

8. Sittings of the Assembly

- 8.1. The framework that determines meetings of the Assembly, the commencement and termination of members' terms of office and the provisions for a dissolution of the Assembly is set down in the Self-Government Act. The actual timing of elections, and hence the term of each Assembly, is in the hands of the Assembly, being set by s 100 of the Electoral Act.
- 8.2. The provisions of the standing orders and resolutions made by the Assembly complement those of the Self-Government Act to ensure that the Assembly meets on a regular basis and a quorum of members is available to conduct the business of the Assembly.

Term of the Assembly

- 8.3. The Self-Government Act does not specifically set down the term of an Assembly. However, it does specify that:
- there shall be a Legislative Assembly for the Australian Capital Territory;¹ and
 - the term of office of a member duly elected begins at the end of the day on which the election of the member is declared and, unless sooner ended by resignation or disqualification, or by dissolution of the Assembly, ends on the polling day for the next general election.²
- 8.4. To date, the Assembly has never been dissolved³ and there is no provision for its prorogation⁴ and hence no provision for sessions of the Assembly. Given this, it is arguable that each Assembly following an election is simply a continuation of the first Assembly in 1989, albeit with a new complement of members.⁵ An alternative view is that, as there are no members of the Assembly between polling day for a

1 Self-Government Act, s 8(1). See also Chapter 1: The Assembly's power to make laws.

2 Self-Government Act, s 10.

3 Section 16 of the Self-Government Act makes provision for the Assembly to be dissolved by the Governor-General if it is considered to be incapable of effectively performing its functions or is conducting its affairs in a grossly improper manner. On the last sitting day prior to a general election the Assembly adjourns 'to a day and hour to be fixed by the Speaker'.

4 At the Federal level, prorogation is provided for under s 5 of the Constitution, which states that 'The Governor-General may appoint such times for holding the sessions of Parliament as he sees fit, and may also from time to time, by Proclamation or otherwise, prorogue the Parliament, and may in like manner dissolve the House of Representatives'.

5 Advice of the Government Solicitor of 15 January 1998 to the Clerk.

general election and the end of the day on which the election of the newly elected members is declared, there is no Assembly during that period.⁶

- 8.5. It is the practice to regard each Assembly as commencing upon the first meeting after a general election as convened by notice pursuant to s 17 of the Self-Government Act. Unless the Assembly is dissolved earlier by the Governor-General, the term of an Assembly continues until it expires on polling day for the subsequent general election, currently a period of slightly less than four years.
- 8.6. Previously, under the Electoral Act, a general election was required to be held in February of the third year from the date of the previous ordinary election. However, after debate over a number of years,⁷ the Act was amended to require general elections to be held in the fourth year after the year when the last ordinary election was held in October.⁸
- 8.7. The Legislation Act refers to the expiry of the Assembly,⁹ the dictionary to the Act (meaning of commonly used terms) providing: ‘*expire* includes lapse or otherwise cease to have effect’.

First meeting

- 8.8. Section 17(1)(a) of the Self-Government Act requires the Assembly to meet within seven days (or, in certain exceptional circumstances, 14 days)¹⁰ of the declaration of the result of a general election.¹¹ For the First Assembly, the time was set by the

6 Advice of the Acting Director, Constitutional and Machinery of Government, Government Law Office, to the Acting Assistant Secretary, Cabinet and Policy Co-ordination Branch, Chief Minister's Department, 29 April 1991. Note that the Chief Minister, ministers and Speaker, however, retain their offices until a new Assembly meets.

7 See, for example, Philip Pettit, *Review of Governance of the Australian Capital Territory*, April 1998; Legislative Assembly Standing Committee on Legal Affairs, *Changing the Term of Assembly Members from three years to four years*, October 2003. There were arguments for and against longer terms. Proponents argued that longer terms could enhance the capacity for medium-term decision-making, while those opposed argued that the then existing arrangements (three-year terms) led to greater government accountability to the electorate.

8 Section 100 of the Electoral Act provides that a general election must be held on the third Saturday in October in the fourth year after the year when the last ordinary election was held. There are provisions for alternative dates in the event of an election for senators or members of the House of Representatives being held on that day and for extraordinary general elections occurring; Part 8 of the Electoral Act. Though it was originally proposed that members would be elected for a fixed term of four years and hence the term of each Assembly would be approximately four years, the term of office of members for the first three Assemblies was approximately three years (with the exception of the First Assembly). The term of the Fourth Assembly was three years and eight months, and the term has been four years since the commencement of amendments made by the *Electoral Amendment Act 2003*. The amendments applied to each ordinary election after the general election held on 16 October 2004. For a further description regarding the timing of elections, see Chapter 3: Elections and the electoral system.

9 Legislation Act, s 71—Effect of dissolution or expiry of Assembly on notice of motion.

10 Subject to s 17(3) of the Self-Government Act where, if the office of Speaker is vacant or the Speaker is unable or refuses or fails to convene a meeting within a prescribed period, the Commonwealth minister is obliged to convene the meeting.

