

# COMMITTEE MEMBERSHIP

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## RESOLUTION OF APPOINTMENT

In 1995 the Legislative Assembly for the Australian Capital Territory ('the Assembly') amended Standing Order 16, which established the Standing Committee on Administration and Procedure ('the Committee').

Standing Order 16 authorises the Committee to inquire into and report on, among other things, the practices and procedure of the Assembly.

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## RECOMMENDATIONS

#### **RECOMMENDATION 1**

2.2 That standing order 8 be amended by omitting "3 Members" and substituting "4 Members".

#### **RECOMMENDATION 2**

2.3 That standing order 41 be amended by adding ", unless taking their seat at the central table.".

#### **RECOMMENDATION 3**

- 2.4 That standing order 69(g) be amended as follows:

#### **RECOMMENDATION 4**

2.5 That standing order 113(a) be amended by omitting "on the Notice Paper" and substituting "on the Questions on Notice Paper".

#### **RECOMMENDATION 5**

2.6 That standing order 113B be amended by omitting "two further supplementary questions" and substituting "one further supplementary question".

#### **RECOMMENDATION 6**

2.7 That standing order 118(C) be amended by omitting "four minutes" and substituting "two minutes".

#### **RECOMMENDATION 7**

- 2.8 That standing order 16 be amended by omitting paragraph (a) (i) and substituting:
  - "(i) in addition to the committee undertaking inquiries self-referred or from the Assembly, in the third year of an Assembly term it shall inquire into and report on the operation of the standing orders and continuing resolutions of the Assembly with a view to ensuring that the practices and procedures of the Assembly remain relevant and reflect best practice;"

#### **RECOMMENDATION 8**

2.10 That standing order 125A be amended by omitting "eight sitting weeks" and substituting "four sitting weeks".

#### **RECOMMENDATION 9**

2.11 That standing order 152A be amended by omitting "eight sitting weeks" and substituting "four sitting weeks".

#### **RECOMMENDATION 10**

3.6 That, commencing the first sitting week in 2017, standing order 101 be amended by inserting a new paragraph:

"Except that a proposed notice of motion to be considered by the Standing Committee on Administration and Procedure under standing order 16(a)(iii) must be delivered to the Clerk no later than 12 noon on the Monday of the sitting week at which it is proposed to be moved.".

# 1. BACKGROUND

- 1.1. On 11 August 2016, the Speaker (Eighth Assembly) tabled a discussion paper on possible changes to the standing orders as a result of the expanded Assembly to ensure the effective operation of the Assembly (see Appendix A).
- 1.2. The intention was for the discussion paper to be considered by the Standing Committee on Administration and Procedure of the Ninth Assembly, and for that Committee to make proposals to the Assembly.
- 1.3. This Report details the Committee's proposed changes to the standing orders.

### 2. Changes to standing orders

2.1. The Committee deliberated on the considerations contained in the discussion paper and recommends that the following changes to the standing orders be made:

## Number of Assistant Speakers—Consideration No 1— Standing order 8

#### **RECOMMENDATION 1**

2.2. That standing order 8 be amended by omitting "3 Members" and substituting "4 Members".

## Members passing between Chair and Member speaking— Consideration No 4—Standing order 41

#### **RECOMMENDATION 2**

2.3. That standing order 41 be amended by adding ", unless taking their seat at the central table.".

# TIME FOR DISCUSSING MATTERS OF PUBLIC IMPORTANCE—CONSIDERATION NO 7—STANDING ORDER 69(G)

#### **RECOMMENDATION 3**

- 2.4. That standing order 69(g) be amended as follows:
  - "(g) Matter of public importance (under standing order 79)

    Whole discussion \_\_\_\_\_\_\_50 minutes

    Each Member \_\_\_\_\_\_10 minutes".

# QUESTIONS ON NOTICE—CONSIDERATION NO 11—STANDING ORDER 113(A)

#### **RECOMMENDATION 4**

2.5. That standing order 113(a) be amended by omitting "on the *Notice Paper*" and substituting "on the *Questions on Notice Paper*".

# QUESTIONS WITHOUT NOTICE—CONSIDERATION NO 12—STANDING ORDERS 113B AND 118(c)

#### RECOMMENDATION 5

2.6. That standing order 113B be amended by omitting "two further supplementary questions" and substituting "one further supplementary question".

