

14. Papers and documents of the Assembly

Introduction

14.1. This chapter considers two categories of document:

- those that are presented to the Assembly (that is, ‘tabled’)¹ by ministers, the Speaker and, in certain circumstances, non-executive members; and
- those that are generated by the Assembly itself—*Minutes of Proceedings*, the *Notice Paper*, Hansard records of debates et cetera³—which facilitate the conduct of business, provide a record of proceedings and communicate the work of the Assembly to the community.

Papers presented to the Assembly

14.2. The tabling or presentation of documents (also referred to as ‘papers’ in the standing orders)² is an important means by which the Assembly is able to formally receive information to facilitate the performance of its legislative, representative and accountability related functions. Documents³ are generally presented to the Assembly pursuant to standing orders or legislation; however, there are a number of exceptions—for example, ad hoc papers and responses to Assembly resolutions. Documents are often presented by a member in order to substantiate an argument or assertion that has been made in the course of debate.

1 To table a document in parliamentary terms means that a document has been ‘laid on the table’.

2 The terms ‘document’ and ‘paper’ are used interchangeably in the standing orders.

3 Consistent with House of Representatives practice, the Assembly regards a ‘document’ as encompassing a broad class of recorded information. The House of Representatives standing orders define a document as being:

... a paper or any record of information, and includes:

- (i) anything on which there is writing;
- (ii) anything on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;
- (iii) anything from which sounds, images or writings can be reproduced with or without the aid of anything else; or
- (iv) a map, plan, drawing or photograph.

This definition appears in much the same form in the Legislation Act and the Acts Interpretation Act (Cth).

Pursuant to standing orders

- 14.3. Standing order 211 confers a general right on the Speaker and ministers to present papers to the Assembly. Chairs of Assembly committees are authorised to present reports or discussion papers to the Assembly following a resolution of the committee that the report or paper be adopted.⁴ The Assembly may also order that certain documents are to be presented.
- 14.4. There are occasions when the Clerk is required to present documents to the Assembly under the standing orders (see under the heading ‘Presentation by the Clerk’ below in this chapter).

Pursuant to legislative requirement

- 14.5. An example of a legislative requirement for the presentation of a document is at s 10A(2) of the Electoral Act, which requires that the Speaker must present a special report of the Electoral Commission on the next sitting day after it is received by the Speaker.⁵
- 14.6. There are also statutory provisions requiring certain papers to be presented to the Assembly on a regular basis, including, for instance, half-yearly performance reports made under the Financial Management Act⁶ and determinations made under the Remuneration Tribunal Act.⁷

Presentation by leave

- 14.7. Documents may be presented by any member, by leave of the Assembly.⁸ Leave to table a document requires the consent of all members present in the chamber (that is, there is no dissentient voice).
- 14.8. There are no limits placed on the types of documents that may be tabled.⁹ However, in seeking to table a document, regard should be had to continuing resolution 7, which states that members should exercise their right of freedom of speech in a responsible manner.¹⁰ It is also expected that a document is relevant

4 Standing order 246A (Statements and discussion papers) and standing order 253 (Presentation of report).

5 See, for example, MoP, No 132, 4 June 2020, p 1981.

6 See, for example, MoP, No 125, 13 February 2020, p 1865.

7 See, for example, MoP, No 125, 13 February 2020, p 1866.

8 Other than for the presentation of committee papers or reports, standing orders make no provision for non-executive members to present documents to the Assembly and they are therefore required to seek leave to do so. Leave has been refused in a situation where an executive member sought leave to table an exposure draft bill and explanatory statement relating to a private member's bill (the Freedom of Information Bill 2013). See MoP, No 43, 28 November 2013, p 442.

9 See Speaker's ruling, Assembly Debates, 26 February 2009, p 1077.

10 See Speaker's ruling, Assembly Debates, 26 February 2009, p 1077.

to the matter being considered by the Assembly or otherwise of importance to the Assembly.