11 Self-Government Act, s 17.

Commonwealth Minister for the Arts and Territories. Since the Second Assembly, the Speaker has, by a notice published in the *Territory Gazette*, set the time, date and place for the first meeting of a new Assembly. Should there not be a Speaker, or the Speaker fails to convene the first meeting, the Commonwealth minister with responsibility for the Territory is required to do so.¹²

- 8.9. It should be remembered that a Speaker vacates office not on polling day, but immediately before the new Speaker is elected at the first meeting of the Assembly after a general election.¹³

Proceedings at the first meeting

- 8.10. The Self-Government Act and the standing orders set out the procedures to be followed at the first meeting of an Assembly after an election.
- 8.11. In 2019, the Assembly agreed that, from the commencement of the Tenth Assembly, the Territory's traditional custodians be invited to conduct a ceremony of welcome prior to members assembling in the chamber at the time appointed by the Speaker of the preceding Assembly.¹⁴
- 8.12. The Clerk chairs the Assembly until a Speaker is elected.¹⁵ Standing order 1(b) requires that the Clerk read the notice convening the meeting and, after the Chief Justice of the ACT has entered the chamber, that the new members make and subscribe an oath or affirmation.¹⁶ The Clerk also tables the notification of candidates declared elected to the Assembly.¹⁷
- 8.13. The Self-Government Act provides that, before taking their seats, members must make and subscribe an oath or affirmation before the Chief Justice of the Supreme Court of the Australian Capital Territory (or a justice of the court authorised by the Chief Justice for the purpose).¹⁸ The Oaths and Affirmations Act sets out the form of the oath or affirmation to be taken by members.¹⁹

12 Self-Government Act, s 17(3).

13 Self-Government Act, s 12.

14 Standing order 1(a).

15 Standing order 1(f).

16 Standing order 1(c).

17 Standing order 1(d).

18 Self-Government Act, section 9. The Chief Justice has authorised a judge to oversee a new member make his oath or affirmation. MoP, No 142, 2 August 2016, p 1620; MoP, No 44, 13 February 2018, p 640.

19 Oaths and Affirmations Act, sections 6A and 10A, and see Chapter 4: Membership of the Assembly, under the heading 'Oath or affirmation of allegiance'.

- 8.14. At the first meeting of the First Assembly, the authority to conduct the swearing in of members was delegated to a Judge of the Supreme Court of the Australian Capital Territory. After the Justice was conducted to the Speaker's chair, the authority was handed to the Acting Clerk, who read it to the Assembly.²⁰
- 8.15. The practice in the Territory is that members make and subscribe their oaths or affirmations of allegiance in the chamber. It was previously the practice that members did this individually, but following the expansion of the Assembly in 2016, members were called to the table by the Clerk in groups, by electorate and in the order in which they were elected. Each member then individually made their oath or affirmation. The members also sign the members' roll, maintained by the Clerk in accordance with standing order 20.²¹
- 8.16. The Chief Justice (or their nominee) having sworn in members and vacated the Speaker's chair, the Assembly proceeds immediately to elect a Speaker²² and, the Speaker having taken the chair, the Chief Minister²³ and the Deputy Speaker.²⁴ The leader of the largest non-government party then gives their consent to being Leader of the Opposition or, in the event of the two largest non-government parties being of equal size, the Assembly may proceed to elect a Leader of the Opposition.²⁵
- 8.17. Following the election of the Chief Minister and the announcement of the leadership of the opposition respectively, those office holders usually seek the leave of the Assembly to make statements. It is customary for members who occupy the crossbenches to seek the leave of the Assembly to make statements informing the Assembly of their party or independent status.
- 8.18. The Assembly is not precluded from proceeding with other business in the ordinary routine of business although, as there is no *Notice Paper* on the first day of meeting after a general election, there are no notices nor orders of the day to be considered; and since the initiation of business generally requires that notice be given, little ordinary business is undertaken. It is not the practice for petitions to be presented on the first day.

20 MoP, No 1, 11 May 1989, pp 1-2; Assembly Debates, 11 May 1989, p 2.

21 Standing order 20 stipulates that the Clerk must maintain a members' roll showing the names of the members elected, the dates of election, the date the member made an oath or affirmation, and the date of ceasing to be a member and the cause of their ceasing to be a member.

22 Self-Government Act, s 11; standing order 1(e).

23 Self-Government Act, s 40; standing order 1(g).

24 Standing order 4. At this stage of the first meeting, it is not expected that the Chief Minister will have appointed ministers but a member who is likely to be appointed a minister would not be nominated for the position of Deputy Speaker.

25 Standing orders 5A and 5B. An election was held in the First Assembly. MoP, No 1, 11 May 1989, p 4.

8.19. Papers have been presented by the Speaker²⁶ and by the Chief Minister.²⁷ It is usual for a motion to be moved by the Chief Minister, for which notice is not required, to set the next day of meeting.²⁸ On occasion, some business has been dealt with. For instance, standing orders have been adopted,²⁹ and amendments moved to certain standing orders;³⁰ motions have been moved authorising the broadcast of proceedings;³¹ ministerial arrangements have been announced,³² and ministerial statements have been made.³³ It is usual for subordinate legislation to be tabled.³⁴ Committees have been established³⁵ and committee members appointed,³⁶ although this normally occurs on the second sitting day.³⁷

Days and hours of meeting

Fixing of meetings of the Assembly

8.20. The Self-Government Act provides that the Assembly must meet:

- within a period of seven days after the result of a general election is declared; or
- within seven days of a written request for a meeting, signed by such number of members as is fixed by enactment, being delivered to the Speaker³⁸ (the Assembly having yet to make any such provision by enactment, this provision is currently dormant); or
- as soon as practicable after a vacancy in the office of Chief Minister occurring while the Assembly is not meeting.³⁹

26 MoP, No 1, 11 May 1989, p 3; MoP, No 1, 19 March 1998, p 4; MoP, No 1, 12 November 2001, p 4; MoP, No 1, 4 November 2004, p 3.

