel to notify the making of the proposed law. *(Amended 30 August 2001)*¹²

Bills for entrenching laws

194. Whenever a bill for an entrenching law has been passed by the Assembly and approved by a majority of the electors of the Territory at a referendum, it shall be so certified by the Clerk and the Speaker shall then ask Parliamentary Counsel to notify the making of the proposed law. *(Amended 6 March 2008)*

¹² The amendment took effect from the commencement of Section 28 of the *Legislation Act 2001*, 12 September 2001.

Message from the Governor-General

195. A message from the Governor-General recommending amendments to an enactment shall be announced to the Assembly by the Speaker, but not during a debate, nor as to interrupt a Member speaking.

Amendments by Governor-General

196. Where the Governor-General recommends amendments to an enactment, the amendments shall be printed, unless the Assembly otherwise orders, and a time fixed for taking them into consideration.

How dealt with

197. Amendments recommended by the Governor-General may be agreed to either with or without amendments, or disagreed to; or their consideration postponed.

Relevancy of amendments to Governor-General's amendments

198. An amendment may not be moved to an amendment recommended by the Governor-General unless it is relevant thereto; nor may any amendment be moved to the enactment unless it is relevant to, or consequent upon, amendments recommended by the Governor-General.

Further proceedings after consideration

199. When amendments recommended by the Governor-General have been considered by the Assembly, a message shall be sent informing the Governor-General of any action taken.

CHAPTER 16

FINANCIAL PROCEDURES

This chapter sets out the procedures relating to the appropriation of public money of the Territory.

Money proposals submitted – without notice

200. An enactment, vote or resolution for the appropriation of the public money of the Territory must not be proposed in the Assembly except by a Minister. Such proposals may be introduced by a Minister without notice. ¹³ (*Amended 16 June 1994*)

Limitations on amendments

201. A Member, other than a Minister, may not move an amendment to a money proposal, as specified in standing order 200, if that amendment would increase the amount of public money of the Territory to be appropriated. ¹⁴ (*Amended 16 June 1994*)
- 201A. An amendment in accordance with standing order 201 must be in accordance with the resolution agreed to on 23 November 1995 – i.e. “That this Assembly reaffirms the principles of the Westminster system embodied in the ‘financial initiative of the Crown’ and the limits that that initiative places on non-executive Members in moving amendments other than those to reduce items of proposed expenditure.”. (*Inserted 6 March 2008*)

¹³ See section 65 of the *Australian Capital Territory (Self-Government) Act 1988*

¹⁴ *ibid*

CHAPTER 17

DISORDER

This chapter sets out the procedures relating to disorder in the Assembly and in committees.

Disorder by Member

202. If any Member has:
- (a) persistently and willfully obstructed the business of the Assembly; or
 - (b) been guilty of disorderly conduct; or
 - (c) used offensive words, which the Member has refused to withdraw; or
 - (d) persistently and willfully refused to conform to any standing order; or
 - (e) persistently and willfully disregarded the authority of the Chair –
- that Member may be named by the Speaker.

Proceedings following naming

203. Upon naming a Member the Speaker shall forthwith put the question, no amendment, adjournment or debate being allowed, “That such Member be suspended from the service of the Assembly”. (*Amended 6 March 2008*)

Period of suspension

204. If any Member is suspended under standing order 203, that Member’s suspension on the first occasion shall be for 3 sitting hours; on the second occasion during the same calendar year for 2 sitting days excluding the day of suspension; and on the third or any subsequent occasion during the same calendar year for 3 sitting days excluding the day of suspension.

Speaker may order disorderly Member to withdraw. Member named

205. When the conduct of a Member is of such a grossly disorderly nature that the procedures provided in standing order 203 would be inadequate to ensure the urgent protection of the dignity of the Assembly, the Speaker shall order the Member to withdraw immediately from the Chamber and the officers of the Assembly shall act on such orders as they receive from the Chair in pursuance of this standing order. When the Member has withdrawn, that Member shall forthwith be named by the Speaker and the proceedings shall then be as provided in standing orders 203 and 204, except that the question for the suspension of the Member shall be put by the Chair without a motion being necessary.

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

Member suspended excluded from Chamber and other activities

206. A Member who has been suspended from the service of the Assembly shall be excluded from the Chamber and the gallery. During a period of suspension, a Member may participate in committee proceedings but may not lodge notices, questions, petitions or matters of public importance. (*Amended 6 March 2008*)

Removal of a Member

- 206A. If a Member refuses to follow the Speaker's direction, the Speaker may order the Serjeant-at-Arms to remove the Member from the Chamber. *(Inserted 6 March 2008)*

Speaker may adjourn Assembly or suspend sitting

207. In the case of grave disorder arising in the Assembly, the Speaker may adjourn the Assembly without any question being put, or suspend any sitting to a time to be named by the Speaker. *(Amended 6 March 2008)*

Member ordered to attend the Assembly

208. If any Member willfully disobeys any order of the Assembly, that Member may be ordered to attend the Assembly to answer for that conduct.

Disorderly person may be removed

209. Where, in the opinion of the Speaker or the Chair of any committee, a person other than a Member behaves in an offensive or disorderly manner or otherwise disrupts the proceedings of the Assembly or any of its committees, the Speaker or the Chair of the committee, as the case may be, may require the person to leave the Chamber and its precincts or the place of meeting of the committee and may authorise the removal of the person. *(Amended 6 March 2008)*

CHAPTER 18

STRANGERS

This chapter sets out the procedures relating to strangers in the Chamber when the Assembly is sitting.

Strangers not admitted into body of Chamber

210. While the Assembly is sitting no stranger, other than a nursing infant being breastfed by a Member, may be present in any part of the Chamber allocated to Members of the Assembly. *(Amended 6 March 2008)*

CHAPTER 19
PAPERS AND DOCUMENTS

This chapter sets out the procedures relating to the presentation of papers and quoting of documents in the Assembly.

Papers presented

211. Papers may be presented to the Assembly by a Minister or the Speaker.

Papers and documents may be inspected and copied

212. All papers and documents presented to the Assembly and not authorised for publication may be made available to Members and, with the permission of the Speaker, may be inspected by other persons or copies may be made unless otherwise ordered. *(Amended 6 March 2008)*

Publication of certain documents authorised

- 212A. Unless otherwise ordered, the following papers are authorised for publication when presented to the Assembly:
- (a) papers presented by the Speaker;
 - (b) reports and discussion papers of standing or select committees of the Assembly;
 - (c) papers presented pursuant to standing orders or resolutions of the Assembly;
 - (d) papers presented pursuant to statute; and
 - (e) papers presented by Ministers during the period in the daily routine of business for presentation of papers. *(Inserted 6 March 2008; Amended 26 August 2010)*

Quoting documents

213. A document quoted from by a Member may be ordered by the Assembly to be presented; the order may be made without notice immediately upon the conclusion of the speech of the Member who has quoted from the document.

Order for the production of documents

- 213A
- (1) **The Assembly may order documents to be tabled in the Assembly. The Clerk is to communicate to the Chief Minister's Department all orders for documents made by the Assembly.**
 - (2) **When returned, the documents (where no claim of privilege is made by the Chief Minister) will be laid on the Table by the Clerk.**
 - (3) **A return under this order is to include an indexed list of all documents tabled, showing the date of creation of the document, a description of the document and the author of the document.**
 - (4) **If at the time the documents are required to be tabled the Assembly is not sitting, the documents may be lodged with the Clerk, and unless privilege is claimed, are deemed to have been presented to the Assembly.**

- (5) Where a document is considered by the Chief Minister to be privileged, a return is to be prepared showing the date of creation of the document, a description of the document, the author of the document and reasons for the claim of privilege.**
- (5A) Where the Assembly requires a document to be returned, either the document requested or a claim of privilege must be given to the Clerk within 14 calendar days of the date of the order by the Assembly. *(Inserted 2 April 2009).***
- (6) Any Member may, by communication in writing to the Clerk, dispute the validity of the claim of privilege in relation to a particular document or documents. On receipt of such communication, the Clerk will advise the Chief Minister's Department, who will provide to the Clerk, within seven days, copies of the disputed document or documents. The Clerk is authorised to release the disputed document or documents to an independent legal arbiter, for evaluation and report within seven calendar days as to the validity of the claim.**
- (7) The independent legal arbiter is to be appointed by the Speaker and must be a retired Supreme Court, Federal Court or High Court Judge.**
- (8) A report from the independent legal arbiter is to be lodged with the Clerk and:**
 - (a) made available only to Members of the Assembly; and**
 - (b) not published or copied without an order of the Assembly.**
- (9) If the independent legal arbiter upholds the claim of privilege the Clerk shall return the document(s) to the Chief Minister's Department.**
- (10) If the independent legal arbiter does not uphold the claim of privilege, the Clerk will table the document(s) that has been the subject of the claim of privilege. In the event that the Assembly is not sitting, the Clerk is authorised to release the document to any Member.**
- (11) The Clerk is to maintain a register showing the name of any person examining documents tabled under this order. *(Temporary order adopted 12 February 2009)***

Motion to take note or refer to a committee

214. On any paper being presented to the Assembly as provided in this chapter, a Minister may move without notice either of the following motions:

- (a) that the Assembly takes note of the paper; or**
- (b) that the paper be referred to a committee for inquiry and report:**

provided that, if such a motion is not moved at the time of the presentation of the paper, it may be moved subsequently, on notice or by leave.

