



**LEGISLATIVE ASSEMBLY**  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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STANDING COMMITTEE ON ADMINISTRATION AND PROCEDURE  
Speaker Ms Joy Burch MLA (Chair), Ms Nicole Lawder MLA (Deputy Chair),  
Ms Suzanne Orr MLA, Mr Andrew Braddock MLA

## **Submission Cover sheet**

Review of the Standing Orders and  
Continuing Resolutions of the Tenth  
Assembly

Submission number: 002

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# Nicole Lawder MLA

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Opposition Whip

Tom Duncan

Secretary Standing Committee on Administration and Procedure

ACT Legislative Assembly

GPO Box 1020

CANBERRA ACT 2601

e-mail – [LACommitteeAPC@parliament.act.gov.au](mailto:LACommitteeAPC@parliament.act.gov.au)

Dear Mr Duncan,

10<sup>th</sup> Assembly Review of Standing Orders

At the meeting of the Legislative Assembly held on 21 September 2022, the Speaker, as Presiding Member of the Standing Committee on Administration and Procedure, advised Members of the Assembly of the Committee's intention to conduct a review of the current Standing Orders.

As Opposition Whip, I have consulted with my colleagues from the Canberra Liberals and this document contains a consolidated response from the Opposition.

These comments are based on <https://www.parliament.act.gov.au/parliamentary-business/in-the-chamber/standing-orders>

If you have any questions on the matters outlined in this submission, please do not hesitate to contact me.

Yours sincerely,

Nicole Lawder

Opposition Whip

13 December 2022

Summary of comments:

Chapter	Title	Comment/suggestion
1	<a href="#">Proceedings</a> for the meeting of Assembly:	No comment
2	<a href="#">Speaker, Chief Minister, Deputy Speaker, Leader of the Opposition and Officers</a>	No comment
3	<a href="#">Administration and Procedure Committee</a>	<p>16. (a) A Standing Committee on Administration and Procedure is established at the commencement of each Assembly to:</p> <p style="padding-left: 40px;">(i) undertake self-referred inquiries or inquiries referred by the Assembly and, in addition, in the third year of an Assembly term the committee 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; <i>(Amended 29 November 2018)</i></p> <p>Comment: This year we started the review in the 2<sup>nd</sup> year. Change wording so it can be more flexible.</p>
4	<a href="#">Administration</a>	<p><b>Leave of absence</b></p> <p>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. Except that a Member who is pregnant shall be entitled, without a vote of the Assembly, to 18 weeks maternity leave of absence, and that leave shall commence at a time</p>

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		<p>notified by the Member to the Speaker. <i>(Amended 6 March 2008, 29 November 2018 and 21 March 2019)</i></p> <p>Comment: Does not mention paternity leave/parental leave/ adoption leave. Out of step with community standards.</p>
5	<p><a href="#">Sitting and adjournment of the Assembly</a></p>	<p><b>Prayer or Reflection</b></p> <p>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:</p> <p style="padding-left: 40px;">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. <i>(Amended 1 June 1995)</i></p> <p style="padding-left: 40px;">The Speaker shall also acknowledge, at the beginning of each sitting day, that the Assembly is meeting on the lands of the traditional custodians. <i>(Amended 6 March 2008, 2 April 2009 and 10 May 2018) Vs 42A(a) English first</i></p> <p>Comment: Need to add in Acknowledgement of country in language, which usually comes before the Prayer or Reflection. So the order in the Standing Orders, should reflect the actual practice. Also that it is in language with translation following. Currently this is at odds with SO 42 A which says English translation should be prior to other language.</p> <p>Suggestion: The Speaker shall acknowledge, at the beginning of each sitting day, that the Assembly is meeting on the lands of the traditional custodians. <i>(Amended 6 March 2008, 2 April 2009 and 10 May 2018) Vs 42A(a) English first</i></p>
6	<p><a href="#">Rules of debate</a></p>	<p><b>Speaking in a language other than English</b></p> <p>42A. A Member may, when called by the Chair, rise and speak in any language other than English so long as:</p> <p style="padding-left: 20px;">(a) an oral translation is provided in the English language by the same Member immediately prior to the words spoken in the language other than English; and</p>

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		<p><i>(b)</i> a written translation in both English and the language used is provided to the Clerk within one hour following the contribution by the Member speaking. <i>(Inserted 29 November 2018)</i></p> <p>Comment: this is not what happens in practice with the acknowledgement of country. The welcome in language is spoken before the oral translation, not after. Wording to be changed to make consistent with practice.</p> <p><b>Use of Queen’s, Governor-General’s or Governor’s name</b></p> <p>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.</p> <p>Comment: Reference to Queen and Her Majesty to be updated.</p>
7	<a href="#">Business</a>	<p><b>Routine of business</b></p> <p>74. The Assembly shall proceed each day with its ordinary business in the following routine:</p> <p style="padding-left: 40px;">Prayer or reflection  Presentation of petitions  Ministerial statements  Notices and orders of the day  Questions without notice  Presentation of papers  Private Members’ business  Ministerial statements  Notices and orders of the day:</p> <p>Comments: Does not include the Aboriginal welcome.  Presentation of petition responses to be added after petitions.  Why is Ministerial statements there twice?</p> <p style="padding-left: 40px;">provided that at 2 pm on each day the Speaker shall interrupt the business before the Assembly in order that</p>

