

# CONDUCT OF THE BUSINESS OF THE ASSEMBLY

**8.1** The introductory section of this chapter will focus on the internal rules and practices by which the Assembly conducts its business, their source and their operation. This chapter and subsequent chapters will examine the Assembly's organisation of its program of business each day and address the methods by which the Assembly reaches its decisions, the maintenance of order, the rules of debate and related matters.

**8.2** The source of the Assembly's power to make rules to govern the conduct of its business is the Self-Government Act. Subsection 21(1) provides that, subject to the provisions of the Self-Government Act itself, the Assembly may make standing rules and orders for the carrying on of business. The Assembly also inherits the House of Representatives' 'power to regulate its proceedings by standing rules and orders having the force of law' through subsection 24(3). This is one of the principal powers, privileges and immunities of the House of Representatives drawn from the law and custom of the House of Commons in 1901.<sup>1</sup>

**8.3** In addition to the Self-Government Act and custom, the conduct of the business of the Assembly is governed by certain Territory legislative provisions and, perhaps most importantly, the standing orders and other orders and rules adopted by the Assembly.

**8.4** In addition to providing the source of the Assembly's power to regulate its own proceedings, the Self-Government Act contains a number of provisions directly related to the conduct of the business of the Assembly (many of which are also incorporated in the standing orders). Examples of matters set out in the Self-Government Act are the requirement that Members must make and subscribe to an oath or affirmation before taking their seats; the election of a Speaker and a Chief Minister at the first meeting of an Assembly; the role and powers of the Speaker; provisions relating to conflict of interest, times of meetings and quorums; and the determination of questions arising in the Assembly.

**8.5** Certain provisions in Territory and even Commonwealth legislation also impact in some way upon and authorise Assembly procedures. Perhaps most importantly, given the core function of the Assembly as a legislature, the *Legislation Act 2001* (ACT) contains a significant range of such provisions, including those for the presentation, amendment and disallowance of subordinate laws and disallowable instruments.<sup>2</sup> At the Commonwealth level, the *Electoral Act 1918* sets down requirements for the Assembly to fill casual vacancies for Senators for the Territory.

**8.6** Custom and practice are also important. Certain practices of the Assembly not set down in any standing or other order are inherited from the House of Representatives and, on occasion, the United Kingdom House of Commons.<sup>3</sup> These include the custom of the government sitting to the Speaker's right in the Chamber (not always followed in the

<sup>1</sup> Quick and Garran, pp. 507-8.

<sup>2</sup> Further examples include: the *Oaths and Affirmations Act 1984* for the form of oath and/or affirmation made by Members; the process for making enactments on electoral matters in the *Proportional Representation (Hare-Clark) Entrenchment Act 1994*; the *Legislative Assembly Precincts Act 2001* on management of the Assembly precincts; and the *Electoral Act 1992* on the filling of casual vacancies, the determination of questions relating to the eligibility of a person declared elected to be an MLA and vacancies in the membership of the Assembly.

<sup>3</sup> And certain rules derived from the Commons are mirrored in many standing orders of the Assembly.

Assembly);<sup>4</sup> the alternation of the call during questions without notice and debate;<sup>5</sup> the sub judice convention; and the practice that a charge against a Member must be made by way of a substantive motion, which requires a distinct vote of the House.<sup>6</sup> The contribution of custom and practice at this stage in the Assembly's history, however, is not as pervasive as in legislatures of longer standing.<sup>7</sup>

**8.7** The Assembly has often turned to the Australian Senate when needing to adopt or adapt practices from other legislatures to meet new or evolving circumstances. On privilege matters, for example, in establishing the criteria to be taken into account by the Speaker when determining whether a motion arising from a matter of privilege should be given precedence, reference is made regularly to Senate procedures. The Assembly has also turned to the Senate to improve its practices—for example, with the creation of a committee for the scrutiny of bills and subordinate legislation or when it has required models to adapt to the expectations of contemporary society through the adoption of procedures for citizens' right of reply or to permit electronic participation in committee meetings.

**8.8** The Assembly is developing its own practices, often based on rulings of the Chair but also determined by other precedents and decisions of the Assembly and even, in part at least, by the architecture of the Chamber and the precincts.<sup>8</sup> The Assembly has also regularly referred matters to the Standing Committee on Administration and Procedure to assist it to develop practices and procedures appropriate to its needs.

**8.9** As a new legislature, the Assembly has found itself less constrained by the inertia imposed by established practice or tradition in responding to contemporary demands. For example, the adoption of a 'prayer or reflection' was possibly unique in legislatures derived from Westminster when adopted by the Assembly in 1995. In the consideration of bills, the Assembly has never used the sequence of first and second readings, followed by the committee of the whole stage and a third reading. Instead, the formal reading of the title of a bill by the Clerk is followed by a motion 'That this bill be agreed to in principle' and, if the question is resolved in the affirmative, then consideration of the bill in detail. At the completion of the detail stage, the motion 'That this bill (as amended) be agreed to' is moved and is not open to debate.

**8.10** The standing orders adopted in May 1989 do not contain a provision for dissent from a ruling of the Chair,<sup>9</sup> yet the Assembly has considered such motions from time to time (usually moved by leave of the Assembly). The small number of Members and reduced pressure on time has meant that, compared to other Australian legislatures, a significant proportion of time is allocated to private Members' business (it currently has precedence over executive business on sitting Wednesdays).

**8.11** While the key set of rules governing the business of the Assembly is its standing orders, certain resolutions and orders of the Assembly clearly have an ongoing effect, either

<sup>4</sup> For periods during the First and Second Assemblies the party in government sat to the left of the Speaker (a meeting room being located behind the left side of the Chamber). However, in the Chamber currently in use, the practice that the government sits on the Speaker's right has been followed.

<sup>5</sup> Not adopted in its entirety from practice of the House of Representatives.

<sup>6</sup> See *House of Representatives Practice*, p. 186.

<sup>7</sup> The greater part of the existing practice of the United Kingdom House of Commons is not to be found in its standing orders but is derived from occasional resolutions (some centuries old) that have acquired permanence, and the authority of many of its old, established forms and rules of practice is unrecorded. For an overview of the development of the procedure of the House of Commons see the Introduction to the 23rd edn of *May* at pp. 3-11 and the Introduction to the 22nd edn at pp. 3-8.

<sup>8</sup> In fact, the layout of the temporary Chamber in the first and part of the second Assemblies meant that Members had to contravene the provisions of standing order 41 in moving about the Chamber.