#### **RECOMMENDATION 6**

2.7. That standing order 118(c) be amended by omitting "four minutes" and substituting "two minutes".

# IMPLEMENTING A REVIEW OF STANDING ORDERS SIMILAR TO NZ PRACTICE—CONSIDERATION NO 14—STANDING ORDER 16

#### **RECOMMENDATION 7**

- 2.8. That standing order 16 be amended by omitting paragraph (a)(i) and substituting:
  - "(i) in addition to the committee undertaking inquiries self-referred or from the Assembly, in the third year of an Assembly term it shall inquire into and report on the operation of the standing orders and continuing resolutions of the Assembly with a view to ensuring that the practices and procedures of the Assembly remain relevant and reflect best practice;".

# 3. Additional Changes to Standing Orders

# REMOVAL OF NOTICES AND ORDERS OF THE DAY—PRIVATE MEMBERS' BUSINESS AND ASSEMBLY BUSINESS—FROM THE NOTICE PAPER—STANDING ORDERS 125A AND 152A

3.1. The Committee considered the period that notices and orders of the day, Private Members' business and Assembly business, should remain on the *Notice Paper*. The Committee recommends the following changes:

#### RECOMMENDATION 8

3.2. That standing order 125A be amended by omitting "eight sitting weeks" and substituting "four sitting weeks".

#### **RECOMMENDATION 9**

3.3. That standing order 152A be amended by omitting "eight sitting weeks" and substituting "four sitting weeks".

#### 3.4. How Notices of Motion are Given-Standing Order 101

- 3.5. The Committee also considered an amendment to standing order 101 (Notices of Motion—How Given). The proposal allows Members to lodge notice of motions for matters under Private Members' business, Assembly Business and Executive Members' business with the Clerk on the Monday of a sitting week. The intent of the amendment is to allow the Standing Committee on Administration and Procedure to meet and determine the order of business for Private Members' Business, Assembly Business, and Executive Members' business on the Monday. This would then allow all Members additional time to develop more considered responses to motions.
- **3.6.** Under the current standing order notification of matters for discussion under Private Members' business on a sitting Wednesday, are promulgated to Members around 2:00pm on the sitting Tuesday. The proposed amendment would allow an additional 24 hours for the preparation of responses to motions.

#### **RECOMMENDATION 10**

3.7. That, commencing the first sitting week in 2017, standing order 101 be amended by inserting a new paragraph:

"Except that a proposed notice of motion to be considered by the Standing Committee on Administration and Procedure under standing order 16(a)(iii) must be delivered to the Clerk no later than 12 noon on the Monday of the sitting week at which it is proposed to be moved.".

Joy Burch MLA, Chair

5 December 2016

# APPENDIX A: STANDING ORDERS FOR THE 9<sup>TH</sup> ASSEMBLY—SPEAKER'S DISCUSSION PAPER



# STANDING ORDERS FOR THE 9<sup>TH</sup> ASSEMBLY SPEAKER'S DISCUSSION PAPER

AUGUST 2016

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## 1 Introduction

1.1 In October 2016 ACT voters will go to the polls and elect 25 Members of the Legislative Assembly (MLAs) following the passage of relevant legislation in August 2014. This paper discusses and sets out possible changes to the standing orders and practices that may be required to ensure that the expanded Assembly operates effectively.

## 2 Possible changes to standing orders

Number of Assistant Speakers - Consideration No. 1

- 2.1 Standing order 8 provides that the Speaker shall nominate at the commencement of every Assembly not more than three Members, not being Ministers, to act as Assistant Speaker. In the 8<sup>th</sup> Assembly the Speaker has appointed two Assistant Speakers, although on one occasion in July 2015 the Speaker appointed two additional Assistant Speakers while the Speaker, Deputy Speaker and the two existing Assistant Speakers were all absent from the Territory.
- 2.2 It is suggested that, with the increase in the size of the Assembly and possible longer hours that the Assembly may sit as a consequence, more Assistant Speakers may be required. If the number were to be changed to four, that would ensure that there would be little likelihood that the situation faced in July 2015 would be repeated.