CHAPTER 20

COMMITTEES

This chapter sets out the procedures relating to committees of the Assembly.

Standing committees

215. Standing committees shall be established and Members appointed as soon as practicable after the commencement of each Assembly. *(Amended 6 March 2008)*
216. Within the terms of the resolution of establishment agreed to by the Assembly and subject to any direction of the Assembly, any standing committee may inquire into and report on any matter it considers merits investigation or which the Assembly refers to it. Where a committee self-refers a matter, the Chair, or in the absence of the Chair, the Deputy Chair, shall inform the Assembly of the inquiry at the next meeting after the matter has been referred, such statement being made in accordance with standing order 246A. *(Amended 6 March 2008)*

Select committees

217. The Assembly may establish select committees. A standing committee shall take care not to inquire into any matters which are being examined by a select committee and any question arising in this connection may be referred to the Assembly for resolution. *(Amended 6 March 2008)*

Report from select committee

218. On the establishment of a select committee, a day shall be fixed for the reporting of its proceedings to the Assembly, by which day the report of the committee shall be presented by the Chair, unless further time is granted; the Assembly may at any time prior to such day receive the report of the committee. *(Amended 6 March 2008)*

First meeting

219. The time and date for the first meeting of a committee shall be fixed by the secretary of the committee, under the general direction of the Speaker, and shall be held within seven days of the establishment of a committee. *(Amended 6 March 2008)*
- 219A. Notice of meetings subsequent to the first meeting shall be given by the secretary attending the committee:
- (a) pursuant to resolution of the committee;
 - (b) on instruction of the Chair; or
 - (c) upon a request by a quorum of Members of the committee. *(Inserted 6 March 2008)*

Membership

220. A committee shall consist of not more than 5 Members unless otherwise ordered. *(Amended 6 March 2008)*
221. Overall membership of committees shall comprise representatives of all groups and parties in the Assembly as nearly as practicable proportional to their representation in the Assembly. *(Amended 6 March 2008)*

Membership reported

222. Nominations for membership of each committee shall be notified in writing to the Speaker who shall report nominations to the Assembly and those Members so nominated shall be appointed to the committee on motion without notice moved by a Minister as soon as practicable. If more nominations are received than there are places, the Assembly shall proceed to a ballot to determine the committee membership.

Discharge of Members and replacement

223. Members may be discharged from a committee and other Members appointed on motion without notice.

When a change to committee membership is required and the Assembly is not due to meet for two weeks, the relevant Whip or crossbench Member may write to the Speaker suggesting any appointment or discharge of a Member of a committee. The Speaker may approve the change if s/he considers it necessary to the functioning of the committee, and the change in membership shall take effect from the time the Speaker responds to the Member that proposed the change. At the next sitting of the Assembly, the Speaker shall report the change of membership of the committee to the Assembly who shall resolve the membership of the committee. *(Amended 6 March 2008)*

Pecuniary interest

224. A Member may not sit on a committee if that Member has any direct pecuniary interest in the inquiry before such committee.

Election of Chair and Deputy Chair

225. Every committee, before proceeding to other business, shall elect a Chair and a Deputy Chair. *(Amended 6 March 2008)*

225A. *(Standing Order omitted 6 March 2008)*

Powers of Deputy Chair

226. Whenever a committee is informed by the secretary to the committee of the absence of the Chair, the Deputy Chair shall perform the duties of the Chair during that absence. *(Amended 6 March 2008)*

Absence of Chair and Deputy Chair

227. Whenever a committee is informed by the secretary to the committee of the absence of both the Chair and the Deputy Chair, the Members present may at once proceed to elect one of their number who shall perform the duties of the Chair during that absence. *(Amended 6 March 2008)*

Chair's voting rights

228. The Chair, the Deputy Chair acting as Chair, or any other Member acting as Chair shall have a deliberative vote only. All Members, including the Chair shall have only a deliberative vote. *(Amended 6 March 2008)*

Adjournment and sitting of committee

229. A committee may adjourn from time to time, move from place to place and may sit during any adjournment or suspension of the proceedings of the Assembly. *(Amended 7 June 1990 and 6 March 2008)*

Chair may adjourn or suspend sitting of committee

- 229A. In the case of grave disorder arising when a committee is taking evidence or deliberating, the Chair may adjourn the committee without the question being put or may suspend the committee. The committee shall reconvene at a time to be named by the Chair or at a time to be fixed by the Speaker or, in the absence of the Speaker, the Deputy Speaker, on receipt of a request in writing from an absolute majority of Members of the committee. *(Adopted 10 March 1999, amended 6 March 2008)*

Use of audio visual or audio links

- 229B. When a public meeting or deliberative meeting is being conducted, 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 an 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; provided that, if the Chair is not present where the public hearing or the deliberative meeting is being conducted, the Deputy Chair shall chair the meeting in accordance with standing order 226. *(Inserted 6 March 2008)*

Proceedings and sittings of committees

- 229C. A committee may conduct proceedings in any of the following ways:
- (i) in private meeting;
 - (ii) by the hearing of witnesses (for the taking of evidence), either in public or in private; and
 - (iii) in any other form in accordance with the standing orders and practices relating to the conduct of committees of the Assembly. *(Inserted 30 June 2011)*

Quorum

230. A majority of the Members of a committee shall constitute a quorum when that committee is deliberating, with the exception of taking and authorising publication of evidence as described in standing order 231. *(Amended 6 March 2008)*

Quorum for taking of evidence

231. For the purposes of taking and authorising the publication of evidence, 2 Members shall constitute a quorum of a committee.

Want of quorum

232. If after the lapse of 15 minutes from the time appointed for the meeting of a committee there is not a quorum the Members present may retire and their names shall be entered in the minutes. The secretary shall notify in writing all Members of the time set down for the next meeting.

Lapse of quorum

233. If any Member of the committee takes notice that a quorum of Members is not present the Chair shall count the committee and, if a quorum is not present, the committee shall suspend until a quorum is present. If in the opinion of the Chair a quorum cannot be obtained, the committee shall adjourn to a date and time to be fixed. *(Amended 6 March 2008)*

Admission of other Members

234. Members of the Assembly may be present when a committee is examining witnesses, but shall withdraw if requested by the Chair or any Member of the committee, and shall always withdraw when the committee is deliberating. *(Amended 6 March 2008)*

Other Member's right to question witnesses

235. When a committee is examining witnesses, Members of the Assembly not being Members of the committee may, by leave of the committee, question witnesses.

