



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON ADMINISTRATION AND PROCEDURE
Speaker (Chair), Ms Tara Cheyne MLA, Mr Shane Rattenbury MLA,
Mr Andrew Wall MLA

Submission Cover Sheet

Review of Standing Orders

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**ACT LABOR CAUCUS: SUBMISSION TO THE STANDING COMMITTEE ON ADMINISTRATION
AND PROCEDURE'S REVIEW OF STANDING ORDERS AND CONTINUING RESOLUTIONS OF
THE ASSEMBLY**

This submission is set out as follows:

- 1) Specific amendments to the standing orders
- 2) Further suggested changes and issues
 - a. Proposals for new standing orders
 - b. Proposals for amendments to or clarification of existing standing orders
 - c. Other issues for consideration

1. SPECIFIC AMENDMENTS

SO #

42-44

Members rise to address Speaker

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

- (a) In the event a Member is unable to conveniently rise, the Speaker will determine with that Member an alternative way for the Member to the call and will advise the Assembly of the agreed arrangement.

~~Indulgence to Members unable to stand~~

~~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

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

Members unable to stand

A Member unable to conveniently stand will be permitted to speak sitting.

74

Routine of business

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

Prayer or reflection

Presentation of petitions

Ministerial statements

Notices and orders of the day

Members' statements

Questions without notice

Presentation of papers

Ministerial statements

~~Matter of public importance~~

Notices and orders of the day:

provided that at 2.00~~30~~ pm on each day the Speaker shall interrupt the business before the Assembly in order that questions without notice shall be called on, and (Temporary order 9 December 2008. Adopted 3 May 2012. Amended 27 November 2012, 4 June 2015)

76

New business may not be taken after 10~~1~~ pm, unless otherwise ordered prior to 1~~1~~0 pm. (Amended 6 March 2008)

113B

Supplementary questions

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 one further supplementary question 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, 13 December 2016)

117(a)

Rules for all questions

The following general rules shall apply to questions:

- (a) questions shall be brief no more than 30 seconds and relate to a single issue;

- 118 **Answers to questions without notice**
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. Adopted 22 March 2012); 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 two minutes in length, and in the case of any supplementary question asked, not longer than ~~two~~one minutes in length. The Speaker may, at his/her discretion, order the clock to be stopped. (Adopted 18 November 2003. Amended 27 August 2009, 13 December 2016)
- 152A **Removal of private Members' business orders of the day from the Notice Paper**
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 ~~four~~two sitting weeks. (*Amended 26 August 2010, 13 December 2016*)
- 160 **Question stated – call of Assembly**
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 "AyeYes" or "No" accordingly.
- 204 **Period of suspension**
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~~Assembly term for 2 sitting days excluding the day of suspension; and on the third or any subsequent occasion during the same ~~calendar year~~Assembly term for 3 sitting days excluding the day of suspension.
- 246A **Statement and discussion paper**
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. Any statement or discussion paper cannot contain statements prejudicial to a person or organisation. (*Amended 6 March 2008*)
- NEW **Statements by members**
(1) At 11.30am each sitting day, members may make statements on any topic of concern during a maximum period of 30 minutes.
(2) Subject to paragraph (1), the time limit for each member making a statement is 3 minutes, the call being allocated between members according to party/individual representation in the Assembly.
- NEW **Availability of petitions' list of signatories**
On request, any member may receive a petition's list of signatories.

2. FURTHER SUGGESTED CHANGES AND ISSUES

a. Proposals for new standing orders

Suspension for lunch

This is currently by convention rather than in the standing orders. Suggest consideration be given to whether it should be formalised in the standing orders. In addition, propose that lunch be brought forward to 12 midday-2pm (relates to proposed change to SO 74 earlier in this submission).

Dispute resolution rules for disorderly conduct of Committee Chairs or the Speaker/Deputy Speaker/Assistant Speaker

No rules exist for instances when the above members are considered by witnesses or other members to be disorderly, or when a ruling needs to be challenged. Suggest the Committee investigate best practice in other jurisdictions.

Rules of debate

The rules of debate are not clear but there is accepted practice (for example, the right of a member to reply in a debate after an amendment has been made). Suggest formalising this in the standing orders.

b. Proposals for amendments to or clarification of existing standing orders

16, 77 **Relating to Executive members' business**

There is significant confusion between the terms 'Executive business' and 'Executive members' business'. Suggest changing 'Executive members' business' to something akin to 'Crossbench Executive members' business' to better align with the nature of the business and to remove confusion.