27 MoP, No 1, 4 November 2004, p 4.

28 Standing order 36.

29 MoP, No 1, 11 May 1989, p 3.

30 MoP, No 1, 11 May 1989, pp 3-4.

31 MoP, No 1, 11 May 1989, p 4; MoP, No 1, 27 March 1992, p 3; MoP, No 1, 9 March 1995, pp 3-4; MoP, No 1, 19 March 1998, p 4.

32 MoP, No 1, 11 May 1989, p 4. The amount of business conducted on the first sitting day of the First Assembly reflected the number of initial establishment decisions that had to be taken.

33 MoP, No 1, 11 May 1989, p 5.

34 MoP, No 1, 27 March 1992, pp 3-5; MoP, No 1, 9 March 1995, pp 4-7; MoP, No 1, 19 March 1998, pp 4-6; MoP, No 1, 12 November 2001, pp 4-9; MoP, No 1, 4 November 2004, pp 4-9. Under section 71 of the Legislation Act, for the purposes of motions to disallow subordinate legislation which had not been dispensed with by the end of the preceding Assembly, those subordinate instruments are taken to have been tabled at the first sitting of a new Assembly and thus are disallowable.

35 MoP, No 1, 27 March 1992, pp 5-7; MoP, No 1, 9 March 1995, pp 7-10.

36 MoP, No 1, 27 March 1992, pp 7-8; MoP, No 1, 9 March 1995, pp 10-12.

37 MoP, No 2, 13 December 2016, pp 13-16.

38 Self-Government Act, s 17(1)(b).

39 Self-Government Act, s 40(2)(b). The Speaker is required to convene the meeting by notice published in the *Territory Gazette* as soon as practicable. Prior to 1994, the Self-Government Act also provided that the Assembly meet at least once every two months. The provision was omitted in amendments contained

- 8.21. Standing order 27 provides that, unless otherwise ordered, the Assembly shall meet at 10 am. The Assembly usually resolves towards the end of a calendar year to meet on certain days the following year (normally Tuesdays, Wednesdays and Thursdays) for between 12 and 15 weeks per year.⁴⁰
- 8.22. It is now the usual practice that such orders of the Assembly contain a provision that:
- the Speaker may fix an alternative day or hour of meeting on receipt of a request in writing from an absolute majority of members;⁴¹ or
 - the Assembly may otherwise order different sitting dates.
- 8.23. On 12 December 2002, a further provision was included in the order fixing the sitting days for 2003. It provided for an alternative day or hour to be fixed by the Speaker ‘having consulted with Members following receipt of advice from the Chief Minister that a place of a senator for the Australian Capital Territory had become vacant before the expiration of his or her term of service’.⁴²
- 8.24. Standing order 36 provides that a motion for the purpose of fixing the next meeting of the Assembly may be moved by a minister at any time without notice. It is not uncommon for the Assembly to amend the sitting pattern by way of order.⁴³ Also, in the past, following the election of Chief Ministers, the practice has been for the Assembly to agree to adjourn to a date to be fixed by the Speaker—either at the request of the Chief Minister or on receipt of a request in writing of an absolute majority of members (and requiring the Speaker to notify members in writing of the date and time of meeting).⁴⁴

in the *Arts, Environment and Territories Legislation Amendment Act 1993* (Cth). Thus, there is no statutory requirement for the Assembly to meet for any number of days in a year or in any specified period.

40 MoP, No 49, 15 December 2005, p 523, although it has done so much earlier in the year; MoP, No 70, 23 August 2018, p 976.

41 Thus, almost replicating the dormant provision in s 17(1)(b) of the Self-Government Act.

42 MoP, No 43, 12 December 2002, p 496. In the following year the Assembly did meet earlier than scheduled, following receipt by the Speaker of a request in writing from an absolute majority of members to discuss the bushfire emergency in the Territory.

43 For example, the Assembly has resolved to sit an additional day (and at an earlier time) after the scheduled last sitting day in a year to deal with business associated with an appropriation bill. MoP, No 82, 27 November 2014, pp 923-924.

44 MoP, No 112, 6 June 1991, p 470; MoP, No 1, 27 March 1992, p 8 (the date and time the Assembly next met was in accordance with the request of the Chief Minister); MoP, No 1, 9 March 1995, p 12; MoP, No 1, 19 March 1998, p 6. Until 2008, on the last sitting of each Assembly it had been common for the motion providing for the next meeting of the Assembly to also include provision for the Chief Minister to ask the Speaker to set a day and hour of meeting. This provision is no longer practice. MoP, No 157, 28 August 2008, pp 1783-1784.

What constitutes a sitting of the Assembly?

- 8.25. A sitting of the Assembly commences when the Assembly meets, the bells having been rung for five minutes, usually when the Speaker takes the chair pursuant to standing order 27 or other order of the Assembly.⁴⁵ It concludes when the Assembly adjourns, either by resolution or pursuant to standing order.
- 8.26. Even if a quorum of members is not present at the time fixed for the meeting of the Assembly and the Speaker is obliged to adjourn the Assembly until the next sitting day, pursuant to the provisions of standing order 28, standing order 28 implies that a sitting has occurred.⁴⁶
- 8.27. The term ‘sitting day’ is not defined in the standing orders, although it is referred to on a number of occasions.⁴⁷ The practice of the House of Representatives is that a sitting day is a day on which the House commences a sitting following an adjournment, and continues until a motion for its adjournment is carried. That is, it is taken to mean a day on which the House meets to begin a sitting and not any day on which the House sits. Thus, a sitting day may continue for one or more days.⁴⁸
- 8.28. The term ‘sitting day’ has special legal significance as there are certain statutory requirements for the notification of the making of laws,⁴⁹ the presentation of regulatory impact statements,⁵⁰ and the timing of motions to amend or disallow subordinate laws and disallowable instruments.⁵¹ The dictionary to the Legislation Act provides that a ‘sitting day’ of the Legislative Assembly ‘means a period that commences on a day the Assembly meets and continues until the Assembly next adjourns’.⁵²

45 Or when it meets for the first time following a general election, pursuant to the provisions of s 17(1)(a) of the Self-Government Act, or when it meets pursuant to the provisions of s 40(2)(b) of the Self-Government Act (there being a vacancy in the office of Chief Minister). A meeting may proceed should the Speaker be absent (see standing order 6 and standing order 6A).