Admission of visitors

236. When a committee is examining witnesses, visitors may be admitted, but shall be excluded at the request of any Member, or at the discretion of the Chair of the committee, and shall always be excluded when the committee is deliberating. *(Amended 6 March 2008)*

Minutes of proceedings

237. All proceedings of a committee shall be recorded by the secretary to the committee. Such records shall constitute the minutes of proceedings of the committee and shall be signed by the Chair after confirmation by the committee. *(Amended 6 March 2008)*

Specialist advisers

238. The Speaker may appoint persons with specialist knowledge (either to supply information which is not readily available or to explain matters of complexity within the committee's inquiry) upon such terms and conditions as the Speaker may determine. *(Amended 6 March 2008)*

Power to send for persons, papers and records

239. A committee shall have power to send for persons, papers and records.
240. A committee may direct the secretary to the committee to summon witnesses to be examined before the committee. *(Amended 6 March 2008)*

Disclosure of proceedings, evidence and documents

241. (a) A committee may receive and authorise publication of evidence given before it or documents presented to it;
- (b) a committee's evidence, documents, proceedings and reports may not be disclosed or published to a person (other than a Member of the committee or Assembly employee if necessary in the course of their duties) unless they have been:
- (i) reported to the Assembly; or
 - (ii) authorised by the Assembly or the committee;
- (c) a committee may resolve to:
- (i) publish press releases, discussion or other papers or preliminary findings; or
 - (ii) divulge evidence, documents, proceedings or reports on a confidential basis to persons for comment where it is clearly necessary to assist the committee in its inquiry;

- (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. *(Amended 6 March 2008)*

Unauthorised disclosure of proceedings, documents or evidence

242. The Assembly adopts the following procedures to be followed by committees in respect of matters on which such committees may wish action to be taken:
- (a) (i) a committee affected by any unauthorised disclosure of proceedings or documents of, or evidence before, that committee shall seek to discover the source of the disclosure, including by the Chair of the committee writing to all Members and staff asking them if they can explain the disclosure;
- (ii) the committee concerned should come to a conclusion as to whether the disclosure had a tendency substantially to interfere with the work of the committee or of the Assembly, or actually caused substantial interference;
- (iii) if the committee concludes that there has been potential or actual substantial interference it shall report to the Assembly and the matter may be raised with the Speaker by the Chair of the committee, in accordance with standing order 276;
- (b) nothing in this resolution affects the right of a Member to raise a matter of privilege under standing order 276. *(Amended 6 March 2008)*

Disclosure of documents of the Assembly and its committees

243. That, unless otherwise ordered, the Speaker is authorised to permit any person to examine and copy evidence submitted to, or documents of, committees which are in the custody of the Assembly, which have not already been published by the Assembly or its committees, and which have been in the custody of the Assembly for at least 10 years:
- (a) provided that if such evidence or documents were taken in camera or submitted on a confidential or restricted basis, disclosure shall not take place unless the evidence or documents have been in the custody of the Assembly for at least 15 years and, in the opinion of the Speaker, it is appropriate that such evidence or documents be disclosed;
- (b) provided further that the Speaker report to the Assembly the nature of any evidence or documents made available under this resolution and the person or persons to whom they have been made available;
- (c) persons who gave evidence in camera, either written or oral, as far as practicable, shall be advised of the release of that evidence. *(Amended 6 March 2008)*

244. A document received by a committee shall not be withdrawn or altered without the approval of the committee.

Examination of witnesses

245. The examination of witnesses before every committee shall be conducted as follows: the Chair shall first put to the witness all such questions as that Member may deem essential, according to the mode of procedure agreed on by the committee and then call on each of the other Members to put any other questions. *(Amended 6 March 2008)*

Witnesses' right to advice

246. Witnesses before a committee may not be represented by legal counsel unless so ordered by the Assembly but a witness may consult with legal counsel or advisers while giving evidence. *(Amended 6 March 2008)*

Statement and discussion paper

- 246A. A committee may resolve to make a statement to the Assembly or to release a discussion paper generally on matters within a committee's resolution of establishment or which relates to a particular inquiry being undertaken by the committee.

If the committee resolves that a statement should be made to the Assembly or a discussion paper released concerning an inquiry under consideration or a matter within its terms of reference, the Chair may make such a statement to the Assembly. The committee is authorised to release a discussion paper when the Assembly is not sitting, but must present the discussion paper at the next meeting of the Assembly. The discussion paper must be signed by the Chair. *(Amended 6 March 2008)*

- 246B. *(Standing Order omitted 6 March 2008)*

Draft report

247. It shall be the duty of the Chair of every committee to prepare a draft report. *(Amended 6 March 2008)*

Consideration of draft report

248. At a meeting convened for the purpose, the Chair shall submit the draft report which may be considered at once. Copies shall be circulated in advance to each Member of the committee. The report shall be considered paragraph by paragraph or, by leave, paragraphs may be considered together. Appendices shall be considered in order at the conclusion of the consideration of the report itself. A Member objecting to any portion of the report shall move an amendment at the time the paragraph to be amended is under consideration. *(Amended 6 March 2008)*

Alternative draft report

249. If any Member, other than the Chair, submits a draft report to the committee, the committee shall first decide upon which report it will consider. *(Amended 6 March 2008)*

Reconsideration of draft report

250. After the draft report has been considered, the whole or any paragraph may be reconsidered and amended.

Dissenting report

251. If any Member dissents from part or all of the draft report under consideration, that Member may present a dissenting report or additional comments which shall be added to the report agreed to by the committee. *(Amended 6 March 2008)*

Signing of report

252. Every report of a committee shall be signed by the Chair, and any dissenting report or additional comments shall be signed by the relevant Member or Members. *(Amended 6 March 2008)*

Presentation of report

253. The report of a committee shall be presented to the Assembly by the Chair or, in the absence of the Chair, by the Deputy Chair, together with the minutes of proceedings. *(Amended 6 March 2008)*

253A. When presenting its report, the Chair of the Select Committee on Estimates will present to the Assembly a schedule listing questions on notice for which answers were not provided during the annual estimates inquiry. Outstanding questions on notice will be provided to the Clerk within 30 days from the tabling of the estimates report. The Speaker will present to the Assembly the answers received after the report has been tabled and a schedule of questions on notice outstanding after the 30-day period.

Consideration of report by Assembly

254. Upon the presentation of a report to the Assembly, the Chair or, in the absence of the Chair, the Deputy Chair may move without notice:

- (a) that the report be noted;
- (b) that the recommendation(s) be adopted (or agreed to);
- (c) that the report be adopted; or
- (d) that consideration of the report be made an order of the day for the next sitting (when a specific motion without notice in connection therewith may be moved). *(Amended 6 March 2008)*

Request for explanation concerning government response to Committee report

254A. **If a government response to a committee report has not been tabled within three months of the presentation of the report, the Chair of the committee may without notice:**

- (a) **ask the relevant Minister for such an explanation or a statement in relation to the government response to the committee report; and**
- (b) **the Chair may, at the conclusion of the explanation or statement, move without notice “That the Assembly takes note of the explanation”.**

In the event that the Minister does not provide an explanation or statement to the satisfaction of the Chair, that Chair may, without notice, move a motion with regard to the Minister’s failure to provide a government response, or an explanation or a statement. *(Temporary order 9 December 2008)*

CHAPTER 21

WITNESSES

This chapter sets out the procedures relating to witnesses before the Assembly and its committees.

Summoning of witnesses

255. Witnesses, not being Members, may be ordered to attend before the Assembly by summons under the hand of the Clerk of the Assembly, or before a committee of the Assembly under the hand of the secretary to the committee.

Recusant witness

256. If a witness fails or refuses to attend or give evidence, the Assembly, on being so advised, shall deal with the matter. *(Amended 6 March 2008)*

Summoning of Members

257. When the attendance of a Member is ordered by the Assembly for examination by the Assembly, that Member shall be summoned by the Speaker to attend in the Member's place.

Member requested to attend committee as witness

Member refuses

258. If a committee desires the attendance of a Member as a witness, the Chair of the committee shall, in writing, request that Member to attend; should the Member refuse to come, or to give evidence or information as a witness to the committee, the committee shall advise the Assembly, and not again request the Member to attend the committee. *(Amended 6 March 2008)*

Committee not to entertain allegations against Members

259. If any information comes before any committee that makes allegations against the conduct of any Member of the Assembly, the committee ought only direct that the Assembly be acquainted with the matter of the information, without proceeding further. *(Amended 6 March 2008)*

260. *(Standing Order omitted 6 March 2008)*

Witnesses entitled to protection

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

Witnesses before Assembly examined by Speaker

262. When a witness appears before the Assembly, that witness shall be examined by the Speaker, and any questions addressed by the Members are taken to be put through the Speaker.

Witness withdraws if question objected to

263. If any question is objected to, or other matter arises, the witness shall withdraw while the same is under discussion.