OPTION FOR CONSIDERATION NO. 1—

2.3 That standing order 8 is amended by omitting "3" and substituting "4".

Number of members on Standing Committee on Administration and Procedure – Consideration No. 2

- 2.4 Standing order 16 (b) provides that the Standing Committee on Administration and Procedure consists of four members The Speaker (Chair), the government whip, the opposition whip and a representative of the crossbench (or if a single party, the whip of that party).
- 2.5 If there are significantly more crossbench members in the 9<sup>th</sup> Assembly consideration may need to be given to expanding the size of the committee. In the 4<sup>th</sup> Assembly, the committee consisted of six members (Speaker, Opposition MLA, Government MLA, two minor party MLAs (Greens and Osbourne Independents) and one independent (Mr Kaine).

OPTION FOR CONSIDERATION NO. 2—

2.6 That, depending on the number of crossbench MLAs in the 9<sup>th</sup> Assembly, consideration be given to altering the size of the Standing Committee on Administration and Procedure.

#### EXECUTIVE MEMBERS' BUSINESS - CONSIDERATION No. 3

- 2.7 Standing order 16 (a) (iii) provides that the Standing Committee on Administration and Procedure can arrange the order of Executive Members' business. This standing order was amended at the commencement of the 8<sup>th</sup> Assembly to facilitate the decision of a member of the crossbench to become a Minister and undertake Executive Members' business. The standing order was also amended in the 4<sup>th</sup> Assembly when a crossbench MLA also became a Minister.
- 2.8 If there are no crossbench MLAs in the 9<sup>th</sup> Assembly who become a Minister this standing order can be omitted.

OPTION FOR CONSIDERATION NO. 3—

2.9 That, if no crossbench member becomes a Minister in the 9<sup>th</sup> Assembly, standing order 16 (a) (iii) be amended by omitting "Executive Members' business".

Members passing between Chair and Member speaking – Consideration No. 4

- 2.10 With the proposed inclusion of a centre table that will be occupied by the leader and deputy leaders of both the opposition and the government it is likely that the occupants of those positions in the Chamber may, in simply taking their seats, cross between the Chair and Member speaking which would be in breach of standing order 41.
- 2.11 It is suggested that a broad interpretation be taken to this standing order by the Chair, and that merely taking your seat or another MLA approaching the centre table for a quick conversation should not be considered a breach of this standing order.

OPTION FOR CONSIDERATION NO. 4—

2.12 That standing order 41 be interpreted broadly by the Chair when dealing with interactions of Members at the centre table.

#### Time for the adjournment debate - Consideration No. 5

- 2.13 Standing order 69 (b) provides that the adjournment debate each sitting day is limited to a maximum of no more than 30 minutes for the whole debate. If each MLA speaks for their full entitlement of five minutes this means that on each day six MLAs can speak in the debate to adjourn the Assembly.
- 2.14 An analysis of the debates in the 8<sup>th</sup> Assembly is that rarely is the full 30 minutes used, with the records showing that only on seven sitting days (out of 111) (i.e. 6.3%) did the adjournment debate last the full allocated time, with the average time taken each sitting day being 19 minutes. The figures below show how the time for adjournment debates in the 8<sup>th</sup> Assembly has been utilised:

# Adjournment debates for 8th Assembly (as at 13/8/2015)

Total sitting days	111
Total adjournment debates	101
Adjournment debates that expired (30 mins) Adjournment debates extended beyond 30 mins (Suspension of SO at last	7
sitting day of each year)	3
Average length of adjournment debates	19 minutes

2.15 This pattern has been the Office of the Clerk's recollection of the experience since self-government. It is suggested that no change to the time limit for the adjournment debate is required. However, if the full 30 minutes is constantly utilised in the early part of the 9<sup>th</sup> Assembly, consideration could be given then to extending it to, say 40 minutes.

OPTION FOR CONSIDERATION NO. 5—

2.16 That no change be made to the 30 minute time limit (SO 69 (b)) for the adjournment debate unless the allotted time is fully used on a regular basis in the early stages of the 9<sup>th</sup> Assembly.