46 See also the provisions of standing order 9 (Absence of Speaker and Deputy Speaker) and *House of Representatives Practice*, p 243.

47 Standing orders 9, 28, 31, 32, 34, 125, 151.

48 *House of Representatives Practice*, p 243. No new *Notice Paper* would be issued in such circumstances; the plenum would continue working through the business as listed on the original *Notice Paper*. However, the unusual circumstances may mean that issues concerning the precedence to be allocated to various categories of business (as listed) at various times may, on occasion, need an order of the Assembly should the sitting continue over a number of days. See, for example, MoP, No 111, 13 and 14 February 2001, p 1157, where, the Speaker having left the chair the preceding evening (there having been a power failure), the chair was resumed the following morning (Wednesday) and the Speaker advised the Assembly that, as the sitting of the preceding day had not been adjourned, Tuesday’s program was still before the Assembly. Having then ascertained that it was the wish of the Assembly to do so, the Speaker directed that the Assembly follow the routine of business that would normally apply on a Wednesday.

49 Legislation Act, s 28(9).

50 Legislation Act, s 34(6).

51 Legislation Act, s 65(1).

52 Legislation Act, dictionary.

- 8.29. The shortest sitting of the Assembly was on 10 October 2000, when the sitting lasted three minutes,⁵³ (a notice of motion of no confidence in the Chief Minister having been delivered to the Acting Clerk and reported to the Assembly) and the longest on 24 and 25 August 2006 (18 hours and 30 minutes).⁵⁴

Suspension of sitting

- 8.30. Suspension of a sitting, as distinct from an adjournment, allows for a temporary break in the proceedings. This allows business to be restarted where it left off prior to the suspension.⁵⁵ A sitting is suspended by the Speaker leaving the chair, usually (though not always)⁵⁶ having ascertained that it was the will of the Assembly that the sitting be suspended.⁵⁷ The most common occasion for suspension is to allow for a meal break to be taken.
- 8.31. Standing orders provide for a sitting to be suspended in the case of special circumstances arising in the event of a tied vote in the ballot for the election of Speaker or Chief Minister.⁵⁸ The standing orders also provide that, if it has been established that a quorum of members is not present but the Speaker is satisfied that there is likely to be a quorum within a reasonable time, the Speaker shall announce that the chair will be taken at a stated time.⁵⁹ The sitting is then suspended until the Speaker resumes the chair.
- 8.32. Should grave disorder arise in the Assembly, the Speaker may also suspend the sitting until a time to be named by them.⁶⁰ This has occurred for short periods following grave disorder in the gallery⁶¹ and on two occasions due to disorderly conduct in the Assembly.⁶² On occasion, the Assembly has resolved to suspend sittings.⁶³

53 MoP, No 103, 10 October 2000, p 1011.

54 MoP, No 73, 24 and 25 August 2006, p 803.

55 An adjournment requires the Assembly to follow the routine of business set out in standing order 74 at its next meeting.

56 MoP, No 101, 19 April 1994, p 566; Assembly Debates, 19 April 1994, p 994.

57 A dissenting voice would result in a continuation of the sitting.

58 Standing orders 2(g) and (k), 3(g) and (k). Suspension is for a period of 30 minutes. The provision would also apply to the election of Deputy Speaker and Leader of the Opposition (should there be a ballot).

59 Standing orders 28, 31 and 32.

60 Standing order 207.

61 See, for example, MoP, No 36, 21 February 1996, p 258 (2); MoP, No 38, 27 February 1996, pp 267-268 (2); MoP, No 101, 13 May 2004, p 1333.

62 MoP, No 64, 7 June 1990, p 264 (10 minutes); MoP, No 21, 19 August 1992, p 120 (53 minutes).

63 See, for example, MoP, No 13, 6 July 1989, p 50; MoP, No 83, 23 November 1993, p 475; MoP, No 103, 4 September 1997, p 784; MoP, No 90, 24 May 2000, p 870.

8.33. Sittings have been suspended for a variety of reasons on other occasions, including:

- power failures in the Assembly;⁶⁴
- fire alarms sounding;⁶⁵
- a technical problem affecting Hansard's recording of proceedings;⁶⁶
- to enable members to consider proposed amendments to bills;⁶⁷
- to enable members to consult on proceedings;⁶⁸
- to allow the cabinet to participate in a national counterterrorism exercise.⁶⁹
- the running of the Melbourne Cup;⁷⁰
- as a mark of respect following a motion of condolence;⁷¹
- to enable cameras to be brought into the chamber and while photographs were taken;⁷² and
- on special ceremonial occasions (for example, following the swearing in of a new member, and to note the centenary of the naming of Canberra).⁷³

8.34. Suspensions of sittings have been used in other parliaments to enable the expeditious consideration of particularly complex or contentious government legislation. In Australia, perhaps the best known example is the Senate's consideration of native title legislation in 1993. The Senate sat on 16, 17, 18, 20 and 21 December of that year to consider the legislation. These were regular suspensions but no adjournments.⁷⁴

64 See, for example MoP, No 111, 13 and 14 February 2001, p 1157 (Speaker resumed the chair the following day); MoP, No 4, 13 December 2001, p 37; MoP, No 44, 22 November 2005, p 467.