Officers not to give evidence without leave

264. An officer of the Assembly, or person employed by the Assembly, may not give evidence elsewhere in respect of any proceedings or examination of any witness without the special leave of the Assembly.

Protection of witnesses – Adverse mention procedures

- 264A. In their dealings with witnesses, all committees of the Assembly shall observe the following procedures:
- (a) 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.
 - (b) Where a 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.
 - (c) 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 shall be supplied with a transcript of relevant evidence already taken.
 - (d) A witness shall be given opportunity to make a submission in writing before appearing to give oral evidence.
 - (e) 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.
 - (f) A witness shall be given reasonable access to any documents that the witness has produced to a committee.
 - (g) 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.
 - (h) Before giving any evidence in private session a witness shall be informed whether it is the intention of the committee to publish or present to the Assembly all or part of that evidence, that it is within the power of the committee to do so, and that the Assembly has the authority to order the production and publication of undisclosed evidence.
 - (i) A chair of a committee shall take care to ensure that all questions put to a witness 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 a committee requests discussion of a ruling of the Chair 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.

- (j) 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. Where a witness declines to answer a question to which a committee has required an answer, the committee shall report the facts to the Assembly.
- (k) 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.
- (l) 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.
- (m) Where evidence is given which reflects adversely on a person and action of the kind referred to in 264A(a) 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.
- (n) A witness accompanied by counsel shall be given reasonable opportunity to consult counsel during a meeting at which the witness appears.
- (o) An officer of a department of the Territory or the Commonwealth or a state 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.
- (p) Reasonable opportunity shall be afforded to a witness to make corrections of errors of transcription in the transcript of their evidence and to put before a committee additional material supplementary to their evidence.
- (q) Where a 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. *(Inserted 6 March 2008)*

CHAPTER 22

BALLOTING

This chapter sets out the procedures relating to ballots taken in the Assembly.

When ballot taken

265. A ballot shall be taken whenever the Assembly thinks fit.

Bells rung before ballot

266. Before the Assembly proceeds to any ballot the bells shall be rung for 4 minutes as in a vote.

Manner of taking ballot

267. Unless otherwise expressly provided, a ballot shall be taken in the following manner: each Member present shall give to the Clerk a list of the names of such Members as the Member thinks fit and proper to be chosen at such ballot; if any list contains a larger or lesser number of names than are to be chosen it shall be void and rejected.

When all the lists are collected, the Clerk shall ascertain and report to the Speaker the names of the Members having the greatest number of votes, such Members shall be declared by the Speaker to be chosen. In the event of an equality of votes, the names of the Members concerned shall be submitted to a further ballot or ballots until the necessary number of Members has been chosen. Further ballots may be deferred until a later hour or to the next sitting. *(Amended 6 March 2008)*

CHAPTER 23

ADDRESSES TO THE QUEEN OR THE GOVERNOR-GENERAL

This chapter sets out the procedures relating to Addresses to the Queen or the Governor-General and responses from the Governor-General.

How moved

268. Subject to standing order 126, whenever it is deemed proper to present an address to Her Majesty or the Governor-General, a motion on notice stating the terms of the proposed address shall be moved.

Addresses to Queen sent to Governor-General by Speaker

269. Addresses to Her Majesty shall be transmitted to the Governor-General by the Speaker, who shall request the Governor-General to cause them to be forwarded for presentation.

Presentation of addresses to Governor-General

270. Addresses to the Governor-General shall be presented by the Speaker.

Governor-General's response

271. The response to any address shall be reported to the Assembly by the Speaker.

CHAPTER 24

STANDING ORDERS

This chapter sets out the procedures relating to the suspension and duration of standing orders of the Assembly.

Suspension

Motion to suspend without notice

272. In cases of necessity, any standing order or orders of the Assembly may be suspended on motion, duly moved, without notice: provided that such motion is carried by an absolute majority of Members. *(Amended 9 March 1995)*

Limitation of suspension

273. The suspension of standing orders is limited in its operation to the particular purpose for which the suspension has been sought.

Duration

In force until altered

274. These standing orders shall continue in force until altered, amended or repealed.

CHAPTER 25

GENERAL RULE FOR CONDUCT OF BUSINESS

This chapter sets out the general rule for conduct of business that the standing orders of the Assembly do not provide for.

Practice of House of Representatives to be observed, unless other provision is made

275. Any question relating to procedure or the conduct of business of the Assembly not provided for in these standing orders or practices of the Assembly, shall be decided according to the practice at the time prevailing in the House of Representatives in the Parliament of the Commonwealth of Australia.

CHAPTER 26

PRIVILEGE AND CONTEMPT

This chapter sets out the general rules and guidelines for dealing with matters of privilege and contempt.

Privilege (*previously standing order 71*)

276. Upon a matter of privilege arising:

- (a) a Member shall give written notice of the alleged breach to the Speaker as soon as reasonably practicable after the matter has come to that Member's attention;
- (b) if the matter arises from a statement published in a newspaper, book or other publication, the Member shall provide the Speaker with a copy of the newspaper, book or publication;
- (c) the Speaker will determine as soon as practicable whether or not the matter merits precedence over other business;
- (d) if, in the opinion of the Speaker, the matter does not merit precedence, the Speaker will inform the Member, in writing, accordingly, and may also inform the Assembly of the decision; and
- (e) if, in the opinion of the Speaker, the matter merits precedence, the Speaker will inform the Member who raised the matter and the Assembly of the decision, and the Member who raised the matter may move a motion without notice forthwith to refer the matter to a select committee appointed by the Assembly for that purpose. (*Amended 9 March 1995 and 6 March 2008*).

Contempt – Matters constituting contempt

277. Without derogating from its power to determine that particular acts constitute a contempt, the Assembly declares, as a matter of general guidance, that breaches of the following prohibitions, and attempts or conspiracies to do the prohibited acts, may be treated by the Assembly as a contempt.

(a) Interference with the Assembly

A person shall not improperly interfere with the free exercise by the Assembly or a committee of its authority, or with the free performance by a Member of the Member's duties as a Member.

(b) Improper influence of Member

A person shall not, by fraud, intimidation, force or threat of any kind, by the offer or promise of any inducement or benefit of any kind, or by other improper means, influence a Member in the Member's conduct as a Member or induce a Member to be absent from the Assembly or a committee.

(c) Members seeking benefits etc

A Member shall not ask for, receive or obtain, any property or benefit for the Member, or another person, on any understanding that the Member will be influenced in the discharge of the Member's duties, or enter into any contract, understanding or arrangement having the effect, or which may have the effect, of controlling or limiting the Member's independence or freedom of action as a Member, or pursuant to which the Member is in any way to act as the representative of any outside body in the discharge of the Member's duties.

- (d) Molestation of Members
A person shall not inflict any punishment, penalty or injury upon, or deprive of any benefit, on a Member on account of the Member's conduct as a Member.
- (e) Disturbance of the Assembly
A person shall not willfully disturb the Assembly or a committee while it is meeting, or willfully engage in any disorderly conduct in the precincts of the Assembly or a committee tending to disturb its proceedings.
- (f) Service of writs etc
A person shall not serve or execute any criminal or civil process in the precincts of the Assembly on a day on which the Assembly meets except with the consent of the Assembly or of a person authorised by the Assembly to give such consent.
- (g) False reports of proceedings
A person shall not willfully publish any false or misleading report of the proceedings of the Assembly or of a committee.
- (h) Disobedience of orders
A person shall not, without reasonable excuse, disobey a lawful order of the Assembly or of a committee.
- (i) Obstruction of orders
A person shall not interfere with or obstruct another person who is carrying out a lawful order of the Assembly or of a committee.
- (j) Interference with witnesses
A person shall not, by fraud, intimidation, force or threat of any kind, by the offer or promise of any inducement or benefit of any kind, or by other improper means, influence another person in respect of any evidence given or to be given before the Assembly or a committee, or induce another person to refrain from giving such evidence.
- (k) Molestation of witnesses
A person shall not inflict any penalty or injury upon, or deprive of any benefit, another person on account of any evidence given or to be given before the Assembly or a committee.
- (l) Offences by witnesses etc
A witness before the Assembly or a committee shall not:
- (i) without reasonable excuse, refuse to make an oath or affirmation or give some similar undertaking to tell the truth when required to do so;
 - (ii) without reasonable excuse, refuse to answer any relevant question put to the witness when required to do so; or
 - (iii) give any evidence which the witness knows to be false or misleading in a material particular, or which the witness does not believe on reasonable grounds to be true or substantially true in every material particular.