<sup>9</sup> It is thought that such a provision was deliberately omitted from the draft standing orders circulated for discussion and presented on the first sitting day of the Assembly.

by virtue of their actual provisions or because they are made pursuant to or in accordance with legislative provisions. The Assembly has made orders of ongoing effect pursuant to or in accordance with provisions of the Self-Government Act<sup>10</sup> and other Commonwealth<sup>11</sup> and Territory<sup>12</sup> legislation as well as directly relating to its own proceedings.<sup>13</sup>

**8.12** Even if no duration is fixed, certain orders, until revoked or varied by the Assembly, are recognised as having ongoing validity.<sup>14</sup> The November 1995 order of the Assembly regarding amendments to appropriation bills and that of August 1998 in relation to the ordering of private Members' business are regarded in this way.<sup>15</sup>

#### **Explanation of the term 'order'**

In the context of the arrangement of the business of the Assembly the word *order* is used in two key senses:

- it may mean a concrete direction as to what is to be done in a particular case (for example, the Assembly may order that consideration of a clause in a bill be postponed or order that consideration of a committee report be made an order of the day for a later hour that day or a future sitting); or
- it may describe an abstract formulation of a rule as to the business of a House.

In the first sense, an order is the most common act of the Assembly—the motive power of all its actual positive work.<sup>16</sup> Over the course of an Assembly, a myriad of such orders would be made; it is how the Assembly conducts its business.

In the second sense, it sets down general rules for the conduct of business which, if adopted as 'standing' orders or orders of continuing effect, are expressly meant to bind future Assemblies.<sup>17</sup>

In addition, the word is used to denote the actual sequence of business (the 'order as listed on the *Notice Paper*') and as a principle of decorum and the rules of procedure ('Order shall be maintained in the Assembly by the Speaker').

## **STANDING ORDERS**

**8.13** At its first meeting on 11 May 1989 the Assembly adopted its standing orders. They were based on a set of proposed standing orders presented by the Presiding Officer. The proposed standing orders had been prepared in consultation with officers of the Territory Administration, the Department of the House of Representatives and the Assembly Secretariat. Whilst they reflected the practice that had evolved in the former House of Assembly and were originally derived from the House of Representatives standing orders (and further proposals being considered for a possible revision of the standing orders of the House of Representatives), they also took into account experience gained in other small legislatures such as those of the Northern Territory and Norfolk Island.<sup>18</sup>

<sup>10</sup> 'Authority to receive resignations of Members and Speaker' (Self-Government Act, section 13); see MoP 1992-94/7; 'Title of Presiding Officer' (Self-Government Act, subsection 11(2)), MoP 1992-94/7.

<sup>11</sup> 'Senator for the Australian Capital Territory, Procedures for election' (Commonwealth Electoral Act 1918, section 44), MoP 2001-04/528-9.

<sup>12</sup> 'Broadcasting guidelines' (Legislative Assembly (Broadcasting) Act 2001, subsection 5(2)); MoP 2001-04/93-5; 2004-08/122-3, 204.

<sup>13</sup> 'Authority to publish *Hansard*', MoP 1992-94/7, 'Citizen's right of reply', MoP 1995-97/39-43.

<sup>14</sup> See Josef Redlich, *The procedure of the House of Commons, A Study of its History and Present Form*, London, Archibald Constable & Co. Ltd., 1908, Vol II, pp. 5-6 and May, 22nd edn, p. 6.

<sup>15</sup> MoP 1995-97/201-3; 1998-2001/136.

<sup>16</sup> The term 'order' and 'resolution' are almost interchangeable. They both express a decision of the Assembly. However, an order might best be understood as a decision of the Assembly requiring or foreshadowing action while a resolution can be merely an expression of the views of the Assembly.

<sup>17</sup> See Josef Redlich, *The procedure of the House of Commons: A Study of its History and Present Form*, London, Archibald Constable & Co. Ltd., 1908, Vol II, pp.5-6.

<sup>18</sup> MoP 1989-91/3; Assembly Debates (11.5.1989) 4-6. The standing orders were amended later that day.

**8.14** There are approximately 280 standing orders.<sup>19</sup> Together with a range of resolutions of ongoing effect, they provide a comprehensive set of rules governing the conduct of the business of the Assembly. In addition, standing order 275 (General rule for conduct of business) provides that any question relating to procedure or the conduct of business of the Assembly not provided for in the standing orders or practices of the Assembly shall be decided according to the practice at the time prevailing in the House of Representatives.

**8.15** The operation of standing orders is ongoing, standing order 274 providing that they continue in force ‘until altered, amended or repealed’. They are taken to be binding, though apart from the basic rule of notice being required, they are not protected by any rules or barriers preventing their suspension, amendment or repeal. Certain standing orders or other orders of the Assembly have arrangements for their suspension or the variance of their provisions,<sup>20</sup> and standing order 82 itself gives authority to the many occasions when leave of the Assembly (which must be granted without any dissenting voice) is granted for a course of action to be taken that is contrary to the provisions of the standing orders.

**8.16** Where necessary, the standing or other orders of the Assembly can be suspended on the passage of a motion moved without notice. Such a motion must be carried by an absolute majority of Members and the suspension is limited to the particular purpose for which the suspension is sought.<sup>21</sup> Standing order 272 has itself been suspended for a sitting.<sup>22</sup> Should such a motion be moved pursuant to notice, or by leave of the Assembly, the motion would not need to be carried by an absolute majority of Members; a simple majority would be adequate. A Member moving such a motion would need to have received the call of the Chair. The practice in the House of Representatives is that such a motion may be moved only if the substance of the motion is relevant to the item of business before the House or, alternatively, between items of business.<sup>23</sup>

**8.17** From time to time the Assembly may put aside the operation of a standing order or orders by, in effect, suspending them indirectly. It does this by making ‘a concrete order prescribing a course of procedure inconsistent with the standing orders, and thus by implication cancel[ing] their operation upon a particular occasion’.<sup>24</sup> In such cases, the Assembly includes in an order words such as ‘notwithstanding the provisions of’.<sup>25</sup>

**8.18** In addition to the standing orders, the Assembly often adopts temporary orders to effect changes to its standing orders. These temporary orders are operational until the date or event set down in their provisions or until the expiration of an Assembly.<sup>26</sup> For example,

<sup>19</sup> When standing orders are omitted or inserted, the whole compilation is not necessarily re-numbered. For example, standing orders 17 to 19 were omitted in 1995 and the numbers have not been re-allocated.

<sup>20</sup> Standing and other orders which include provisions for the Assembly to ‘otherwise order’ are 9 (absence of Speaker and Deputy Speaker), 27 (days and hours of meeting), 76 (eleven o’clock rule), 69 (time limits for debates and speeches), 180 (consideration of the schedule of an appropriation bill for the ordinary annual services of the executive), 196 (bills—amendments by the Governor-General), 220 (committees—membership) and the order of the Assembly for the procedures for election of Senators for the Australian Capital Territory.