TIME FOR SPEAKING ON BILLS - CONSIDERATION NO. 6

2.17 Standing order 69 (d) provides that when debating a Bill (other than an Appropriation Bill) the time limits are:

Mover	20 minutes
First government or opposition member next speaking	20 minutes
First crossbench Member speaking	20 minutes
Any other member	15 minutes

2.18 Should the 9<sup>th</sup> Assembly have no minor party/independent members there may be a need to amend this standing order to reflect that fact.

OPTION FOR CONSIDERATION NO. 6—

2.19 That, depending on the number of crossbench MLAs in the 9<sup>th</sup> Assembly, consideration be given to altering standing order 69 (d) to provide for the same speaking rights as opposition or government MLAs who are speaking first.

Time for discussing matters of public importance – Consideration No. 7

2.20 Standing order 69 (g) provides that matters of public importance may be discussed for a period of 45 minutes. The proposer gets 15 minutes and any other MLA gets 10 minutes, meaning that if all MLAs take up fully their allotted time there will be four speakers. In an expanded Assembly with a different make—up there may be a desire for more participation and so consideration may need to be given to extending the time to say, 55 minutes to allow at least one more speaker.

OPTION FOR CONSIDERATION NO. 7—

2.21 That the time allotted for discussing matters of public importance as set out in standing order 69 (g) be extended by 10 minutes to allow for an additional member to participate in the discussion.

Time for Assembly sittings – Earlier start to Question Time – Consideration No. 8

2.22 Standing order 74 provides, inter alia, that the Assembly commence Questions without Notice at 2.30pm each sitting day. Given the expanded number of Members and the fact that question time is more than likely to last longer than it does at present and that other proceedings (MPI, bills, motions for all items of business i.e. executive, private members and Assembly) may also take longer as there will be more MLAs to speak, there may be a case to commence Question Time at 2pm so that these extra pressures on the time of the Assembly can be accommodated.

OPTION FOR CONSIDERATION NO. 8—

2.23 That Standing order 74 be amended in the 9<sup>th</sup> Assembly by omitting "2.30pm" and substituting "2pm" so that Question Time starts earlier.

#### EXECUTIVE MEMBERS' BUSINESS - CONSIDERATION NO. 9

- 2.24 Standing order 77 (c) provides that on sitting Thursdays, Executive Members' business shall have precedence over Executive business in the ordinary routine of business for one hour from the conclusion of Assembly business. Standing orders 77 (e), (f) and (g) and the definition at the end of the standing order also have similar references to Executive Members' business This standing order was amended at the commencement of the 8<sup>th</sup> Assembly to facilitate the decision of a Member of the crossbench to become a Minister and undertake Executive Members' business. The standing order was also amended in the 4<sup>th</sup> Assembly when a crossbench MLA also became a Minister.
- 2.25 If there are no crossbench MLAs in the 9<sup>th</sup> Assembly who become a Minister this standing order can be omitted.

OPTION FOR CONSIDERATION NO. 9—

2.26 That, if no crossbench member becomes a Minister in the 9<sup>th</sup> Assembly, standing order 77 be amended by omitting paragraph (c), and amending paragraphs (e), (f) and (g) and the definition at the end of the standing order to remove the references to Executive Members' Business.

Time for lodging notices of motion for private Members' business – Consideration No. 10

- 2.27 Standing order 101 provides that Members lodging notices of motion must do so by lodging it with the Clerk in the Chamber on a sitting day. This standing order is particularly relevant to Tuesday morning sittings as the Standing Committee on Administration and Procedure meets at 12.30pm to determine the order of business for Wednesday and Thursday of that sitting week.
- 2.28 Although not a standing order, the well established practice is that Private Members' Business, Assembly Business and Executive Members' Business notices are lodged by 12 noon so that they may be rekeyed by the Notice Paper Officer and included in the meeting papers for the 12.30pm Administration and Procedure Committee meeting. With the expansion of the Assembly there is a possibility that a larger number of notices may be lodged, which if the same deadline of noon is kept will place a great deal of pressure on Chamber Support staff to produce the documents in time for the meeting. Although an earlier deadline could be imposed (say 11am) it is unlikely that Members and their staff will be able to meet that deadline on a busy sitting day. Perhaps the better solution is for Chamber Support staff to simply attach the notices that they receive to the agenda paper for the 12.30pm meeting and key in the material later in the afternoon.