65 MoP, No 87, 10 May 2000, p 835.

66 MoP, No 81, 26 October 2010, p 952.

67 See, for example, MoP, No 85, 25 November 1993, p 490; Assembly Debates, 25 November 1993, pp 4178-4179; MoP, No 134, 9 and 10 August 2001, p 1586; Assembly Debates, 9 August 2001, p 2799.

68 See, for example, MoP, No 8, 27 June 1989, p 30; MoP 36, 22 November 1989, p 150; Assembly Debates, 22 November 1989, p 2847; MoP, No 101, 19 April 1994, p 566; Assembly Debates, 19 April 1994, p 994.

69 MoP, No 72, 24 August 2010, p 827.

70 MoP, No 107, 4 November 1997, p 830.

71 MoP, No 113, 26 September 2007, p 1221; MoP, No 14, 9 May 2017, p 159; MoP, No 14, 9 May 2017, p 159; MoP, No 20, 1 August 2017, p 279; MoP, No 41, 28 November 2017, pp 549-550.

72 MoP, No 97, 3 March 1994, p 547.

73 See, for example, MoP, No 77, 18 February 1997, p 576; MoP, No 11, 19 March 2013, p 117.

74 *Odgers*, p 202. *Odgers*' comments that 'if used excessively ... the procedure could be severely restrictive of the rights of individual senators' but notes that 'the Senate was not originally scheduled to sit on the extra days, so that no scheduled sitting days were lost as far as other business was concerned'.

Special reconvening of the Assembly and amendment of sitting pattern

- 8.35. As mentioned above in this chapter, when fixing the sittings for the forthcoming year, it is usual for the motion to include provision for the Speaker to fix an alternative day or hour of meeting on receipt of a request in writing from an absolute majority of members to do so.⁷⁵ The Speaker has fixed an alternative day or hour of meeting on the request of an absolute majority of members:
- for the presentation and consideration of the Supervised Injecting Place Trial Amendment Bill 2000 and the reconsideration of the schedule to the Appropriation Bill 2000-2001;⁷⁶
 - for the purpose of the tabling of the reports of the Auditor-General on matters concerning the Bruce Stadium;⁷⁷
 - to discuss the bushfire emergency in the Territory;⁷⁸ and
 - to facilitate the progress of the Gungahlin Drive extension.⁷⁹
- 8.36. The Speaker has also omitted dates from the sitting pattern after receipt of a request from an absolute majority of members. In March 2020, in order to implement physical distancing measures in response to the COVID-19 pandemic, an absolute majority of members wrote to the Speaker (via individual emails) requesting the omission of the first two sitting days of the upcoming sitting week. Accordingly, the Speaker issued a notice omitting those days.⁸⁰
- 8.37. The Speaker has also fixed the day and hour of meeting pursuant to the provisions of paragraph 40(2)(b) of the Self-Government Act, there being a vacancy in the office of Chief Minister while the Assembly was not meeting.⁸¹

75 See, for example, MoP, No 110, 22 August 2019, p 1620.

76 MoP, No 95, 10 July 2000, pp 935-940 (the request specified a date). At the preceding sitting, the government had lost the vote on the question that the appropriation bill, as amended, be agreed to. MoP, No 94, 29 and 30 June 2000, p 934.

77 MoP, No 102, 25 September 2000, pp 1009-1010 (the request specified a date).

78 MoP, No 44, 30 January 2003, pp 523-525 (the request specified a date).

79 MoP, No 103, 25 May 2004, pp 1393-1397 (the request specified a date).

80 *Special Gazette* S2 of 26 March 2020 and MoP, No 129, 2 April 2020, p 1913. At its next meetings the Assembly amended the sitting pattern for the remainder of the year.

81 MoP, No 104, 18 October 2000, p 1013 (the day and hour was not in fact an alternative day and hour); MoP, No 105, 16 May 2011, p 1311; MoP, No 84, 11 December 2014, p 963.

Ceremonial sittings

8.38. Rarely, the Assembly has met to commemorate a special occasion. The Assembly held ceremonial sittings to observe the tenth, twentieth and thirtieth anniversaries of self-government milestones.⁸² On the first occasion, a minister moved a motion (at the previous sitting) making provision for the ceremonial sitting. On the subsequent two occasions, sittings were set at the time the annual sitting pattern was determined. In each case, a motion noting the anniversary was debated and was the only item of business considered at the sitting.

Quorums

Forming a quorum

8.39. A quorum of the Assembly is formed by an absolute majority of members,⁸³ not merely a majority of those present in the chamber and voting on any given occasion.⁸⁴ An absolute majority of the Assembly (13 members) is not only the number of members necessary to constitute a quorum. It is also the majority required to carry a motion of no confidence in a Chief Minister,⁸⁵ to carry a vote in favour of a Speaker's removal from office⁸⁶ and to carry a motion moved without notice to suspend a standing order or standing orders.⁸⁷

8.40. The question may arise as to what would constitute an absolute majority, should there be more than one concurrent vacancy in the membership of the Assembly (for instance, were there 23 actual members present and voting). To date, such a situation has not arisen.⁸⁸ To ensure that the proceedings were, and were seen to be, in accordance with the rules, the prudent course in such an event would

82 MoP, No 51, 11 May 1999, p 425; MoP, No 20, 11 May 2009, p 223; MoP, No 95, 10 May 2019, p 1383.

83 Self-Government Act, s 18(1); standing order 28. Clause 17 of the Australian Capital Territory (Self-Government) Bill 1988, as introduced, provided that at a meeting of the Assembly, nine members were a quorum and that the regulations (made pursuant to the parent Act but in accordance with a resolution of the Assembly) may fix a different number. The provision was omitted from the bill in the Senate and the current provision was inserted. See Senate Debates, 24 November 1988, p 2730. This is a high proportion of the membership. By comparison, one-fifth of the membership of the House of Representatives constitutes a quorum.