<sup>21</sup> Standing orders 272 and 273. Standing order 272 originally provided that only a Minister could move a motion without notice to suspend any standing orders or orders. This requirement was omitted by temporary order for a number of years before being omitted from standing order 272 (see Assembly Debates (29.6.1989) 550-1; MoP 1989-91/38). Should a majority, but not an absolute majority, of Members vote in favour of a motion without notice to suspend standing orders, the Speaker declares that the vote has not been carried (see MoP 1995-97/365).

<sup>22</sup> MoP 1989-91/163.

<sup>23</sup> *House of Representatives Practice*, p. 259.

<sup>24</sup> Josef Redlich, *The procedure of the House of Commons, A Study of its History and Present Form*, London, Archibald Constable & Co. Ltd., 1908, Vol II, p. 8.

<sup>25</sup> See, for example, MoP 2004-08/69: reference of an appropriation bill to a standing committee before the completion of the debate on the motion ‘that this bill be agreed to in principle’, ‘notwithstanding the provisions of standing order 174 ...’.

<sup>26</sup> MoP 2001-04/296. The Assembly adopted an order permitting committees to authorise members of the committee to participate in deliberative meetings by electronic means.

the practice of each Assembly has been to establish general purpose standing committees by resolution at the commencement of an Assembly, the order having effect until the expiration of the Assembly unless amended or repealed earlier than that.

## ROUTINE OF BUSINESS

**8.19** Although, with its limited membership of 17, the pressures on the time of the Assembly are not as great as those of most other legislatures, rules still need to be set down for the introduction, consideration and disposal of the various categories of its business and the allocation of time for the executive (which has priority), private Members (non-Ministers) and the corporate business of the Assembly (Assembly business). This is addressed by the standing and other orders of the Assembly. They establish procedures which endeavour not only to give each competing interest 'a proper share of parliamentary opportunity' but also to subordinate the element of chance to that of stability in the despatch of business and the necessity to act upon a pre-arranged program.<sup>27</sup>

**8.20** Subject to any order, the Assembly met to conduct its business on Tuesdays, Wednesdays and Thursdays at 10.30 am up until late 2008. In the Seventh Assembly the meeting time changed to 10 am. Following any formal recognition of the traditional custodians (the indigenous people of the ACT region, see paragraph 8.24) the ordinary routine of business for consideration each day as set by standing order 74 is followed:

- Prayer or reflection<sup>28</sup>
- 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.

**8.21** This routine is subject to certain provisos and modifications, both in relation to the ordinary routine each day (the 2 pm interruption for questions and certain matters accorded precedence, for example) and in relation to the apportionment of business (consideration of notices and orders of the day, for example) throughout the week.

**8.22** The routine each day is set out in a tabular format on the following page. The *Daily Program* (colloquially known as the 'Blue') lists the items of business as set out in standing order 74 together with other matters that are expected to arise.

**8.23** Should the Assembly meet on a Monday, Friday, Saturday or Sunday, the routine would be that of a Tuesday unless the Assembly were to order otherwise.

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27 See comments regarding the UK House of Commons by Josef Redlich, in *The Procedure of the House of Commons, A Study of its History and Present Form*, London, Archibald Constable & Co. Ltd., 1908, Vol. III, p. 10.

28 Unlike the practice in many other legislatures, the prayer [or reflection] is actually included in the routine of business in the Assembly.

**Legislative Assembly for the Australian Capital Territory**  
**Routine of Business**

	Tuesday		Wednesday		Thursday
10 am	Prayers  Petitions  Executive business	10 am	Prayers  Petitions  Private Members' business  (Notices and orders of the day)	10 am	Prayers  Petitions  Executive business— Notices for presentation of bills
				approx 11 am	Assembly business
				approx 11.45 am	Executive business
approx 12.30 pm	Lunch break	approx 12.30 pm	Lunch break	approx 12.30 pm	Lunch break
2 pm	Question Time	2 pm	Question Time	2 pm	Question Time
approx 3 pm	Presentation of papers  Ministerial statements, by leave	approx 3 pm	Presentation of papers  Ministerial statements, by leave	approx 3 pm	Presentation of papers  Ministerial statements, by leave
approx 3.30 pm	Matter of public importance	approx 3.30 pm	Private Members' business	approx 3.30 pm	Matter of public importance
approx 4.30 pm	Executive business			approx 4.30 pm	Executive business
6 pm	Adjournment debate	6 pm	Adjournment debate	6 pm	Adjournment debate



# Daily Program

This program of proposed business is issued for the general guidance of Members. It is not a formal document and business listed is subject to change.

**Tuesday, 26 August 2008  
10.30 am**

## Prayer or Reflection

## Petition and response

## ASSEMBLY BUSINESS

- No. 1 Select Committee on Privileges—Mr Mulcahy (Chair) to present the report entitled *Examination of alleged misuse of position by a Committee Chair and unauthorised dissemination of committee proceedings*, pursuant to order of the Assembly of 1 July 2008 and move—That the report be noted.
- No. 2 Standing Committee on Health and Disability—Ms MacDonald (Chair) to present Report No. 9 entitled *Closure of the Wanniassa Medical Centre*, pursuant to order of the Assembly of 7 August 2008 and move—That the report be noted.

## COMMITTEE REPORTS

### Standing Committee on Legal Affairs—Scrutiny Report 59

Mr Stefaniak (Chair) to present Scrutiny Report 59 and, by leave, make a statement.

### Standing Committee on Education, Training and Young People—Report 8

Ms Porter (Chair) to present Report 8 entitled *Vocational Education and Training to address Skills Shortages* and move—That the report be noted.

### Standing Committee on Legal Affairs—Report 8

Mr Stefaniak (Chair) to present Report 8 entitled *ACT Fire and Emergency Services Arrangements* and move—That the report be noted.

## EXECUTIVE BUSINESS

### Orders of the day

- No. 1 Crimes Legislation Amendment Bill 2008—Resumption of debate (Mr Stefaniak) on agreement in principle; detail stage; agreement to Bill.
- No. 2 Domestic Violence and Protection Orders Bill 2008—Resumption of debate (Mr Stefaniak) on agreement in principle; detail stage; agreement to Bill.