2.29 Although some MLAs provide the Chamber Support Office with electronic copies of material which has been produced in their offices, Members are not required to lodge notices, questions on notice or proposed amendments electronically when they hand in their Notice in the Chamber to the Clerk or lodge questions and amendments. Nor are Ministers required to lodge papers electronically by a certain time. With the expansion of the Assembly, there will likely be more notices lodged, as well as questions without notice and proposed amendments, which will result in increased pressure on Chamber Support staff to produce the chamber related documents. To address this issue, it is suggested that Members be strongly encouraged to lodge their notices, questions without notice and amendments electronically, and for the Executive to lodge documents electronically by a certain time.

OPTION FOR CONSIDERATION NO. 10—

2.30 Members are strongly encouraged to provide electronic copies of material to the Chamber Support Office when lodging papers/questions/motions/amendments.

Questions on notice – Consideration No. 11

- 2.31 Standing order 113 (a) provides that a Member can lodge a question on notice. Currently there is no limitation on how many questions on notice that can be lodged. Records have not been kept on what the highest number of questions on notice lodged by an MLA was, but anecdotal evidence from the Office is that it is not unusual for an MLA to lodge around 20 questions on one day. The highest number of questions asked in the life of the Assembly was in 2003-04 when 820 questions on notice were asked, or an average 74 questions for each non-Executive MLA. On one sitting in November 2015 records show that 91 new questions were placed on the *Notice Paper*.
- 2.32 If the expanded Assembly results in Members lodging a significantly larger number of questions on notice, consideration may need to be given to placing a limit on the number of questions asked per sitting day, or increasing the resources of OLA to deal with the processing of the questions and answers. Another option (which will relieve pressure on OLA staff on a sitting day) is to issue a separate Questions Notice Paper at the end of a sitting week.

OPTION FOR CONSIDERATION NO. 11—

2.33 The 9<sup>th</sup> Assembly might wish to consider the issuing of a separate Questions Notice Paper.

Questions without notice – Consideration No. 12

2.34 Standing order 113A provides that questions without notice shall not be concluded until all non-Executive Members have asked at least one question. This standing order, in conjunction with standing order 113B (one supplementary question may be asked by the Member asking the original question, and two further supplementary questions may be asked by other Members) means that there are always (provided no leave of absences and with seven

- Ministers) nine original questions and 27 supplementary questions totalling 36 questions each Question Time. In the 8<sup>th</sup> Assembly when it had six Ministers (from July 2014 to February 2016) this resulted in question time averaging 56 minutes.
- 2.35 Currently 36 questions per sitting day are being asked. Assuming that the Chief Minister continues to have seven Ministers, then potentially with an expanded Assembly there will be 17 MLAs asking a total of 68 questions, which would result in question time lasting an hour and half and possibly longer depending on the length of the answers.
- 2.36 If the Assembly wanted to retain the essential elements of the present Question procedure, (i.e. each individual MLA being able to ask a question with some supplementaries) then one option would be to simply eliminate the last supplementary question. That would mean that each MLA could ask one question and a supplementary, and then one MLA could ask a further supplementary. Assuming seven Ministers, that would mean a total of 51 questions per sitting day, which is a slight increase on the current 36 (bearing in mind when there were five Ministers there were 44 questions per day being asked).
- 2.37 Another option is to reduce the time for Ministers to answer questions to three minutes for the original question and two minutes for the supplementary questions.

OPTION FOR CONSIDERATION NO. 12—

2.38 That the essential elements of the current question time are retained, and that standing order 113B be amended by omitting "two" and substituting "one" as well as amending the time limits for answers as indicated above.

COMMITTEES FOR THE 9<sup>TH</sup> ASSEMBLY – CONSIDERATION NO. 13

- 2.39 Standing order 215 provides that standing committees shall be established and members appointed as soon as practicable after the commencement of each Assembly.
- 2.40 Appendix 1 shows the number of Committees that have been appointed for each of the past Assemblies as well as the number of committee positions to be filled. As can be seen from the appendix, there is quite significant committee work to be fulfilled, and this has been exacerbated in recent years with the appointment of additional Ministers and the decision to have four Member committees.
- 2.41 Having Members spread across a number of committees means that they are less effective in being able to specialise on particular subject areas, it is difficult to obtain quorums and meeting times as they have multiple committee meetings to attend. This can have the effect of making the committee system less effective in undertaking its important scrutiny work.