84 It is usually taken to mean more than one half of the total votes eligible.

85 Self-Government Act, s 19; standing order 81.

86 Self-Government Act, s 12(1)(d).

87 Standing order 272.

88 This was almost the case for a short period in January 1997, two vacancies occurring during the summer adjournment (though not concurrently). When the Assembly met on 18 February 1997, the vacancies had been filled pursuant to the provisions of the Electoral Act (the terms of office of the new members had therefore commenced), though the new members had not taken their seats as members. See MoP, No 77, 18 February 1997, p 575. The question would not have arisen in the event of there having been one vacancy, as an absolute majority would still clearly have been the nine members required at that time.

be to insist on an absolute majority of at least 13 members for the purpose of establishing and maintaining a quorum and for the purposes of standing order 81.⁸⁹

Quorum at time of meeting

- 8.41. Prior to a scheduled meeting of the Assembly, the bells are rung and the Speaker takes the chair at the appointed time. If a quorum is not present, the bells are rung for a further five minutes or until a quorum is formed. If, after five minutes, a quorum is still not present, the Speaker must adjourn the Assembly. However, a significant proviso contained in the standing orders is that, where the Speaker believes that a quorum will be formed, they can announce that the chair shall be taken at a stated (later) time. If, at that time, there is not a quorum, the Speaker must adjourn the Assembly until the next sitting day.⁹⁰
- 8.42. Members are not permitted to withdraw from the chamber within five minutes after the time appointed for the meeting of the Assembly unless a quorum is obtained.⁹¹
- 8.43. It is not unusual for the Speaker to order the bells to be rung at the commencement of a meeting of the Assembly because a quorum is not present, and then for a quorum to be formed within five minutes.⁹² The Speaker has not, to date, declared the Assembly adjourned because a quorum could not be formed at the commencement of a sitting. However, on 20 February 2002 (in unusual circumstances), upon a quorum of members not being present, the Speaker directed that the bells not be rung for the full five minutes and announced that the chair would be resumed at the ringing of the bells. The sitting resumed later that day and, with a quorum present, the Speaker made a statement to the Assembly outlining the reasons for the actions he had taken.⁹³

Vote indicating lack of quorum

- 8.44. The Speaker must adjourn the Assembly when the counting of a vote in the Assembly indicates that a quorum is not present. In these circumstances, no decision is considered to have been arrived at by the vote. The same proviso that applies to the lack of a quorum at the scheduled commencement of a sitting applies here; if the Speaker is satisfied that there is likely to be a quorum within a

89 The quorum of the House of Representatives is not reduced by any vacancy in the membership of the House, though the *House of Representatives (Quorum) Act 1989* (Cth) provides for the quorum of that House to be a set fraction of the 'whole number of the members of the House'. See *House of Representatives Practice*, p 271.

90 Standing order 28.

91 Standing order 29.

92 MoP, No 56, 28 March 2006, p 595.

93 MoP, No 6, 20 February 2002, p 55. Members of the Assembly were meeting with the Aboriginal and Torres Strait Islander Commission Board. See the comments by Speaker Berry at Assembly Debates, 20 February 2002, p 379.

reasonable time, they must state a time at which the chair will be taken. If there is not a quorum at that time, the Assembly is adjourned to the next sitting day.⁹⁴

Quorum during sitting

- 8.45. Though it is necessary for a quorum to be present when the Assembly meets and to record a vote of the Assembly, it is not necessary to maintain a quorum continuously whilst the Assembly meets. However, if any member draws the lack of a quorum to the attention of the Speaker, the Speaker is obliged to count the Assembly and to ring the bells.⁹⁵ If a quorum is not present within four minutes, the Assembly must be adjourned. Again, there is a proviso: if the Speaker is satisfied that there is likely to be a quorum within a reasonable time, they must announce that the chair will be taken at a stated time; if there is not a quorum at that time, the Assembly must adjourn.⁹⁶
- 8.46. When the attention of the Speaker has been called to the fact that there is not a quorum present, no member may leave the area within the seats allotted to members until a quorum is present or four minutes have elapsed.⁹⁷
- 8.47. On 7 June 1990, during debate on the question ‘That the Assembly do now adjourn’, the Speaker’s attention was drawn to the fact that a quorum of members was not present. After the bells were rung and, a quorum still being achieved within the stipulated time, the Speaker adjourned the Assembly.⁹⁸
- 8.48. Where proceedings are interrupted for lack of a quorum and the Assembly adjourns to a later hour on the same day, standing order 68 states that the Speaker shall fix the time for the resumption of the debate or any business under discussion and not disposed of at the time of interruption.

Adjournment of the Assembly

- 8.49. The termination of a sitting of the Assembly is known as an adjournment. An adjournment usually occurs when:
- the Assembly agrees to the motion ‘That the Assembly do now adjourn’; or
 - there is an ‘automatic’ adjournment at 6.30 pm on sitting days.

94 Standing order 31.

95 MoP, No 120, 26 November 2019, p 1776.

96 Standing order 32.

97 Standing order 33. The ‘floor’ of the Assembly is that area contained within the ‘horseshoe’ of members’ seats and excludes the public gallery. A member sitting in the gallery would not be counted towards a quorum.