At 2.30 pm

**Questions without notice**

- Presentation of papers**
- Speaker
  - Mr Stanhope (Chief Minister)
  - Ms Gallagher (Minister for Health)
  - Mr Corbell (Attorney-General)
  - Mr Barr (Minister for Education and Training)
  - **Subordinate legislation** (Manager of Government Business)

**Discussion of Matter of Public Importance—Dr Foskey**

*"The benefits to the Canberra community of a more thoughtful approach to Canberra Airport development, including the imposition of a curfew."*

**Time Limits:** Discussion 1 hour, Proposer and Member next speaking 15 minutes, any other Member 10 minutes.

**EXECUTIVE BUSINESS—continued**

**Orders of the day—continued**

- No. 3 Guardianship and Management of Property Amendment Bill 2008—Resumption of debate (Mr Stefaniak) on agreement in principle; detail stage; agreement to Bill.
- No. 4 Corrections Management Amendment Bill 2008—Resumption of debate (Mr Seselja) on agreement in principle; detail stage; agreement to Bill.
- No. 5 Unit Titles Amendment Bill 2008—Resumption of debate (Mr Seselja) on agreement in principle; detail stage; agreement to Bill.
- No. 6 Tobacco Amendment Bill 2008—Resumption of debate (Mrs Burke) on agreement in principle; detail stage; agreement to Bill.

**Adjournment**

T Duncan  
Clerk of the Legislative Assembly

## **ORDINARY ROUTINE OF BUSINESS**

### **Formal recognition of traditional custodians and invitation to pray or reflect**

8.24 The Assembly practice is that, on the first meeting day following an adjournment for more than a week, prior to inviting Members to pray or reflect on their responsibilities to the people of the Territory, the Speaker, having taken the Chair, makes a formal recognition that the Assembly is meeting on the lands of the traditional custodians.<sup>29</sup> In 2008 this practice was adopted as a standing order.<sup>30</sup>

8.25 Standing order 30 provides that at the commencement of each day's proceedings the Chair is taken by the Speaker and, a quorum being present, the Speaker addresses the Assembly in the following terms:

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.<sup>31</sup>

Members then stand in silence for a brief period.

### **Presentation of petitions**

8.26 Following the invitation to pray or reflect, the Clerk announces the particulars of the petitions that have been lodged for presentation and indicates, for each petition lodged for presentation: the Member who lodged it, the number of the petitioners and the subject matter of the petition. Any ministerial responses to petitions previously presented are also announced.

8.27 No discussion upon the subject matter of a petition is allowed at the time of presentation. The only question that may be entertained by the Assembly is that a particular petition be referred to a committee.<sup>32</sup>

### **Notices and orders of the day**

8.28 The bulk of the substantive business of the Assembly is taken up with the consideration of notices and orders of the day, whether as part of executive business, private Members' business or Assembly business. Executive business is business initiated by a Minister, mainly government bills. Private Members' business is any matter initiated by an individual Member who is not a minister.

8.29 Notices relate to matters that Members seek to bring before the Assembly. A notice is a statement of intent by a Member to initiate an item of business in the Assembly—for example, to move a motion or to introduce a bill.<sup>33</sup> As a general rule, no proposal can be put to the Assembly unless notice has been given of it. This protects the Assembly against surprise and enables Members and the community to keep abreast of the program of business before

29 The practice has been followed since 4 June 2002. In 2009 it was amended to use the word custodians instead of owners.

30 MoP 2004-08/I 388-9.

31 The current provisions were adopted on 1 June 1995 following earlier consideration of the issue by the Standing Committee on Administration and Procedure. See *Standing Orders and Citizen's Right of Reply*, Report of the Standing Committee on Administration and Procedure, May 1995, pp. 3-4; Assembly Debates (1.06.1995) 695-714. The original prayer was actually included in the draft standing orders presented by the Presiding Officer at the first sitting on 11 May 1989.

32 See Chapter 14: Petitions, for a full outline of petitions procedures.

33 Standing orders also make provision for Members to give notice of questions.

the Chamber. The requirement for notice to be given also helps to ensure that the rules governing content and form are adhered to. However, there are exceptions, and these are provided for in the standing orders.<sup>34</sup> For example, sometimes items of business are initiated with the leave of the Assembly (the unanimous consent of Members present).<sup>35</sup>

**8.30** Notice of a motion is given by delivering its terms in writing to the Clerk in the Chamber during a sitting. It must be signed by the proposing Member.<sup>36</sup> A notice of intention to present a bill must specify the long title<sup>37</sup> of the bill and shall be signed by the Member.<sup>38</sup> The Clerk is required to enter notices on the *Notice Paper* at the first available opportunity.<sup>39</sup>

**8.31** A notice of motion or intention to present a bill becomes effective only when it appears on the *Notice Paper*.<sup>40</sup>

**8.32** A Member who gives notice of intent to initiate an item of business retains rights over that notice as to its withdrawal or amendment.<sup>41</sup> However, once the Assembly has commenced consideration of the matter, the notice has been taken out of the hands of its proposer<sup>42</sup> and becomes the property of the Assembly.

**8.33** The Assembly may decide the question so raised there and then. If it does so, it will be taken off the *Notice Paper*. Should the Assembly, deal with the matter formally<sup>43</sup> or adjourn debate and order the resumption of the consideration of the matter for some future time, by virtue of the decision of the Assembly and the order giving expression to it, it becomes an order of the day. An order of the day refers to any bill, motion or other item of business<sup>44</sup> that the Assembly has ordered to be considered or further considered on a particular day or at a particular time. More often than not, the order is for ‘the next day of sitting’, though from time to time orders are set down for a particular day.<sup>45</sup> It is through consideration of orders of the day that the Assembly conducts the substantive portion of its business.

## Determination of precedence

**8.34** The notices and orders of the day listed for consideration are published in the *Notice Paper* prior to each sitting of the Assembly.<sup>46</sup> They have precedence in accordance with the order in which they are listed.<sup>47</sup> That order is determined by the standing orders, which

<sup>34</sup> Motions for leave of absence for Members, votes of thanks or condolence (standing order 126), bills initiated by leave (standing order 167) and money proposals (standing order 200), for example (see paragraphs 8.75 and 8.77).

<sup>35</sup> Standing order 123.

<sup>36</sup> Standing order 101.

<sup>37</sup> The title by which bills are commonly known is the short title. The long title gives a more complete statement of the purpose of the bill. This is important particularly because it defines and limits the scope of the bill and acceptable amendments. Australian legislatures generally prohibit the practice of ‘tacking’, that is, adding provisions to a bill which are unrelated to its purpose as a means of getting those provisions made law without adequate scrutiny. For example, the long title of the Medical Treatment (Health Directions) Bill 2006 was ‘A Bill for an Act to provide for directions about the withholding or withdrawal of medical treatment and related purposes’.

<sup>38</sup> Standing order 168.

<sup>39</sup> Standing orders 102 and 168. A notice of a motion of no confidence in the Chief Minister must 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 (standing order 103).

<sup>40</sup> Standing orders 112 and 168(d).

<sup>41</sup> Members may do so by notifying the Clerk in writing in accordance with standing orders 110 and 111.

<sup>42</sup> Though as ‘the Member in charge’ he or she retains some limited prerogatives (standing order 152).

<sup>43</sup> Should, for example, the Assembly take a course similar to that set down by standing order 254(c), ie moving that a report be adopted.