- (m) A person shall not, without reasonable excuse:
 - (i) refuse or fail to attend before the Assembly or a committee when ordered to do so; or
 - (ii) refuse or fail to produce documents, or to allow the inspection of documents, in accordance with an order of the Assembly or of a committee.
- (n) A person shall not willfully avoid service of an order of the Assembly or of a committee.
- (o) A person shall not destroy, damage, forge or falsify any document required to be produced by the Assembly or by a committee.
- (p) Unauthorised disclosure of evidence etc

A person shall not, without the authority of the Assembly or a committee, publish or disclose:

- (i) a document that has been prepared for the purpose of submission, and submitted, to the Assembly or a committee and has been directed by the Assembly or a committee to be treated as evidence taken in private session or as a document confidential to the Assembly or the committee;
- (ii) any oral evidence taken by the Assembly or a committee in private session, or a report of any such oral evidence; or
- (iii) any proceedings in private session of the Assembly or a committee or any report of such proceedings;

unless the Assembly or a committee has published, or authorised the publication of, that document, that oral evidence or a report of those proceedings. *(Inserted 6 March 2008)*

Contempt – Criteria to be taken into account when dealing with matters of contempt

278. The Assembly will take into account the following criteria when determining whether matters possibly involving contempt should be referred to a Select Committee on Privilege and whether a contempt has been committed, and requires the committee to take these criteria into account when inquiring into any matter referred to it:

- (a) the 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;
- (b) the existence of any remedy other than that power for any act which may be held to be a contempt; and
- (c) whether a person who committed any act which may be held to be a contempt:
 - (i) knowingly committed that act, or
 - (ii) had any reasonable excuse for the commission of that act. *(Inserted 6 March 2008)*

Privilege – Criteria to be taken into account by the Speaker in determining whether a matter of privilege should be given precedence over other business

279. In determining whether a matter of privilege merits precedence over other business the Speaker shall have regard only to the following criteria:

- (a) the 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. (*Inserted 6 March 2008*)

Procedures for the protection of witnesses before a Privileges Committee

280. In considering any matter referred to it which may involve, or gives rise to any allegation of, a contempt, a committee dealing with a matter of privilege that has been referred to it by the Assembly shall observe these procedures, in addition to the procedures set out in standing order 264A. Where this standing order is inconsistent with the procedures in standing order 264A this standing order shall prevail to the extent of the inconsistency.

- (a) 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.
- (b) The committee shall extend to that person all reasonable opportunity to respond to such allegations and evidence by:
 - (i) making written submission to the committee;
 - (ii) giving evidence before the committee;
 - (iii) having other evidence placed before the committee; and
 - (iv) having witnesses examined before the committee.
- (c) 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 to examine witnesses in relation to that evidence.
- (d) A person appearing before the committee may be accompanied by counsel, and shall be given all reasonable opportunity to consult counsel during that appearance.
- (e) 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.
- (f) Hearing of evidence by the committee shall be conducted in public session, except where:
 - (i) the committee accedes to a request by a witness that the evidence of that witness be heard in private session;

- (ii) the committee determines that the interests of a witness would best be protected by hearing evidence in private session; or
 - (iii) the committee considers that circumstances are otherwise such as to warrant the hearing of evidence in private session.
- (g) 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.
- (h) Before appearing before the committee a witness shall be given a copy of this standing order. *(Inserted 6 March 2008)*

Continuing resolution 1

AUTHORITY TO PUBLISH *HANSARD*

This resolution specifies that the Assembly authorises the preparation and publication of *Hansard* transcripts and extracts of transcripts of Assembly and committee proceedings.

Resolution agreed by the Assembly

27 March 1992

That—

- (1) The Assembly:
 - (a) authorises the preparation and publication of transcripts of debates and proceedings (*Hansard*) of the Assembly and its committees; and
 - (b) authorises the publication, by the Clerk, of extracts of transcripts of debates and proceedings (*Hansard*) of the Assembly and its committees.
- (2) This resolution has effect from the commencement of the Second Assembly and continues in force unless and until amended or repealed by this or a subsequent Assembly.

Continuing resolution 2

AUTHORITY TO RECEIVE RESIGNATIONS OF MEMBERS

This resolution specifies that the Speaker may receive written notice of a resignation from office by a Member of the Legislative Assembly, in accordance with subsection 13(1) of the *Australian Capital Territory (Self-Government) Act 1988*.

Resolution agreed by the Assembly

27 March 1992, amended 6 March 2008

That—

- (1) Pursuant to section 13 of the *Australian Capital Territory (Self-Government) Act 1988*, this Assembly authorises the Speaker, or during the absence of the Speaker from the Territory or from duty the Deputy Speaker, to receive the written notice of resignation of a Member as a Member of the Assembly.
- (2) This resolution has effect from the commencement of the Second Assembly and continues in force unless and until amended or repealed by this or a subsequent Assembly.

Continuing resolution 3

BROADCASTING GUIDELINES

This resolution provides guidelines for the broadcasting of Legislative Assembly and committee proceedings in accordance with subsection 5(2) of the *Legislative Assembly (Broadcasting) Act 2001*.

Resolution agreed by the Assembly

7 March 2002 (amended 17 March 2005, 23 June 2005 and 11 February 2010)

That—

- (1) pursuant to subsection 5(2) of the *Legislative Assembly (Broadcasting) Act 2001*, the Legislative Assembly agrees to the Speaker of the Legislative Assembly making guidelines for the broadcasting of Assembly and committee proceedings that include as a minimum the following requirements:
 - (a) persons or organisations intending to record for broadcast proceedings in the Legislative Assembly or its committees must seek the approval of the Speaker each calendar year;
 - (b) persons or organisations that have been granted permission to record for broadcast the proceedings of the Legislative Assembly or its committees will acknowledge in writing and abide by the broadcasting guidelines laid down by the Speaker from time to time;
 - (c) persons or organisations that have been granted permission to record for broadcast committee proceedings will be able to do so, unless a member of the committee or witness objects;
 - (d) witnesses at public hearings of committees will be advised in advance that the proceedings may be recorded for broadcast; and
 - (e) persons or organisations that wish to rebroadcast from the audio-visual material available on the Assembly's website, must acknowledge and abide by the conditions of use laid down by the Speaker from time to time;
- (2) pursuant to section 6 of the *Legislative Assembly (Broadcasting) Act 2001*, the Legislative Assembly:
 - (a) delegates to the Speaker the power to withdraw the right of a person to broadcast, or record for broadcast, public proceedings of the Legislative Assembly; and
 - (b) delegates to each committee formed by resolution or standing order of the Assembly the power to withdraw the right of a person to broadcast, or record for broadcast, public proceedings of that committee; and
- (3) pursuant to subsection 6(4) of the *Legislative Assembly (Broadcasting) Act 2001*, the Speaker or a committee chair may withdraw from a person or organisation the right to broadcast, or record for broadcast, public proceedings of the Assembly or the relevant committee if that person or organisation does not abide by the *Guidelines for recording and broadcasting the public proceedings of the Legislative Assembly and its committees*.

Continuing resolution 4

CITIZEN'S RIGHT OF REPLY

This resolution provides for a citizen's right of reply for persons or corporations who have been referred to by name or in such a way as to be readily identified in the Assembly, subject to meeting identified criteria.

Resolution agreed by the Assembly

4 May 1995, amended 6 March 2008

Protection of persons and corporations referred to in the Legislative Assembly

- (1) Where a person or corporation 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 or corporation 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 or corporation; and
 - (b) requesting that the person or corporation be able to incorporate an appropriate response in the parliamentary record;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 Committee on Administration and Procedure; and
 - (d) that it is practicable for the Standing Committee on Administration and Procedure to consider the submission under this resolution;
 - (e) that the submission has been received within three months of the making of the statement, unless there are exceptional circumstances in which case the Speaker may allow the submission to be received; *(Inserted 6 March 2008)*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 or corporation who made the submission and any Member who referred in the Assembly to that person or corporation.