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		<p>questions without notice shall be called on, and  <i>(Temporary order 9 December 2008. Adopted 3 May 2012. Amended 27 November 2012, 4 June 2015, 29 November 2018 and 30 March 2021)</i></p> <p>Comment: We start QT at 2pm, why is this needed?</p> <p>(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</p> <p>(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; <i>(Amended 4 May 1995, 1 June 1995 and 2 April 2009)</i></p> <p>provided further that, in relation to ministerial statements, copies shall be provided to the Speaker for circulation to all Members two hours prior to the time at which the statement is proposed to be made; and that Ministers shall table a copy of the statement and move that the paper be noted. <i>(Adopted 27 November 2012. Amended 4 June 2015)</i></p> <p>Suggested change: Ministers shall table a copy of the statement and move that the paper be noted. Statements shall not be read out except in exceptional circumstances, by leave. A Minister can speak for up to 2 minutes to explain why reading out a statement is warranted, then seek leave.</p> <p>Significant parts of sitting days are taken up by Ministerial Statements. There is no reason the majority of these statements should not be tabled only. If it is important it can be a substantive motion etc.</p> <p>The available time can be allocated to an additional motion, scheduled to rotated between parties, allowing more inclusive and genuine debate instead of statements made by Ministers, about Ministers and for Ministers. For the occasions where a statement does need to be read, these can be moved by leave.</p>

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		<p style="text-align: center;"><b>New business</b></p> <p>76. New business may not be taken after 10 pm unless otherwise ordered prior to 9 pm. <i>(Amended 6 March 2008 and 29 November 2018)</i></p> <p>Comment: Do we still need this? Ie do we ever go to 10pm? Can we make it 7 pm or 8pm for example?</p>
8	<a href="#">Petitions</a>	<p>Suggestion: Should contain rules about not identifying someone. Ref public housing petition</p>
9	<a href="#">Notices of motion</a>	<p style="text-align: center;"><b>Notice of motion – how given</b></p> <p>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, (if a co-sponsored motion, by both Members whose names are on the notice).</p> <p>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. <i>(Amended 6 March 2008, 13 December 2016 and 29 November 2018)</i></p> <p>Suggestion: Delivered in Hard copy (signed) as well as electronic.</p> <p style="text-align: center;"><b>No contingent notice</b></p> <p>108. A Member shall not give a contingent notice of motion.</p> <p>Comment: Don't even know what this means after 10 years here.</p>
10	<a href="#">Questions seeking information</a>	<p style="text-align: center;"><b>Questions without notice and questions on notice</b></p> <p>113. (a) A Member may ask a question in writing to be placed on the <i>Questions on Notice Paper</i> for written reply. Such questions shall be lodged with the Clerk, in</p>

Chapter	Title	Comment/suggestion
		<p>both hard copy and electronically by 12 noon of a sitting day. <i>(Amended 29 November 2018)</i></p> <p>Comment: is this consistent with new database requirements.</p> <p><b>Questions without notice – number of questions</b></p> <p>113A. Questions without notice shall not be concluded until non-Executive Members seeking to ask a question have asked at least the number of questions equivalent to the number of non-Executive Members present in the Assembly on that day from either party or group represented in the Assembly. <i>(Adopted 15 September 1994. Amended 29 November 2018 and 2 June 2022)</i></p> <p>Comment: The Party should still be entitled to ask a QWON ie not lose the opportunity to ask Questions because someone (or more than one person) is on sick leave, maternity leave, for example. The number of questions without notice should reflect the number of elected representatives, as opposed to the number of members present. This will allow the number of questions to remain at the same level (eg 9 this term) when an MLA is on leave.</p> <p>Suggestion: Questions without notice shall not be concluded until non-Executive Members seeking to ask a question have asked at least the number of questions equivalent to the number of non-Executive Members elected from either party or group represented in the Assembly.</p> <p><b>Rules for all questions</b></p> <p>117. The following general rules shall apply to questions:</p> <ul style="list-style-type: none"> <li>(a) questions shall be brief and relate to a single issue;</li> <li>(b) questions shall not contain: <ul style="list-style-type: none"> <li>(i) statements of fact or names of persons unless they are strictly necessary to render the</li> </ul> </li> </ul>