<sup>44</sup> The presentation of or consideration of a report or other paper, for example.

<sup>45</sup> For example, where a committee has a precise reporting date, the tabling of the committee’s report may be made an order of the day for that day. See NP (28.02.2007) 1489, Assembly Business, Orders of the day 2 and 3.

<sup>46</sup> With the exception of the first sitting following a general election.

<sup>47</sup> Standing orders 124 and 149.

set out specific provisions for the allocation of precedence to, and the ordering of, executive business, private Members' business and Assembly business (see paragraphs 8.62 to 8.68). Subject to these specific arrangements, the basic rules for the ordering of business are as follows:

- notices are entered by the Clerk on the *Notice Paper* and given priority over orders of the day, in the order in which they are given;<sup>48</sup>
- should a notice be given 'for the next day of sitting'<sup>49</sup> it is allotted precedence below notices previously given for that day but, if not called on on that day, it then drops below all notices previously given, the sitting day for which it had precedence having passed;<sup>50</sup>
- orders of the day are listed on the *Notice Paper* in the order in which the Assembly has ordered them to be taken into consideration and have precedence in the order set down; and
- should the Assembly order that consideration of a matter be set down as an order of the day for a particular day, it appears in the *Notice Paper* under a heading for that day and the priority of orders of the day for that day is determined by the order in which they were made. If not called on, it appears on the *Notice Paper* for the next sitting day at the end of the orders of the day for that day.<sup>51</sup>

## Progress of business in the Assembly

**8.35** As the Speaker calls on the business of the day (eg, Assembly business, executive business or private Members' business), the Clerk calls on the notices or reads out the orders of the day in the order as listed on the *Notice Paper*. In the case of a notice, the Member who gave the notice then moves the motion or presents the bill.

**8.36** In the case of a motion of which notice has been given, debate may then ensue after the Speaker proposes the question 'That the motion be agreed to'. Debate can proceed to its conclusion or until adjourned by the Assembly determining that the resumption of the debate will be made an order of the day for a future time, either pursuant to motion or pursuant to the provisions in the standing orders.<sup>52</sup>

**8.37** A Member presenting a bill must move 'That this Bill be agreed to in principle' and after the presentation speech the debate on the question must be adjourned to a future day on the motion of another Member. Standing orders require that the question on the agreement in principle may not be determined by the Assembly during the sitting at which the bill is introduced.<sup>53</sup>

This procedure ensures that Members have adequate time to consider the content of a bill before being asked to vote on it.

48 Standing order 105.

49 Standing order 109 allowed Members to specify a day for the moving of a notice. In 2008 that standing order was omitted.

50 Standing order 125.

51 Standing order 151; May, p. 373; *House of Representatives Practice*, p. 253.

52 Should the Assembly not so determine, the matter would be dropped from the *Notice Paper*. See Chapter 10: Rules of debate and the maintenance of order, for a full account of this procedure.

53 Standing orders 171 and 172. See paragraphs 11.147 to 11.220 for a full account of this procedure. In exceptional circumstances a bill may be declared urgent by the Member in charge of the bill and the question decided by a simple majority of Members and the Bill dealt with immediately or later that day (see paragraph 11.34). It is rare for a bill to be declared urgent in the Assembly.

## Postponement, withdrawal or discharge of business

8.38 A notice of a motion or intention to present a bill may be postponed. The Member who gave the original notice<sup>54</sup> has the option of moving a motion without notice to defer consideration. A Member who has given notice of a motion or intention to present a bill may also withdraw the notice by notifying the Clerk in writing at any time prior to that proposed for moving the motion.<sup>55</sup>

8.39 In addition, if a Member is not present in the Chamber when a notice given by that Member is called on, it must be withdrawn from the *Notice Paper* unless another Member fixes a future time for moving the motion or presenting the bill.<sup>56</sup> Likewise, when a notice given by a Member is called on and the Member fails to move the motion or present his or her bill, it must be removed from the *Notice Paper* unless the Member fixes a future time for moving the motion or presenting the bill.<sup>57</sup> In the case of government business, a Minister may act for another Minister with regard to any matter before the Assembly that is the responsibility of that Minister.<sup>58</sup>

8.40 When an order of the day is called on by the Clerk, it may be postponed on motion moved without notice by any Member.<sup>59</sup> Similarly, when an order of the day is called on, it may, on motion moved without notice by the Member who originally moved the motion or who presented the bill, be discharged.<sup>60</sup> An order of the day may be referred to a committee for inquiry and report.<sup>61</sup>

8.41 Should a Member vacate his or her seat, any notices standing in his or her name are removed from the *Notice Paper* (as are notices of questions). Orders of the day of which that Member has charge remain on the *Notice Paper*, being the property of the Assembly.

8.42 It is common practice at regular intervals (often after each winter and summer adjournment period), following consultation with all Members, for the Manager of Government Business to seek and be granted leave by the Assembly to move a motion to discharge orders of the day which the originating Members do not wish to proceed with.<sup>62</sup>

## Questions without notice

### 2 pm interruption

8.43 At 2 pm on each sitting day the Speaker is required to interrupt the business before the Assembly in order that questions without notice may be called on. In the normal course of events, this occurs when proceedings are resumed following the suspension of the sitting for the lunch break. However, should a vote be in progress at 2 pm, that vote and any vote consequent upon it, must be completed and the results announced.

8.44 In relation to any business that is before the Assembly at the time of interruption but that has not been disposed of, the Speaker is required to fix a time for the resumption of

<sup>54</sup> Standing orders 124 and 168(d).

<sup>55</sup> Standing orders 111 and 168(d).

<sup>56</sup> Standing orders 127 and 168(d); see also MoP 1998-2001/457.

<sup>57</sup> Standing orders 128 and 168(d); see also MoP 1998-2001/459 (Member fixed a later hour for moving the motion) and 801 (notice withdrawn from the *Notice Paper*).

<sup>58</sup> Standing order 80.

<sup>59</sup> Standing order 150.

<sup>60</sup> Standing order 152. See MoP 2001-04/1457; MoP 1992-94/459. On the second precedent on that page the motion to discharge was moved by leave as the matter had not been reached on the *Notice Paper*.

<sup>61</sup> MoP 2001-04/712.

<sup>62</sup> MoP 1998-2001/1177; MoP 2001-04/566.

the debate on the question.<sup>63</sup> Should the notice or order of the day under consideration at the time of interruption be an item of private Members' business, there are special procedures in place relating to the resumption of consideration of that business (see paragraph 8.54).

**8.45** All non-executive Members of the Assembly have the right to ask at least one question without notice and a supplementary question on each sitting day.<sup>64</sup> Accordingly, the duration of question time is not fixed; it varies according to the number of questions and supplementary questions asked.