- 2.42 Just because we have expanded the size of the Assembly it can be argued that the Assembly should not significantly expand the number of committees or committee spots. Government Members are already on every standing committee, as well as being a member of a select committee, and providing a whip and an Deputy Speaker. If there was a decision to expand the number of committees and committee spots it would lead to a continuation of the situation outlined above and would diminish the capability of committees to perform the important work that they do.
- 2.43 With two exceptions, it is suggested that committees stay essentially the same for the 9<sup>th</sup> Assembly:
  - (1) The Standing Committee on Public Accounts (PAC) should be split into two committees. The reason for this split is that it is clear from the number of Auditor-General reports presented that that committee has a higher workload than other standing committees, with almost 40% of all reports being presented in this Assembly coming from that one committee.
    - It is suggested that a new committee be created to take on the non Auditor-General aspects of the current PAC. That committee would examine the annual reports, statutory reports and policy matters of the CMTEDD directorate leaving the PAC to deal more comprehensively and exclusively with Auditor-General reports.
  - (2) The second exception is that the Assembly consider again creating three member committees in the 9<sup>th</sup> Assembly and return to the practice of the first seven Assemblies. This would enable Members to be on less committees, make meeting easier (there have been difficulties across all committees in the 8<sup>th</sup> Assembly in scheduling meetings due to the quorum requirement of three members which would be eliminated with only two members required for a three person committee) and allow Members to develop a specialisation for a subject area rather than being thinly spread across a large number of committees.
- 2.44 A suggested committee structure for the 9<sup>th</sup> Assembly could be as follows:

Public Accounts

Finance and Public Sector

Health

JACS

Planning and Environment

Education

Administration and Procedure

3 Members

3 Members

3 Members

4 members

Total committee positions 22 (there are 24 positions in this Assembly)

2.45 To ensure compliance with standing order 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) it is envisaged that, for example, where they may be 40% of members from one party, approximately 40% of the 22 positions (i.e. nine positions) would be spread across the seven committees, with two committees having two members from that party and each other committee with one member.

OPTION FOR CONSIDERATION NO. 13—

2.46 That seven standing committees be established in the 9<sup>th</sup> Assembly along the lines outlined in this options paper

IMPLEMENTING A REVIEW OF STANDING ORDERS SIMILAR TO NZ PRACTICE – CONSIDERATION NO. 14

2.47 The New Zealand Parliament has a practice where mid way through a parliamentary term the Standing orders committee undertakes a major review of all standing orders, with submissions being sought from all MPs, as well as the public.

OPTION FOR CONSIDERATION NO 14—

2.48 If the committee wanted to pursue this it could make the following amendment to standing order 16:

Omit paragraph (a)(i), substitute the following:

In addition to the committee undertaking inquiries self-referred or from the Assembly, in the 3<sup>rd</sup> year of an Assembly term it shall inquire into and report on the operation of the standing orders and continuing resolutions of the Assembly with a view to ensuring that the practices and procedures of the Assembly remain relevant and reflect best practice.".

Vicki Dunne, MLA Speaker

August 2016

# Appendix A COMMITTEE MEMBERSHIP

Assembly	Standing Committees	Select Committees	Members available for Committee service	Members on Standing Committees*	Members on Select Committees	Average Number of Committees per Member
1 <sup>st</sup> Assembly	7	12	13	25	59	6.5
2 <sup>nd</sup> Assembly	9	8	13	32	51	6.4
3 <sup>rd</sup> Assembly	7	8	13	24	36	4.6
4 <sup>th</sup> Assembly	6	11	13	22	46	5.2
5 <sup>th</sup> Assembly	7	10	12	24	36	5.0
6 <sup>th</sup> Assembly	6	6	12	19	27	3.8
7 <sup>th</sup> Assembly	7	10	12	22	38	5.0
8 <sup>th</sup> Assembly	6	6#	9	24	26	5.5

<sup>\*</sup> includes the Speaker as Chair of the Standing Committee on Administration and Procedure