98 MoP, No 64, 7 June 1990, p 266.

8.50. There are other provisions in the standing orders by which the Assembly may be adjourned. If both the Speaker and Deputy Speaker are absent and the Assembly fails to elect a member to perform the duties of Speaker, the Assembly will stand adjourned until the next sitting day.⁹⁹ The Speaker is required to adjourn the Assembly in the absence of a quorum.¹⁰⁰ In the case of grave disorder, the Speaker may adjourn the Assembly without putting the question.¹⁰¹

Adjournment motion moved by a minister

8.51. A motion for the adjournment of the Assembly, other than the ‘automatic’ adjournment (See under the heading ‘Automatic adjournment’ below), can only be moved by a minister and no amendment may be moved to the motion.¹⁰² Such a motion can be moved at any time, though the practice is that the motion cannot be moved whilst another question is before the chair.¹⁰³

Automatic adjournment

8.52. Standing order 34 requires that, at 6.30 pm on each sitting day, the Speaker must propose the question ‘That the Assembly do now adjourn’. There may be debate on the question but no amendment may be moved. The standing order provides that:

- (a) if a vote is in progress at the time for interruption, that vote, and any vote consequent upon that vote, shall be completed and the result announced;
- (b) if, on the question – That the Assembly do now adjourn – being proposed, a Minister requires the question to be put forthwith without debate, the Speaker shall forthwith put the question;
- (c) a motion for the adjournment of the Assembly may be moved by a Minister at an earlier hour;
- (d) any business under discussion and not disposed of at the time of the adjournment shall be set down on the *Notice Paper* for the next sitting;
- (e) if the question – That the Assembly do now adjourn – is negatived, the Assembly shall resume the proceedings at the point at which they had been interrupted; and
- (f) at the conclusion of the time allotted for the adjournment, the Speaker shall forthwith adjourn the Assembly until the time of its next meeting.¹⁰⁴

99 Standing order 9.

100 Standing orders 28, 31 and 32. See under the heading ‘Quorums’ in this chapter.

101 Standing order 207.

102 Standing order 35.

103 See *House of Representatives Practice*, p 268.

104 Standing order 34.

- 8.53. The Assembly rarely agrees to the question on the automatic adjournment when the Speaker first proposes it.¹⁰⁵
- 8.54. Questions may arise as to whether leave of the Assembly overrides the provisions of standing order 34 and what matters might constitute ‘any business under discussion and not disposed of at the time of the adjournment’ for setting down on the *Notice Paper* for the next sitting.
- 8.55. Leave of the Assembly would not normally transcend the provisions of standing order 34. Should a member be making a statement by leave, the Speaker would interrupt the proceedings in accordance with the standing order. The same may not necessarily apply if standing orders have been suspended—for example, to enable a member to make a statement or move a motion. It would depend on the terms of the order of the Assembly suspending the standing orders.¹⁰⁶
- 8.56. Generally speaking, the application of the suspension of standing orders is taken to be limited to what is necessary to enable the member to proceed at that time, notwithstanding the order of business set down for that day. Thus, for example, a member making a statement by leave is still subject to Chapter 6 of the standing orders, setting out the rules of debate. It would be expected, therefore, that the chair would propose the question on the adjournment at the time specified in standing order 34, unless the Assembly had specifically and clearly ordered or agreed otherwise.
- 8.57. Should the question on the automatic adjournment be negatived (as is the usual practice), then—even if there is no question before the Assembly, as set down in standing order 34—the proceedings would resume at the point at which they were interrupted. For example, discussion of a matter of public importance would resume, a member would resume making their statement by leave or a member would resume addressing a point of order (if given the call by the chair).
- 8.58. If debate is interrupted pursuant to standing order 34 whilst the Assembly is discussing a matter of public importance or a member is making a statement by leave or speaking to a point of order, and the Assembly agrees to the motion to adjourn, a question arises as to the status of the interrupted business for the next day’s proceedings.
- 8.59. The key to determining such an issue is whether there is a question before the Assembly (see Chapter 10: Motions). If the chair has proposed a question (for example, ‘That the motion be agreed to’), the motion is regarded as being in possession of the Assembly. If not, the matter is dropped and does not appear on the *Notice Paper*. The making of a statement by leave, discussion of a matter of

105 It has occurred: see MoP, No 57, 31 March 1993, p 5; MoP, No 110, 29 August 2007, p 1197; MoP, No 115, 25 September 2019, p 1680.

106 See the practice of the House of Representatives (where it is regarded that the terms of such an order would need to specifically suspend House of Representatives’ standing order 48A)—*House of Representatives Practice*, p 269.

public importance, or a member addressing a point of order is not ‘business’ for the purposes of the standing order. Thus, these items are not regarded as being in possession of the Assembly and would not be set down on the *Notice Paper* for the next sitting.