**8.46** Giving each non-executive Member the opportunity to ask a question every sitting day is possible because of the small number of Members but it also represents a significant change from the practice in the early years of the Assembly. Originally, the Assembly accepted the practice of the House of Representatives and other Australian parliaments where the duration of question time is determined by the government of the day.<sup>65</sup> Standing order 113A, which provides for the current practice, was adopted in 1994.

**8.47** At the conclusion of questions without notice, a non-executive Member may seek an explanation from the relevant Minister concerning an unanswered question on notice (a question that has been placed on the *Notice Paper* for written reply) or a question that the Minister has taken on notice during an earlier question time.<sup>66</sup> At the conclusion of the Minister's explanation, the Member may move 'That the Assembly takes note of the explanation' or, in the event that the Minister does not provide an explanation, the Member may, without notice, move a motion with regard to 'the Minister's failure to provide either an answer or an explanation'.<sup>67</sup>

## Presentation of papers

**8.48** The next item in the routine of business is the presentation of papers (papers and reports of Assembly committees may also be presented at other times when other business is not before the Assembly (see paragraph 8.80)). Papers may be presented by the Speaker or a Minister.<sup>68</sup>

**8.49** There may be other business arising from the presentation of papers. It is not uncommon for a Minister to seek leave to make a statement following the presentation of a paper and, on the presentation of any paper by the Speaker or a Minister,<sup>69</sup> a Minister may move without notice either:

- that the Assembly takes note of the paper; or
- that the paper be referred to a committee for inquiry and report.<sup>70</sup>

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63 Standing order 74.

64 Standing orders 113A and 113B. A supplementary question can be asked immediately after the original question and must be relevant to, or arise directly out of, the answer to that question.

65 Assembly Debates (29.6.1989) 548; Statement by the Speaker. The first Chief Minister of the ACT had indicated that her government would allow approximately 30 minutes for questions without notice.

66 If a Minister does not answer a question on notice (or a question taken on notice) within 30 days of the asking of the question and does not, within that period, provide to the Member who asked the question an explanation satisfactory to that Member as to why an answer has not been provided, the Member may ask the relevant Minister for such an explanation at the conclusion of questions without notice on any day after that period. See Chapter 12: Questions seeking information.

67 Standing order 118A

68 Standing order 211.

69 Or, for that matter, by a Member who has been ordered to present a document 'quoted from', pursuant to standing order 213.

70 Standing order 214. If such a motion is not moved at the time of the presentation of the paper, it may be moved subsequently, either pursuant to notice or by leave.

## Ministerial statements

8.50 Ministers may seek to make statements, by leave, concerning matters of administration or policy for which they are responsible. The usual practice is that prior notice is given to the opposition and the crossbench Members and the name and portfolio responsibility of the Minister seeking leave to make the statement are listed on the *Daily Program*.

8.51 Again, other business may arise. The Minister may present a copy of his or her statement and move ‘That the Assembly takes note of the paper’ in accordance with standing order 214 or, if the motion is not moved, an opposition Member and Members of the crossbenches may seek leave to make statements on the matter.

## Matters of public importance

8.52 Standing order 79 provides that any Member may put forward a matter of public importance for discussion (it is not a debate as there is no question before the Assembly). A letter proposing the matter must be delivered to the Speaker one and a half hours before the sitting of the Assembly and, where there is more than one proposal, the Speaker determines, by the drawing of lots, which one will be submitted to the Assembly. Matters of public importance are considered after question time, presentation of papers and any ministerial statements. The Member who proposed the matter must open the discussion, which is limited to one hour.<sup>71</sup> A matter that has been submitted for discussion can be withdrawn at the request of the Member who put it forward.<sup>72</sup>

## Notices and orders of the day

8.53 The Speaker next calls upon the business of the day and the Clerk calls upon the notices and orders of the day in the order listed on the *Notice Paper*. However, regard must be had to the status of business that was under consideration prior to questions without notice (in effect, prior to the lunch suspension). Determining the precedence of business that was either adjourned until a later hour that day or interrupted at 2 pm for questions (and in relation to which the Speaker fixed resumption of debate ‘at a later hour this day’) is subject to a variety of considerations.

8.54 Should the matter be an item of executive business, on all but sitting Wednesdays (see paragraph 8.67) the Manager of Government Business would determine when (in the order of business) the item was called on in accordance with standing order 78.<sup>73</sup> On a sitting Wednesday, when the order of the day is an item of private Members’ business, the order of the day would have precedence over all other private Members’ business in accordance with the resolution of the Assembly of 27 August 1998.<sup>74</sup>

8.55 In the unlikely event that the matter was an item of Assembly business, the time for precedence for Assembly business on a sitting Thursday not having expired, it would be expected that the matter would have precedence at the resumption of consideration of notices and orders of the day<sup>75</sup> (see paragraph 8.66).

<sup>71</sup> Standing order 69(g). See also MoP 2001-04/153—for the Speaker’s ruling on who may initiate discussion of a matter of public importance.

<sup>72</sup> MoP 1995-97/764; 1998-2001/880.

<sup>73</sup> Or, in the absence of the Manager of Government Business, a Minister acting on his or her behalf in accordance with standing order 80.

<sup>74</sup> MoP 1998-2001/134.

<sup>75</sup> The precedence that Assembly business enjoys pursuant to standing order 77(b) is precedence of executive business on sitting Thursdays; it does not override the 2 pm interruption pursuant to standing order 74.

## Eleven o'clock rule

**8.56** Standing order 76 provides that new business may not be taken after 11 pm unless the Assembly orders otherwise prior to 11 pm. *House of Representatives Practice*<sup>76</sup> sets out the background to the rule in that Chamber (now called the 'new business rule'), including the following considerations:

- in 1913 the Speaker of the House of Representatives defined 'new business' as a proposal relating to a matter not before the House;
- as a general rule, the only business which the House should proceed with after the time nominated is the matter which is immediately before the House or business of a formal nature;<sup>77</sup>
- the rule has a purpose in protecting the minorities in the House from the introduction, perhaps by surprise later in a sitting, of new business upon which a vote may be taken;
- the following business, on which the House does not have to make a decision of substance, may be transacted after 11 pm without infringing the rule:
  - a Minister may provide information, or additional information, in response to a question; and
  - a statement may be made by the Speaker.