Chapter	Title	Comment/suggestion
		<p>question intelligible and the facts can be authenticated;</p> <p>(ii) arguments;</p> <p>(iii) inferences;</p> <p>(iv) imputations;</p> <p>(v) ironical expressions; or</p> <p>(vi) hypothetical matters;</p> <p>(c) questions shall not ask Ministers:</p> <p>(i) for an expression of opinion;</p> <p>(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</p> <p>(iii) for a legal opinion;</p> <p>(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;</p> <p>(e) questions shall not refer to proceedings in committee not yet published or anticipate the outcome of a committee inquiry;</p> <p>(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;</p> <p>(g) a question fully answered cannot be re-asked. <i>(Amended 6 March 2008 and 29 November 2018)</i></p>

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		<p>Comment: Currently, questions without notice must be drafted and can be ruled out of order under a range of rules above and beyond those applied in the normal standards for parliamentary debate. Rules for questions state they must not contain ‘ironical expressions’, ‘inferences’ or ‘imputations.’ However, there are no such constraints on the answers.</p> <p>This leads to an unbalanced situation where the questions have to be very carefully worded, but the answers can – and often are - full of ironic expressions, inferences and imputations. As just one example, In a recent question time (24 Nov 2022), the Chief Minister’s first words where “If Mr Cain could stay awake for earlier, or stay awake for any questions, he would know...” There other examples in nearly every question time where a responding Minister attacks the questioner rather than answer the question.</p> <p>It is submitted then that the rules restricting questions should also be used to curtail the answers.</p> <p>If this is argued as being unnecessary due to the normal rules of debate, that should also apply to the questions themselves.</p> <p>In either case, the rules should be the same for both questions and answers in question time.</p> <p>Suggestion: rules governing questions should equally apply to answers.</p> <p style="text-align: center;"><b>Answers to questions without notice</b></p> <p>118. The answer to a question without notice:</p> <p style="padding-left: 40px;">(a) shall be concise and directly relevant to the subject matter of the question (<i>Temporary order 9 December 2008. Adopted 22 March 2012</i>); and</p> <p style="padding-left: 40px;">(b) shall not debate the subject to which the question refers; and</p> <p>Comment: see above comments on rules governing questions which should equally apply to answers.</p> <p>Suggestion: in 118 (b) “shall not introduce matter extraneous to the question and shall not debate the subject to which the question refers; and</p>

Chapter	Title	Comment/suggestion
		<p style="text-align: center;"><b>Request for explanation concerning unanswered question</b></p> <p>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:</p> <ul style="list-style-type: none"> <li>(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</li> <li>(b) the Member may, at the conclusion of the explanation or statement, move without notice “That the Assembly takes note of the explanation”; or</li> <li>(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. <i>(Adopted 4 May 1995. Amended 6 March 2008)</i></li> </ul> <p>119. <i>(Standing order omitted 6 March 2008)</i></p> <p>Comment: re 118A (b) In the Senate, there is the practice to ‘take note’ of an answer. This is when a Minister, in answering a question, omits, mistreats or misrepresents information or merely attacks the questioner. In the senate, it is possible for that questioner to hold the Minister to account for their answer. A research paper by Mr Richard Pye, Clerk of the Senate, in 2017 covers the use and purposes of this treatment, and notes:</p> <p>“Senate standing orders provide that, at the end of question time each day, 30 minutes be allocated to debating answers given that day. The order has been in place for nearly a quarter of a century, and is now regarded as an essential part of question time each day. It is one of several opportunities each</p>

Chapter	Title	Comment/suggestion
		<p>day for non-government senators to initiate debates of general or political interest.”</p> <p>Suggestion: Motions to take note become part of the standing orders for the Assembly to allow members the chance to counterpoint the answers provided by Ministers as is the case in the Senate. A copy of the research paper is available at: <a href="https://www.parliament.nsw.gov.au/lcdocs/submissions/57568/0010%20Richard%20Pye.pdf">https://www.parliament.nsw.gov.au/lcdocs/submissions/57568/0010%20Richard%20Pye.pdf</a></p> <p>Comment: With respect to 118A (cb) A Minister often says something like “I will check where it is up to”. That is not an explanation. So, then what? What’s the point of this? Could we make it simpler/clearer.</p> <p>Suggestion: Members may also make a statement within the session allocated for “Matters arising from Question Time” to express their views on the failure of a Minister to respond within the timeframe. 2 minutes per unanswered Question.</p> <p>119. <i>(Standing order omitted 6 March 2008)</i></p> <p style="text-align: center;"><b>Questions on Notice</b></p> <p>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. <i>(Amended 6 March 2008)</i></p> <p>Suggestion: Update language now it is online.</p> <p>121. <i>(Standing order omitted 6 March 2008)</i></p> <p style="text-align: center;"><b>Answers to questions on notice</b></p> <p>122. The answer to a question on notice shall be given by delivering a hard copy and an electronic copy to the Clerk. A copy shall be supplied to the Member who asked the question and the question and answer shall be printed in <i>Hansard</i>. <i>(Amended 29 November 2018)</i></p> <p>Suggestion: Update language now it is online.</p>