Adjournment debate

- 8.60. Each member speaking to the question ‘That the Assembly do now adjourn’ has a time limit of five minutes, and there is an overall time limit on the debate of no more than 30 minutes.¹⁰⁷ The practice of the Assembly is that members may speak only once to the question and, unlike in some other legislatures, ministers may participate in the debate. The standing order has been suspended to enable the debate to continue for a set length,¹⁰⁸ until completion,¹⁰⁹ beyond the time set for its completion,¹¹⁰ and for longer than 30 minutes, particularly at the end of a year or an Assembly.¹¹¹
- 8.61. The relevancy rule is relaxed for debate on a motion to adjourn the Assembly, standing order 58(a) providing that irrelevant matters may be debated. As a result, members will often raise constituency matters during the debate—for example, community activities, events and personalities.
- 8.62. The reply of the mover of the motion closes the debate, though members have addressed the Assembly, by leave, after the minister who moved the motion has replied.¹¹² The practice is that the chair will give the call to another member rising, in preference to the minister who moved the motion. The debate terminates when no member seeks the call.
- 8.63. When the Assembly agrees to the motion ‘That the Assembly do now adjourn’ or when the time fixed for the debate by standing order 69(b) has expired, the sitting concludes and the Speaker adjourns the Assembly until the time fixed for its next meeting, either pursuant to standing order 27 or as fixed by order of the Assembly.

Adjournment for special reasons

- 8.64. It is open to the Legislative Assembly to adjourn for special reasons—for example, to mark a significant event in the life of the Territory or the nation at large or to mark the death of a prominent citizen. To date, it has not yet done so. The House of Representatives has adjourned to mark the death of a Prime Minister and former Prime Minister, a reigning monarch, a Queen, a Governor-General

107 Standing order 69(b).

108 MoP, No 91, 16 December 1993, p 523; MoP, No 120, 26 November 2019, p 1776.

109 MoP, No 62, 18 May 1993, p 351.

110 MoP, No 26, 20 August 2002, p 255.

111 MoP, No 147, 11 August 2016, p 1706.

112 MoP, No 19, 13 August 1992, p 112.

and others.¹¹³ It has also adjourned ‘one minute after it met to enable Members to attend functions in honour of the eminent aviator, Captain Hinkler’.¹¹⁴

Dissolution provisions

- 8.65. The Governor-General may, by proclamation,¹¹⁵ dissolve the Assembly in certain extreme circumstances. Section 16 of the Self-Government Act gives the Governor-General this power if they consider that the Assembly is ‘incapable of effectively performing its functions’ or is ‘conducting its affairs in a grossly improper manner’.¹¹⁶ To date, this has not happened.
- 8.66. In the event of a dissolution of the Assembly:
- the term of office of each member ends¹¹⁷ (though those who are candidates at the subsequent general election are entitled to be paid ongoing remuneration and allowances);¹¹⁸
 - the Speaker vacates the office of Speaker;¹¹⁹
 - the Chief Minister vacates the office of Chief Minister;¹²⁰ and
 - ministers vacate their offices as ministers.¹²¹
- 8.67. In addition, as there are no members and therefore there is no Assembly, all proceedings pending come to an end—all business on the *Notice Paper* lapses, any temporary or other non-ongoing orders or resolutions cease to have effect and all committees cease to exist.

113 *House of Representatives Practice*, p 271.

114 *House of Representatives Practice*, p 244.

115 The proclamation would be one made pursuant to a Commonwealth Act, not the Constitution. Section 2B of the Acts Interpretation Act provides that ‘Proclamation’ shall mean a Proclamation by the Governor-General that is registered in the Federal Register of Legislation established under the *Legislation Act 2003* (Cth) as a legislative instrument or notifiable instrument (Cth).

116 Section 16A of the Acts Interpretation Act provides, among other things, that where, in a Commonwealth Act, the Governor-General is referred to, the reference shall, unless the contrary intention appears, be read as referring to the Governor-General, or a person so deemed to be included in the reference, acting with the advice of the Federal Executive Council.

117 Self-Government Act, s 10.

118 Self-Government Act, s 73(5). For the purposes of s 73 of the Self-Government Act (Remuneration and Allowances), if the person is a candidate at the next general election, the person shall be taken to have continued in the office of member until the polling day for the next general election of members for the Assembly or, if the person is re-elected, until the day on which the election of the person is declared. It is expected that the remuneration and allowances received would be restricted to those the person received as a member, and not positions formerly held in the Assembly; for example, committee chairs and party whips.

119 Self-Government Act, s 12(1)(c).

120 Self-Government Act, s 46(1)(b).

121 Self-Government Act, s 46(1A)(b).

- 8.68. In relation to the notification of enactments, the making of all laws passed by the Assembly should be notified on the ACT Legislation Register or in the *Territory Gazette* before the date and time specified in the dissolution proclamation.¹²² Even if a bill had been passed by the Assembly and had been so certified by the Clerk in accordance with standing order 193, if the Speaker had not asked Parliamentary Counsel to notify the making of the proposed law¹²³ when the Assembly was dissolved, the proposed law could not be regarded as having taken effect.¹²⁴
- 8.69. In the event of a dissolution, the powers of the executive are vested temporarily in a commissioner appointed by the Governor-General, and a general election of Members of the Legislative Assembly must be held on a day specified by the Commonwealth minister, by notice published in the *Commonwealth Gazette*. The day specified cannot be earlier than 36 days nor later than 90 days after the dissolution of the Assembly.¹²⁵
- 8.70. The Commonwealth minister administering the Self-Government Act is required to cause a statement of reasons for the dissolution to be:
- (a) published in the Commonwealth Gazette as soon as practicable after the day of the dissolution; and
 - (b) laid before each House of the Commonwealth Parliament within 15 sitting days of that House after the day of the dissolution.¹²⁶

122 With the possible exception of a bill for an entrenching law or an enactment to which an entrenching law requiring a referendum applied. These bills could not become law until they had been passed at a referendum.

123 In accordance with standing order 193 and s 28 of the Legislation Act.

124 And see *House of Representatives Practice*, p 227.

125 Self-Government Act, ss 16(2)(b) and 16(3).

126 Self-Government Act, s 16(8). The statement of reasons is not subject to disallowance.