**8.57** The practice in the House of Representatives is that when a cognate debate is before the House at the new business time nominated in that Chamber, bills in respect of which questions have not yet been put from the Chair—that is, the second or subsequent bills of the group—have been treated as constituting new business for the purpose of the standing order (even though debate on them may have already occurred) and the new business rule has been suspended.<sup>78</sup>

## Notices and orders not called upon

**8.58** As outlined above, any notices not called upon at the adjournment of the Assembly are set down on the *Notice Paper* for the next sitting day after the notices for that day have been given.<sup>79</sup> Any orders of the day not called upon are set down on the *Notice Paper* for the next sitting day at the end of the orders set down for that day.<sup>80</sup>

## MATTERS ACCORDED PRECEDENCE

**8.59** Individual notices and orders have precedence over each other (see paragraph 8.34).<sup>81</sup> In addition, certain matters are accorded precedence in the ordinary routine of business. Assembly business, executive business and private Members' business each have precedence at certain times. Standing order 77 gives executive business precedence over private Members' business and Assembly business except at specified times.<sup>82</sup> In addition,

<sup>76</sup> At pp. 260-2, Fifth edn.

<sup>77</sup> Though the practice is not followed in the Assembly, in the House of Representatives formal business might loosely be described as 'housekeeping' matters—such things as varying the membership of committees which require a decision of the House but are not controversial and are passed without debate or amendment. A matter cannot be dealt with as 'formal' if any Member objects.

<sup>78</sup> Though *House of Representatives Practice* adds 'This may not be strictly necessary, having regard to Speaker Johnson's view [the 1913 ruling referred to above] and bearing in mind that the House has agreed that debate on the second reading of such bills should be taken together, although this is considered the better course.'

<sup>79</sup> Standing orders 125 and 168(d).

<sup>80</sup> Standing order 151; May, p. 373; *House of Representatives Practice*, p. 253.

<sup>81</sup> Standing orders 124 and 149.

<sup>82</sup> Standing order 77—see paragraph 8.67.

certain matters are accorded precedence by the standing orders and the Self-Government Act.<sup>83</sup>

**8.60** While not strictly qualifying as matters of precedence, committee reports and other papers may be presented to the Assembly at any time between items of other business provided only that the Member presenting the report on behalf of the committee gets the call from the Speaker. Debate on the report may take place immediately after tabling.<sup>84</sup>

### **Assembly, executive and private Members' business**

**8.61** Assembly standing orders allocate the bulk of the Assembly's time to the consideration of executive notices and orders of the day, executive business having precedence over Assembly and private Members' business on sitting Tuesdays and Thursdays (except for that time allotted to Assembly business). Were the Assembly to sit on a Monday, Friday, Saturday or Sunday, executive notices and orders of the day would have precedence unless the Assembly was to order otherwise.

**8.62** Assembly business is:

- any notice or order relating to the establishment or membership of a committee or the reference of a matter to a committee;
- 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;
- any notice of motion to amend, disallow, disapprove or declare void any statutory instrument which is subject to disallowance by the Assembly; and
- 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 business.<sup>85</sup>

**8.63** Executive business is any motion or bill sponsored by a Member of the executive and any ministerial statement, excluding items of Assembly business. It includes orders of the day for the consideration of any such matters.

**8.64** Private Members' business is any motion or bill sponsored by a non-executive Member, again excluding items of Assembly business. This would include any motion or bill sponsored by the Speaker subject to standing order 77 and the definition of administration of the Assembly matters.

**8.65** In relation to the apportionment of business throughout the sitting week, executive business has precedence over private Members' and Assembly business each sitting day with the exception that:

- private Members' business has precedence over executive business on sitting Wednesdays; and
- Assembly business has precedence over executive business on sitting Thursdays for 45 minutes from the conclusion of any executive notices of intention to present bills.<sup>86</sup>

<sup>83</sup> For example, election of the Presiding Officer and Chief Minister; see *Australian Capital Territory (Self-Government) Act 1988*, sections 11(1) and 40(1).

<sup>84</sup> Standing order 75—see paragraph 8.79.

<sup>85</sup> Standing order 77(g)–(j). The standing orders were amended in 2008 to include matters relating to the administration of the Assembly; see MoP 2004-08/I 388-9.

<sup>86</sup> Standing order 77(a) and (b).

**8.66** There are provisos set down in standing order 77:

- if a vote is in progress at the time precedence expires, that vote and any consequent vote must be completed and the result announced;
- between items of private Members' business and at any time during Assembly business, any Member may move 'That executive business be called on' and the Speaker must immediately put the question on the motion, which is not open to amendment or debate;
- the time allotted to Assembly business may be extended by 30 minutes at the expiration of the initial period of precedence if a Member moves 'That the time allotted to Assembly business be extended by 30 minutes.' Again, the question on the motion must be put immediately without amendment or debate; and
- the Speaker must fix the next sitting Thursday for the resumption of the debate on any business under discussion and not disposed of at the expiration or interruption of the time allotted to Assembly business.<sup>87</sup>

**8.67** In addition to allocating specific periods when executive, private Members' and Assembly business have precedence, standing orders 77, 78 and 16 provide that:

- the Manager of Government Business may arrange the order of executive business, notices and orders of the day on the *Notice Paper* subject to the limitations imposed by standing order 77;
- the order of private Members' and Assembly business is as determined by the Standing Committee on Administration and Procedure.

**8.68** The Standing Committee on Administration and Procedure, having regard to the composition of the membership of the Assembly, seeks to allocate time in private Members' business reasonably equitably to ensure that all non-executive Members in the Assembly have an opportunity to introduce business.

### **Executive Members' business**

For a period during the Fourth Assembly the Assembly created, by temporary order, a fourth category of business—'Executive Members' business'. Executive Members' business was defined in the temporary order as 'business which has been introduced by an executive Member and has been so determined by the Manager of Government Business'.<sup>88</sup> In moving the motion for the adoption of the temporary order, the Manager of Government Business expressed his appreciation that the concept was one 'which may appear a little strange to some Members'—it being promoted as 'a device to allow a Member of the Government to act as a private Member in order to be able to introduce business into the House for the consideration of the House, and to have matters debated'.<sup>89</sup> This procedure arose out of the unusual circumstance of a Minister being appointed who was not a member of the governing party and who was bound by Cabinet responsibility only with regard to matters relevant to his own portfolio but, by agreement, could act as an independent Member with regard to a range of other issues.

## **Precedence for specific matters**

### **Election of Speaker and Chief Minister**

**8.69** The election of a Speaker takes precedence over all ordinary business either at the first meeting of the Assembly after an election or after a vacancy in the office occurring for any other reason.<sup>90</sup> Similarly in the event of both the Speaker and Deputy Speaker being absent, the Members present must elect a Member (not being a Minister) to perform the duties of Speaker or the Assembly must adjourn.<sup>91</sup>

<sup>87</sup> Standing order 77(f) also contains a vestigial provision relating to the fixing of the resumption of the debate on any private Members' business interrupted should the time allotted to that category of business expire.

<sup>88</sup> MoP 1998-2001/186-7

<sup>89</sup> Assembly Debates (24.9.1998) 2214.

<sup>90</sup> Self-Government Act, section 11.