Chapter	Title	Comment/suggestion
		<p><b>Suggestion: Reinstatement of questions on notice to the Notice Paper</b></p> <p>New 122a The Speaker may direct that a question or part of a question on notice which has been answered be reinstated to the Notice Paper, if following a request of the Member asking the question, the Speaker is of the opinion that the question has not been fully answered.</p>
11	<a href="#">Motions</a> , questions, votes and resolutions	No comment
12	Amendments	No comment
13	<a href="#">Orders</a> of the day	No comment
14	<a href="#">Voting</a> /divisions	No comment
15	<a href="#">Bills</a>	No comment
16	<a href="#">Financial</a> procedures	This is not very clear or helpful. It could be argued that just about every motion relates to expenditure eg more mowing, more buses, reduce cost of living, more police, autoimmune awareness campaign.
17	<a href="#">Disorder</a>	No comment
18	<a href="#">Strangers</a>	No comment
19	<a href="#">Papers</a> and documents	No comment
20	<a href="#">Committees</a>	Membership of committees should take into consideration a gender balance to be more reflective of society.
21	<a href="#">Witnesses</a>	No comment
22	<a href="#">Balloting</a>	No comment
23	<a href="#">Addresses</a> to the Queen or the Governor General	<p>This chapter sets out the procedures relating to addresses to the Queen or the Governor-General and responses from the Governor-General.</p> <p><b>How moved</b></p> <p>268. Subject to standing order 126, whenever it is deemed proper to present an address to Her Majesty or the</p>

Chapter	Title	Comment/suggestion
		<p>Governor-General, a motion on notice stating the terms of the proposed address shall be moved.</p> <p><b>Addresses to Queen sent to Governor-General by Speaker</b></p> <p>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.</p> <p>Comment: Obviously the references to the Queen/Her Majesty need to be changed.</p>
24	<a href="#">Standing orders</a>	No comment
25	<a href="#">General rule</a> for conduct of business	No comment
26	<a href="#">Privilege</a> and contempt	No comment
Continuing Resolution 1	Authority to publish <a href="#">Hansard</a>	No comment
Continuing Resolution 1A	Authority for legislative assembly <a href="#">information</a> to be migrated to, and stored and processed by, a cloud service provider	No comment
Continuing Resolution 2	Authority to receive <a href="#">resignation</a> of members	No comment
Continuing	<a href="#">Broadcasting</a> guidelines	No comment

Chapter	Title	Comment/suggestion
Resolution 3		
Continuing Resolution 4	Citizen's right of reply	Can it be made clearer that the person does not get to speak, and/or the statement/submission is or isn't read out? How does it get into Hansard? Is it tabled? By whom? Is there a vote in the Assembly?
Continuing Resolution 4A	Claims of parliamentary privilege that arise during the exercise of the ACT Integrity Commissions' powers and functions	No comment
Continuing Resolution 5	Code of conduct for all members of the Legislative Assembly for the Australian Capital Territory	No comment
Continuing Resolution 5AA	Commissioner for Standards	No comment
Continuing Resolution 5A	Consideration of statutory appointments	No comment
Continuing Resolution 6	Declaration of provide interests of Members	No comment
Continuing	Ethics and Integrity Adviser	No comment

Chapter	Title	Comment/suggestion
Resolution 6A		
Continuing Resolution 7	Freedom of speech	No comment
Continuing Resolution 8	Implementation of Committee recommendations in annual reports	No comment
Continuing Resolution 8AA	Independence of the Assembly from religious faith	No comment
Continuing Resolution 8A	Latimer House Principles	No comment
Continuing Resolution 8AB	Lobbyist Register – ACT Lobbying Code of Conduct	No comment
Continuing Resolution 8AC	Lobbyist Register – ACT Lobbyist Regulation Guidelines	No comment
Continuing Resolution 8B	Public Interest Immunity	No comment
Continuing Resolution 9	Senator for the ACT – Procedures for election	No comment
Continuing	Sub judice	No comment



Chapter	Title	Comment/suggestion
Resolution 10		
Continuing Resolution 11	<a href="#">Title</a> of Presiding Officer	Suggestion: Should the Speaker have option to determine how they are referred to? For example we currently have Madam Speaker.
Other		<p>Suggestion: Should the continuing resolution about an equitable distribution of questions during Question Time be in Standing Orders?</p> <p>Suggestion: Party whips be provided evidence of any previous agreements made between parties. E.g., Personal pairs agreement.</p>