101, 113A,
120, 122,
168, 178A

Lodging of motions, bills and amendments

Given the Assembly's preference to move more towards use of electronic documents, suggest a broader discussion needs to be had regarding the necessity of lodging in hard copy. This is particularly the case for motions which are required to be lodged by 12 noon Monday for the Administration and Procedure Committee's consideration when given the OLA expresses a strong preference to receive these also electronically so that they can be more easily entered onto the Notice Paper. Elsewhere the OLA accepts e-mails from members with their signature blocks being considered to be the members' signature. Suggest this could be applied more broadly.

118 **Answers to questions without notice**

...

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. Adopted 22 March 2012)

With responses now only being two minutes (as opposed to four minutes when this standing order was created/amended), it is difficult to imagine it ever reaching the threshold of being a ministerial statement.

200 **Money proposals submitted—without notice**

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. (Amended 16 June 1994)

This standing order has been inconsistently applied and should be strengthened. During this term, a non-executive member used a PMM to call on the ACT Government to progress the establishment of a playground. The terms of the motion thus obliged the government to undertake certain activities and bind future appropriations. Recommend consideration be given to how this SO can be strengthened.

227 **Absence of Chair**

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)

Clarification is necessary regarding what 'absence' actually means, and what length of time might constitute an absence.

229B **Use of audio visual or audio links**

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)

It is not clear why members and witnesses need to speak and hear each other at the same time. This restricts Committees on the occasions where the Committee and witness cannot find a mutually suitable time to meet and the Committee still wants to get evidence (for example, by sending through questions and the witness recording answers to those questions).

CR3 **Broadcasting guidelines**

Suggest complete overhaul to take into account social media, including members and members of the public posting on social media.

CR5 **Code of conduct**

Put CR5 on notice to be reviewed once integrity framework and commission is established.

- CR5, CR6 **Code of conduct**
Declaration of private interests of members
- Align financial and donation rules, and interests declarations, with the Electoral Commission's rules.
- CR5A **Consideration of statutory appointments**
That—
(1) recognising that the Executive has a role in making appointments to statutory positions, and that the Legislature has a role in being consulted and, in one case, having a veto over an appointment, both individual members of the Executive and the relevant committee of the Legislative Assembly shall ensure that details of proposed appointments remain confidential until the appointment is made;
(2) to promote accountability and transparency, the relevant standing committees that consider statutory appointments shall, on a six monthly basis (that is, for the periods 1 January to 30 June and from 1 July to 31 December), make a statement to the Assembly in accordance with standing order 246A and present a schedule listing appointments considered during the relevant period; and
(3) the list shall include the statutory appointment considered, the date the request for consultation was received and the date the committee's feedback was provided.
- While the continuing resolution notes that the Legislature has a role in being consulted on appointments, Committees largely note the appointments and have no real role in this process, raising questions on whether this is genuine 'consultation'. Consideration might be given to whether Committees should instead be *informed* of appointments.
- CR7 **Freedom of speech**
- Requires review against Charter of Human Rights.
- CR8 **Implementation of Committee Recommendations in Annual Reports**
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.
- Review whether (1) and (2) are contradictory.

c. Other issues for consideration¹

Gender-neutral terms

Referring to members as Mr, Miss, Mrs, Ms etc is potentially exclusionary. Suggest all positions are referred to in gender-neutral terms, in particular: Chair (of Committees), Speaker (rather than Madam/Mr Speaker) and Member [Surname].

Committee membership

Requires consideration, particularly where committees are 2-2.

Committee meeting pattern

Give consideration to whether committees meeting in non-sitting weeks by default is necessary or whether a new pattern (for example, monthly) should be adopted.

Flight expenditure

Flight expenditure for Committees is approved by the Speaker. This runs counter to the Remuneration Tribunal's determination that members choose how they fly.

Appropriateness of all speaking times

Give consideration to whether maximum speaking times are appropriate or whether reduction may be appropriate (for example, by five minutes).

Abolish Select Committee on Estimates

The establishment of a Select Committee on Estimates is not provided for in the Standing Orders. All matters dealt with by this Committee could and should be considered by the existing Standing Committees (as per practice in the Commonwealth and many other jurisdictions).

¹ While ACT Labor Caucus notes some of these may fall outside the review (ie not necessarily related to standing orders), they do go to the practices undertaken in the Assembly and so may be usefully considered in this process or otherwise considered by the Committee separately.