- (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 one 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 or corporation who made the submission, in terms specified in the report and agreed to by the person or corporation and the Committee, be published by the Assembly or incorporated in *Hansard*;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 or corporation 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 corporation, 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 or corporation.
- (9) A corporation making a submission under this resolution is required to make it under their common seal.
- (10) This resolution has effect from the commencement of the Third Assembly and continues in force unless and until amended or repealed by this or a subsequent Assembly.

Continuing resolution 5

CODE OF CONDUCT FOR ALL MEMBERS OF THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

This resolution provides for a code of conduct for Members of the Legislative Assembly.

Resolution agreed by the Assembly

25 August 2005 (as amended 16 August 2006)

That—

(1) **Preamble**

Members of the Legislative Assembly acknowledge their diversity of background and personal beliefs and that of Australian society, and maintain their loyalty to the Commonwealth of Australia and to the people of the Australian Capital Territory.

In so doing, Members agree to respect and uphold the law, not to discredit the institution of Parliament, and to maintain their commitment to the public good through personal honesty and integrity in all their dealings.

(2) **Duties as Members of the Assembly**

Members should avoid any decision or action which may depreciate the reputation of the Assembly and endeavour to reasonably adhere to the Assembly's code of conduct to ensure that their personal conduct meets generally accepted standards and does not discredit or call into question their office or the Assembly.

Members acknowledge that they have an obligation to electors to make decisions on their behalf and as such place emphasis on their dedication to this obligation. As elected representatives, Members will act honestly in all their dealings to maintain the public trust placed in them.

Code of Conduct

(3) **Conflict of interest**

Members have an obligation to use the influence conferred upon them in the public's interest and not for personal gain.

Notwithstanding the provisions set out in section 15 of the *Australian Capital Territory (Self-Government) Act 1988* and standing order 156 of the Legislative Assembly, Members are individually responsible for preventing personal conflicts of interest or the perception of a conflict of interest, and must endeavour to arrange their private affairs to prevent such conflicts arising or take all reasonable steps to resolve any conflict that does arise.

- (a) A conflict of interest exists where a Member participates in or makes a decision in the execution of his or her office knowing that it will improperly and dishonestly further his or her private interest or will improperly and dishonestly further the private interest of another person.

- (b) A conflict of interest does not exist where the Member or other person benefits only as a member of the general public, or as a broad class of persons.
- (4) **Disclosure of pecuniary interests**
- The actions and decisions taken by Members are accountable through the Assembly to the people of the Australian Capital Territory. Members' actions and decisions should be transparent and bolster public confidence in the Assembly and the legislative process. In accordance with this transparency, Members are required to disclose their pecuniary interests pursuant to the resolution of the Assembly "Declaration of Private Interests of Members" agreed to on 7 April 1992 (as amended 27 August 1998 and 17 March 2005).
- (5) **Receipt of any gifts, payments, fees or rewards**
- Members must register all gifts, payments, fees or rewards valued at more than \$250 received from official sources, or at more than \$100 where received from other than official sources. This does not include gifts, payments, fees or rewards received by Members, the Member's spouse, immediate family or personal friends in a purely personal capacity, unless it may pose a conflict of interest. Registration should be made in accordance with the Member's Statement of Registrable Interests.
- (6) **Advocacy/bribery**
- In accordance with the provisions of section 14 of the *Australian Capital Territory (Self-Government) Act 1988*, Members must not solicit, accept or receive any remuneration, benefit or profit in exchange for services rendered in the Assembly or one of its committees other than the remuneration and allowances provided for pursuant to section 73 of the Act.
- (7) **Use of confidential information**
- Members are reminded of their obligations pursuant to the standing orders concerning the publication of confidential information.
- Members in the course of their duties often are also the recipients of information which is either confidential or unavailable to the general public. Members are privileged to receive this information. It is provided to assist them in their decision making for the benefit of the Territory. The status of this information should not be compromised.
- Members are not to misuse any confidential information received, particularly for personal gain or the personal gain of others.
- (8) **Conduct as employers**
- Members will observe the obligations placed on them as employers with respect to the terms and conditions of those who work for them. Members should extend these obligations to contractors and consultants (however employed or recruited). Members need to be aware of the requirements of the following policies: occupational health and safety; discrimination, harassment and bullying; equal employment opportunity; acceptable use of information technology and any other relevant policies and legislation.
- Members should not appoint close relatives to positions in their own offices or any other place of employment where the Member's approval is required.
- Members must ensure that their staff are aware of and abide by the relevant codes of conduct applicable to Members' staff.
- Members must ensure that, where relevant, their staff also comply with the Members' Code of Conduct and that they are aware that they are obliged to support the Member's compliance with the code.

(9) **Conduct toward Assembly staff**

It is expected that Members and their staff will extend professional courtesy and respect to all staff of the Assembly. Members should ensure that through their own conduct and that of their staff, reasonable employment conditions for all building occupants are maintained.

If problems or concerns with the performance or conduct of an Assembly staff member arise, these should be dealt with through appropriate policies and procedures.

(10) **Use of entitlements**

Members have a personal duty to ensure that entitlements and allowances of office pursuant to Remuneration Tribunal Determinations and as summarised in the Members' Guide are used appropriately in the service of the people of the Australian Capital Territory and not for personal gain.

Members should familiarise themselves with the entitlements available and must ensure the accuracy of all claims made in accordance with the guidelines outlined in the Members' Guide. Members should be aware that items purchased using a Member's allowance remain the property of the Assembly.

(11) **Use of public resources/property or services**

Members must ensure that the resources provided to them at public expense as Members of the Legislative Assembly for the Australian Capital Territory, are only used for legitimate parliamentary and electorate purposes. Members must not misuse or permit the misuse by any other person or body of these resources.

Members shall not misuse funds allocated for official purposes.

(12) **Continuing support**

This code of conduct has been established to assist Members as they serve and represent the people of the Australian Capital Territory. The Legislative Assembly respectfully requests that former Members support the spirit of this code as private citizens.

This resolution has effect from the date of its passage in the Assembly and continues in force unless and until amended or repealed by this or a subsequent Assembly.

Continuing resolution 6

DECLARATION OF PRIVATE INTERESTS OF MEMBERS

This resolution provides that Members shall, within 28 days of taking their seats, declare their private interests. The resolution also sets out how those interests may be accessed.

Resolution agreed by the Assembly

**7 April 1992 (amended 27 August 1998, 17 March 2005, 6 March 2008 and
10 December 2009)**

That—

- (1) within 28 days of the making and subscribing of an oath or affirmation as a Member of the Legislative Assembly for the Australian Capital Territory each Member of the Legislative Assembly shall provide to the Clerk of the Legislative Assembly a declaration of the private interests of themselves and their immediate family in the form as presented to the Assembly on 17 March 2005¹⁵ and shall notify any alteration of those interests to the Clerk within 28 days of that alteration occurring;
- (2) under the general direction of the Speaker, the Clerk shall store the declarations of private interests made by each Member and arrange for the declarations for that Assembly to be placed on the Legislative Assembly website on the internet. Any alterations shall be placed on the Legislative Assembly website on the internet every six months. When a Member vacates his or her seat and is not re-elected at the next general election for the Assembly, the Clerk shall destroy all declarations made by that Member in his/her custody and remove those declarations from the Legislative Assembly website on the internet;
- (3) any declaration stored by the Clerk be made available for perusal to any person on request; and
- (4) that this resolution has effect from the commencement of the Second Assembly and continues in force unless and until amended or repealed by this or a subsequent Assembly.

¹⁵ Form is contained in the *Members' Guide*.

Continuing resolution 6A

ETHICS AND INTEGRITY ADVISER

This resolution allows the Speaker to appoint an Ethics and Integrity Adviser.

Resolution agreed by the Assembly 10 April 2008 (amended 21 August 2008)

That this Assembly requests the Speaker to appoint an Ethics and Integrity Adviser for Members of the Legislative Assembly for the Australian Capital Territory with the following functions:

Provision of advice

- (1) Advise Members of the Legislative Assembly, when asked to do so by that Member, on ethical issues concerning the exercise of his or her role as a Member (including the use of entitlements and potential conflicts of interest).
- (2) Giving advice that is consistent with any code of conduct or other guidelines adopted by the Assembly, but does not include the provision of any legal advice.