<sup>91</sup> Standing order 9.

**8.70** The election of a Chief Minister must take place immediately after the election of a Speaker, and 'before any other business', in a 'new' Assembly.<sup>92</sup> A motion of no confidence in the Chief Minister of which at least one week's notice has been given takes precedence of all other business until it has been resolved.<sup>93</sup> In all cases where such notices have been called upon in the Assembly at least seven days have elapsed between the reporting of the notice and its consideration, exclusive of the day of giving the notice and the day of its consideration.

**8.71** Where there has been a vacancy in the office of Chief Minister or the Chief Minister has lost a motion of no confidence, a new Chief Minister is elected at the first opportunity.<sup>94</sup> Vacancies in the office of Chief Minister have, so far, been predictable and the candidates for the office have been obvious. However, were a vacancy to occur unexpectedly there may be good reasons to defer an election for the office, for example, to allow parties to select their candidates or to ensure that all Members of the Assembly were present.

**8.72** In October 2000, the announcement of the resignation of the Chief Minister and the election of a new Chief Minister took precedence over the notice of no confidence in the Member as Chief Minister that had been given seven days earlier and had been listed to take precedence on the *Notice Paper*. The notice was called on following the election of a Member as Chief Minister and, the Member failing to move the no confidence motion, the Speaker advised the Assembly that, pursuant to standing order 128, it would be removed from the *Notice Paper*.<sup>95</sup>

#### **Resignation of a Member, announcement of a new Member to fill a casual vacancy and swearing in of a new Member**

**8.73** The announcement by the Speaker of the resignation of a Member (and presentation of letter of resignation)<sup>96</sup> and the announcement of a new Member to fill a casual vacancy are ordinarily given precedence in the order of business, as is the subsequent admission of the Chief Justice (or nominated Judge of the Supreme Court) to administer the oath or affirmation of allegiance to the new Member.<sup>97</sup> In recent years it has been the practice that the new Member is granted leave to make his or her inaugural speech soon thereafter.

#### **Vote of thanks or condolence**

**8.74** Precedence is given by courtesy to a motion for a vote of thanks of the Assembly or of condolence. Such motions may be moved without notice in accordance with the provisions of standing order 126.

#### **Motions to refer matters of privilege to a select committee**

**8.75** Should the Speaker determine, and inform the Assembly accordingly, that a matter raised as a matter of privilege in accordance with standing order 276 merits precedence, the Member who raised the matter may move a motion without notice forthwith to refer the matter to a select committee.<sup>98</sup>

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<sup>92</sup> The executive from the 'old' Assembly continues in office until immediately before the election of a new Chief Minister after a general election. Precedence for the election of a new Chief Minister and the choice of a new executive after an election is important because the outgoing executive may not be representative of the membership of the new Assembly.

<sup>93</sup> Standing order 81. Such a motion is called on immediately after the prayer or reflection and, since June 2002, recognition of the traditional custodians.

<sup>94</sup> Standing order 3(a).

<sup>95</sup> MoP 1998-2001/1011, 1013-4; NP (18.10.2000) 1823.

<sup>96</sup> MoP 2004-08/595; 1998-2001/1145.

<sup>97</sup> MoP 1998-2001/1145-6; 2004-08/627-8.

<sup>98</sup> For precedents, see Appendix 16.

## **Other matters that may interrupt the ordinary routine of business**

8.76 There is a range of other items of business that can and do interrupt the ordinary routine of business. Members may seek leave of the Assembly or may seek to suspend standing orders to enable them to move motions without notice, usually on issues of the day, and the Assembly from time to time facilitates such courses of action. Certain legislation in relation to money proposals may be introduced without notice, though in the normal course of events advice of the proposed introduction of such proposals is given on the *Daily Program*.

8.77 Following the delivery and reporting of a notice of a motion of no confidence in a Chief Minister, the usual, though not invariable, practice has been for the Assembly to adjourn until the day set down for consideration of the motion (see paragraph 6.60).

## **Announcements and statements by Speaker**

8.78 Over the course of the Assembly's proceedings, the Speaker may make a number of announcements dealing with the business of the Assembly, Assembly proceedings or matters of Assembly administration, including the acknowledgment of distinguished visitors. These announcements are usually made in the ordinary routine of business before the presentation of papers but, depending on circumstances, may also be made at other times.

## **Presentation of committee reports and papers**

8.79 Papers and reports of standing and select committees may be presented at any time when other business is not before the Assembly.<sup>99</sup> The standing orders permit only the Speaker and Ministers to present papers<sup>100</sup> (other Members would require leave). Reports of committees (together with minutes of proceedings) and discussion papers<sup>101</sup> may be presented by chairs<sup>102</sup> whilst other business is not before the Assembly.

8.80 Current practice is that the presentation of committee reports and discussion papers are usually scheduled for presentation after Assembly business on a Thursday, together with statements made pursuant to standing order 246A. If a committee chair wishes to present a report or a discussion paper at another time, it is usually presented on a Tuesday (or Wednesday) morning after prayers and petitions in accordance with standing order 75.

8.81 Following the presentation of a paper by the Speaker or a Minister, a Minister may move a motion without notice in accordance with standing order 214. Similarly, a committee chair or deputy chair may move a motion in accordance with standing order 254 with regard to the presentation of a report.

## **Points of order and disorder**

8.82 A Member may raise a point of order at any time. A point of order is essentially a claim that a procedure or practice of the Assembly is not being followed. Until the point of order has been dealt with, consideration of, and decision on, every other question is suspended.<sup>103</sup> The Member who has been called to order must cease speaking and resume his or her seat. The Member raising the point of order then explains the basis for the point of order and the Speaker is required to rule on the matter.<sup>104</sup> Until 2008 the practice in the Assembly was that whilst the point of order was

<sup>99</sup> Standing order 75.

<sup>100</sup> Standing order 211.

<sup>101</sup> Standing order 246A.

<sup>102</sup> Standing order 253.

<sup>103</sup> Standing order 72.

<sup>104</sup> Standing order 73.

being dealt with the speech clock continued to run. However in 2008 the Assembly amended its standing orders to allow the Speaker to direct the speech clock to be stopped during any point of order.<sup>105</sup>

**8.83** If the Assembly becomes disorderly the Speaker can take action in accordance with Chapter 17 of the standing orders, including naming a Member or ordering a Member to withdraw from the Chamber. The Assembly may as a consequence take action to suspend a Member, which temporarily supersedes the business before the Assembly.

#### **Personal explanations**

**8.84** Having obtained leave from the Chair, a Member may make a personal explanation in accordance with standing order 46 although there is no question before the Assembly (see paragraphs 10.25 to 10.28)

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<sup>105</sup> MoP 2004-08/1388-9. Standing order 73.