Records

- (1) The Ethics and Integrity Adviser shall be required to keep records of advice given and the factual information upon which it is based.
- (2) The Ethics and Integrity Adviser shall be under a duty to maintain the confidentiality of information provided to him/her in exercising the function and any advice given, but may make public any advice if the person who requested the advice gives permission for it to be made public.
- (3) The Assembly shall only call for the production of records of the Ethics and Integrity Adviser if the person to which the records relate has sought to rely on the advice given in relation to paragraph (1) or given permission for the records to be produced to the Assembly.
- (4) The Ethics and Integrity Adviser is to meet at least annually with the Standing Committee on Administration and Procedure for a discussion on matters raised and possible proposals to address them.
- (5) The Ethics and Integrity Adviser shall report to the Assembly on an annual basis detailing the number of ethical matters raised with him/her and the number of Members who sought advice on any issues concerning Members' entitlements that have given rise to requests for ethics advice and suggest proposals to address these issues.
- (6) The Speaker shall, after each Assembly is elected or whenever the office becomes vacant, appoint an Ethics and Integrity Adviser for the life of that Assembly and the period of three months after each election.
- (7) Before appointing an Adviser, the Speaker shall consult with the Chief Minister, the Leader of the Opposition and Crossbench Members.

- (8) The Ethics and Integrity Adviser may resign in writing to the Speaker, or may be removed from office for proved misbehaviour or mental incapacity on a resolution agreed to by the Assembly.

This resolution has effect from the date of its agreement by the Legislative Assembly and continues in force unless amended or repealed by this or a subsequent Assembly.

Continuing resolution 7

FREEDOM OF SPEECH

This resolution provides a guide to Members in exercising their freedom of speech in the Assembly.

Resolution agreed by the Assembly

4 May 1995

Exercise of freedom of speech

- (1) That the Legislative 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 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) That the Speaker, whenever the Speaker considers that it is desirable to do so, may draw the attention of the Assembly to the spirit and the letter of this resolution.
- (3) That this resolution has effect from the commencement of the Third Assembly and continues in force unless and until amended or repealed by this or a subsequent Assembly.

Continuing resolution 8

IMPLEMENTATION OF COMMITTEE RECOMMENDATIONS IN ANNUAL REPORTS

This resolution calls on the Chief Minister to include information in annual reports relating to responses to recommendations of Assembly committees.

Resolution agreed by the Assembly

10 April 2002 (amended 6 March 2008)

That—

- (1) this Assembly calls upon the Chief Minister to include in any relevant instrument relating to the information to be included in annual reports made pursuant to the provisions of the *Annual Reports (Government Agencies) Act 2004* directions to include a schedule outlining action that has been achieved and is in progress on the implementation of recommendations of Assembly standing and select committees that have been accepted by the Government of the day in any response to those committee reports;
- (2) this provision commence in relation to the current Government's responses to committee reports of the Fourth Assembly, and, after initial publication, the schedules included in subsequent annual reports only need include information required on achievements in the relevant period and action that remains outstanding; and
- (3) this resolution has effect from the commencement of the Fifth Assembly and continues in force unless and until amended or repealed by this or a subsequent Assembly or the relevant provisions of the legislation are amended by an Assembly.

Continuing resolution 8A

LATIMER HOUSE PRINCIPLES

Endorsement of the Commonwealth (Latimer) House Principles on the Three Branches of Government

11 December 2008

That:

(1) **Preamble**

Members of the Legislative Assembly endorse and adopt the Commonwealth (Latimer) House Principles on the Three Branches of Government as agreed by Law Ministers and endorsed by the Commonwealth Heads of Government Meeting, Abuja, Nigeria, 2003.

Members do so in acknowledgment that the principles express the fundamental values they believe should govern the relationship between the three branches of government in the Australian Capital Territory.

The Principles

(2) **Objective**

The objective of these Principles is to provide, in accordance with the laws and customs of each Commonwealth country, an effective framework for the implementation by governments, parliaments and judiciaries of the Commonwealth's fundamental values.

(a) **The Three Branches of Government**

Each Commonwealth country's parliaments, executives and judiciaries are the guarantors in their respective spheres of the rule of law, the promotion and protection of fundamental human rights and the entrenchment of good governance based on the highest standards of honesty, probity and accountability.

(b) **Parliament and the Judiciary**

(i) Relations between parliament and the judiciary should be governed by respect for parliament's primary responsibility for law making on the one hand and for the judiciary's responsibility for the interpretation and application of the law on the other hand.

(ii) Judiciaries and parliaments should fulfil their respective but critical roles in the promotion of the rule of law in a complementary and constructive manner.

(c) **Independence of Parliamentarians**

(i) Parliamentarians must be able to carry out their legislative and constitutional functions in accordance with the Constitution, free from unlawful interference.

- (ii) Criminal and defamation laws should not be used to restrict legitimate criticism of parliament; the offence of contempt of parliament should be narrowly drawn and reporting of the proceedings of parliament should not be unduly restricted by narrow application of the defence of qualified privilege.

(d) Independence of the Judiciary

An independent, impartial, honest and competent judiciary is integral to upholding the rule of law, engendering public confidence and dispensing justice. The function of the judiciary is to interpret and apply national constitutions and legislation, consistent with international human rights conventions and international law, to the extent permitted by the domestic law of each Commonwealth country.

To secure these aims:

- (i) Judicial appointments should be made on the basis of clearly defined criteria and by a publicly declared process. The process should ensure:
 - (A) equality of opportunity for all who are eligible for judicial office;
 - (B) appointment on merit; and
 - (C) that appropriate consideration is given to the need for the progressive attainment of gender equity and the removal of other historic factors of discrimination.
- (ii) Arrangements for appropriate security of tenure and protection of levels of remuneration must be in place.
- (iii) Adequate resources should be provided for the judicial system to operate effectively without any undue constraints which may hamper the independence sought.
- (iv) Interaction, if any, between the executive and the judiciary should not compromise judicial independence. Judges should be subject to suspension or removal only for reasons of incapacity or misbehaviour that clearly renders them unfit to discharge their duties. Court proceedings should, unless the law or overriding public interest otherwise dictates, be open to the public. Superior Court decisions should be published and accessible to the public and be given in a timely manner. An independent, effective and competent legal profession is fundamental to the upholding of the rule of law and the independence of the judiciary.

(e) Public Office Holders

- (i) Merit and proven integrity, should be the criteria of eligibility for appointment to public office.
- (ii) Subject to (i), measures may be taken, where possible and appropriate, to ensure that the holders of all public offices generally reflect the composition of the community in terms of gender, ethnicity, social and religious groups and regional balance.

(f) Ethical Governance

Ministers, members of parliament, judicial officers and public office holders in each jurisdiction should respectively develop, adopt and periodically review appropriate guidelines for ethical conduct. These should address the issue of conflict of interest, whether actual or perceived, with a view to enhancing transparency, accountability and public confidence.

(g) Accountability Mechanisms

(i) Executive Accountability to Parliament

Parliaments and governments should maintain high standards of accountability, transparency and responsibility in the conduct of all public business. Parliamentary procedures should provide adequate mechanisms to enforce the accountability of the executive to parliament.

(ii) Judicial Accountability

Judges are accountable to the Constitution and to the law which they must apply honestly, independently and with integrity. The principles of judicial accountability and independence underpin public confidence in the judicial system and the importance of the judiciary as one of the three pillars upon which a responsible government relies. In addition to providing proper procedures for the removal of judges on grounds of incapacity or misbehaviour that are required to support the principle of independence of the judiciary, any disciplinary procedures should be fairly and objectively administered. Disciplinary proceedings which might lead to the removal of a judicial officer should include appropriate safeguards to ensure fairness. The criminal law and contempt proceedings should not be used to restrict legitimate criticism of the performance of judicial functions.

(iii) Judicial review

Best democratic principles require that the actions of governments are open to scrutiny by the courts, to ensure that decisions taken comply with the Constitution, with relevant statutes and other law, including the law relating to the principles of natural justice.

(h) The law-making process

In order to enhance the effectiveness of law making as an essential element of the good governance agenda:

- (i) there should be adequate parliamentary examination of proposed legislation;
- (ii) where appropriate, opportunity should be given for public input into the legislative process; and
- (iii) parliaments should, where relevant, be given the opportunity to consider international instruments or regional conventions agreed to by governments.

(i) Oversight of Government

The promotion of zero-tolerance for corruption is vital to good governance. A transparent and accountable government, together with freedom of expression, encourages the full participation of its citizens in the democratic process. Steps which may be taken to encourage public sector accountability include:

- (i) The establishment of scrutiny bodies and mechanisms to oversee government, enhances public confidence in the integrity and acceptability of government's activities. Independent bodies such as public accounts committees, ombudsmen, human rights commissions, auditors-general, anti-corruption commissions, information commissioners and similar oversight institutions can play a key role in enhancing public awareness of good governance and rule of law issues. Governments are encouraged to establish or enhance appropriate oversight bodies in accordance with national circumstances.
- (ii) Government's transparency and accountability is promoted by an independent and vibrant media which is responsible, objective and impartial and which is protected by law in its freedom to report and comment upon public affairs.

(j) Civil Society

Parliaments and governments should recognise the role that civil society plays in the implementation of the Commonwealth's fundamental values and should strive for a constructive relationship with civil society to ensure that there is broader opportunity for lawful participation in the democratic process.

- (3) This resolution has effect from the commencement of the Seventh Assembly and continues in force unless and until amended or repealed by this or subsequent Assembly.

Continuing resolution 8B

PUBLIC INTEREST IMMUNITY

This resolution provides guidance to Ministers and public officials as to the process for raising public interest immunity claims during committee proceedings.

Resolution agreed by the Assembly

30 June 2011

In order to provide Ministers and public officials with guidance as to the proper process for raising public interest immunity claims in the course of a proceeding of a committee, this Assembly adopts the following procedure:

- (1) If:
 - (a) an Assembly committee requests information from a directorate, agency or Territory-owned corporation; and
 - (b) an officer of the directorate, agency or Territory-owned corporation to whom the request is directed believes that it may not be in the public interest to disclose the information or document to the committee, the officer will be given reasonable opportunity to refer the request to a superior officer or to a Minister, in accordance with standing order 264A (o).
- (2) If a Minister, on a reference by an officer under paragraph (1), concludes that it would not be in the public interest to disclose the information or document to the committee, the Minister shall provide to the committee a statement of the ground for that conclusion, specifying the harm to the public interest that could result from the disclosure of the information or document.
- (3) A Minister, in a statement under paragraph (2), shall indicate whether the harm to the public interest that could result from the disclosure of the information or document to the committee could result only from the publication of the information or document by the committee, or could result, equally or in part, from the disclosure of the information or document to the committee as confidential evidence.
- (4) If, after considering a statement by a Minister provided under paragraph (2), the committee concludes that the statement does not sufficiently justify the withholding of the information or document from the committee, the committee shall report the matter to the Assembly.
- (5) A decision by a committee not to report a matter to the Assembly under paragraph (4) does not prevent a Member from raising the matter in the Assembly in accordance with other procedures of the Assembly.

- (6) A statement that information or a document is not published, or is confidential, or consists of advice to, or internal deliberations of, government, in the absence of specification of the harm to the public interest that could result from the disclosure of the information or document, is not a statement that meets the requirements of paragraphs (2) or (3).
- (7) If a Minister concludes that a statement under paragraph (2) should more appropriately be made by the head of an agency or Territory-owned corporation, by reason of the independence of that agency or Territory-owned corporation from ministerial direction or control, the Minister shall inform the committee of that conclusion and the reason for that conclusion, and shall refer the matter to the head of the agency, who shall then be required to provide a statement in accordance with paragraphs (2) and (3).
- (8) This resolution has effect from the date of its passage in the Assembly and continues in force unless and until amended or repealed by this or a subsequent Assembly.

Continuing resolution 9

SENATOR FOR THE AUSTRALIAN CAPITAL TERRITORY PROCEDURES FOR ELECTION

This resolution provides for the election of a senator for the Australian Capital Territory when there is a vacancy in that office.

Resolution agreed by the Assembly

18 February 2003

That—

- (1) in accordance with the provisions of section 44 of the *Commonwealth Electoral Act 1918*, should the Chief Minister advise the Assembly of the receipt of a notification from the President of the Senate that the place of a senator for the Australian Capital Territory has become vacant before the expiration of his or her term of service, the Chief Minister shall present to the Assembly the notification from the President of the Senate or a copy of the notification and, notwithstanding the provisions of standing order 123, shall, unless the Assembly otherwise orders, move either:

That consideration of the choice of a person to hold the vacant place of a senator for the Australian Capital Territory shall proceed forthwith; or

That consideration of the choice of a person to hold the vacant place of a senator for the Australian Capital Territory shall be set down for a future day; and

should consideration be set down for a future day, notwithstanding the provisions of standing order 77, it shall have precedence of all Executive, private Members' and Assembly business on that day;

- (2) the choice of a person to hold the place of the senator shall be conducted as follows:
- (a) a Member shall propose the name of a person and move that such person be chosen to hold the place of the senator whose place has become vacant until the expiration of his or her term;
 - (b) the Member proposing the name of a person must, notwithstanding the provisions of standing order 211, present a statutory declaration from the person proposed declaring that the person is eligible to be chosen as a senator and that, where relevant, he or she is a member of the same party as the senator whose place has become vacant as required by section 44 (3) of the *Commonwealth Electoral Act 1918* unless there is no member of that party available;
 - (c) the Member proposing the name of a person [the candidate] to move that:
that [the candidate], a person who is eligible to be a senator and is of the same party of [the senator] whose place has become vacant, be chosen to fill the casual vacancy for senator for the Australian Capital Territory until the expiration of the term of the outgoing senator and the question shall be proposed forthwith;
 - (d) this resolution has effect from the commencement of the Fifth Assembly and continues in force unless and until amended or repealed by this or a subsequent Assembly or the relevant provisions of the legislation are amended by an Assembly.

Continuing resolution 10

SUB JUDICE

This resolution provides for *sub judice* principles, based on the House of Commons resolution, and sets out guidelines on what matters would be subject to the *sub judice* convention.

Resolution agreed by the Assembly

6 March 2008

Subject to the discretion of the Chair, and to the right of the Assembly to legislate on any matter or to discuss any matter, the Assembly in all its proceedings (including proceedings of committees of the Assembly) shall apply the following rules on matters *sub judice*:

- (1) Cases in which proceedings are active in the courts shall not be referred to in any motion, debate or question.
 - (a)
 - (i) Criminal proceedings are active when a charge has been made or a summons to appear has been issued.
 - (ii) Criminal proceedings cease to be active when they are concluded by verdict and sentence or discontinuance, or in cases dealt with by courts martial, after the conclusion of the mandatory post-trial review.
 - (b)
 - (i) Civil proceedings are active when arrangements for the hearing, such as setting down a case for trial, have been made, until the proceedings are ended by judgment or discontinuance.
 - (ii) Any application made for the purposes of any civil proceedings shall be treated as a distinct proceeding.
 - (c) Appellate proceedings, whether criminal or civil, are active from the time when they are commenced by application for leave to appeal or by notice of appeal until ended by judgment or discontinuance.
 - (d) For the purposes of this resolution matters before a Coroner's court shall be treated as matters within paragraph (1) (a).

But where a ministerial decision is in question, or in the opinion of the Speaker a case concerns issues of national importance such as the economy, public order or the essential services, reference to the issues or the case may be made in motions, debates or questions.

- (2) Specific matters which the Assembly has expressly referred to any judicial body for decision and report shall not be referred to in any motion, debate or question, from the time when the resolution of the Assembly is passed until the report is laid before the Assembly.
- (3) This resolution has effect unless amended or repealed by this or any subsequent Assembly.

Continuing resolution 11

TITLE OF PRESIDING OFFICER

This resolution provides in accordance with subsection 11(2) of the *Australian Capital Territory (Self-Government) Act 1988* that the title of the Presiding Officer of the Assembly shall be "Speaker".

Resolution agreed by the Assembly

27 March 1992

That pursuant to subsection 11(2) of the *Australian Capital Territory (Self-Government) Act 1988*, the title of the Presiding Officer of this Assembly be "Speaker" and that this resolution has effect from the commencement of the Second Assembly and continues in force unless and until amended or repealed by this or a subsequent Assembly.

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