- 14.9. It is good practice that a member seeking leave to table a document will inform other members of its content and the reason for its presentation, thereby enabling members to evaluate the propriety of the document and its relevance to Assembly proceedings. Where leave is not granted, members have sought to suspend so much of the standing orders that would prevent a document from being tabled.¹¹

By the Speaker

- 14.10. As chair of the Standing Committee on Administration and Procedure, it is the responsibility of the Speaker to present any report or discussion papers of that committee.¹² The Speaker is also responsible under a number of Acts for the presentation of certain documents to the Assembly. For example, s 17 of the Auditor-General Act requires the Speaker to present to the Assembly reports prepared for it by the Auditor-General. Documents relating to parliamentary matters tabled by the Speaker have included:

- letters from members in relation to alleged breaches of privilege;¹³
- warrants of nomination of Assistant Speakers;¹⁴
- budget protocols for the Office of the Legislative Assembly;¹⁵
- a memorandum of understanding between the Speaker of the Legislative Assembly for the Australian Capital Territory and the Minister for Police and Emergency Services for the Australian Capital Territory and the Chief Police Officer for the Australian Capital Territory;¹⁶
- a draft continuing resolution for dealing with claims of parliamentary privilege that arise during the exercise of the ACT Integrity Commission's powers and function, including explanatory material and practice notes;¹⁷
- responses received from the Governor-General;¹⁸ and
- resolutions from other parliaments.¹⁹

11 MoP, No 24, 25 October 1995, pp 177-179; MoP, No 40, 21 November 2002, pp 427-428.

12 MoP, No 115, 19 August 2004, p 1654.

13 MoP, No 104, 22 June 2004, p 1403.

14 MoP, No 2, 7 December 2004, p 11.

15 MoP, No 62, 5 August 2014, p 655.

16 MoP, No 62, 21 July 2018, p 876.

17 MoP, No 80, 27 November 2018, p 1142.

18 MoP, No 68, 15 August 2006, p 755.

19 MoP, No 70, 17 August 2006, p 778.

By ministers

- 14.11. Ministers have a duty to keep the Assembly informed about their administration of government, and standing order 211 provides a procedural basis for ministers to fulfil that duty through the formal provision of papers to the Assembly.
- 14.12. An indication of the range of papers presented by ministers is demonstrated in the *Minutes of Proceedings* for 21 August 2007—the first sitting day in a new financial year following the winter adjournment. On that sitting day, ministers presented papers relating to:
- salary determinations made by the Remuneration Tribunal;
 - notifiable instruments pursuant to the *Annual Reports (Government Agencies) Act 2004*;
 - the Consolidated Financial Report under the Financial Management Act, details of expenditure from the Treasurer’s Advance and transfers of funds within and between agencies;
 - papers in relation to greenhouse gas abatement, human rights in correctional facilities and the administration of justice;²⁰
 - variations to the Territory Plan; and
 - subordinate legislation and explanatory statements in relation to more than 80 disallowable instruments.²¹
- 14.13. Standing order 214 states that a minister may, on presenting a paper to the Assembly, move without notice either that: (a) the Assembly take note of the paper; or (b) the paper be referred to a committee for inquiry and report (see under the heading ‘Motion to take note of paper/s’ in this chapter).²²
- 14.14. On 20 November 2018, standing order 211 was amended by the Assembly, on a recommendation of the Standing Committee on Administration and Procedure,²³ to provide that:

By 12 noon on a sitting day a schedule of papers to be presented by the Executive will be made available by the Manager of Government Business to whips and will be circulated to all Members electronically. Ministers and non-Executive Members may indicate to the Manager of Government Business which papers on the schedule they wish to have a motion to take note moved prior to question time, and upon presentation of the papers listed on the schedule, the Manager of Government Business shall move the motions requested.

20 MoP, No 106, 21 August 2007, p 1073.

21 MoP, No 106, 21 August 2007, p 1071.

22 MoP, No 73, 20 September 2018, pp 1025-1026.

23 Standing Committee on Administration and Procedure, Ninth Assembly, Report 8, *Review of standing orders and continuing resolutions of the Legislative Assembly—Vol 1*, October 2018, p 28.

- 14.15. On occasion, ministers at their own initiative will present certain papers that they regard as being significant to the work of the Assembly even where presentation may not be required under legislation or pursuant to a standing order. Such papers have included, but have not been limited to, exposure drafts of bills,²⁴ government legislation programs,²⁵ and government progress reports.²⁶

Subordinate legislation

- 14.16. The majority of papers presented to the Assembly fall into the category of subordinate legislation. For example, in 2019 there were 315 items of subordinate legislation presented to the Assembly. The requirement to present these papers is provided for in section 64 of the Legislation Act, which states that a subordinate law or disallowable instrument must be presented to the Legislative Assembly no later than six sitting days after its notification on the Legislation Register.²⁷
- 14.17. This section of the Act also states that if the subordinate law or disallowable instrument is not presented within this time, it is taken to be repealed. It is essential, therefore, for the government to ensure that such legislation is presented to the Assembly within the stipulated timeframe, in order for the law to remain in force.

By orders and resolutions of the Assembly

Production of documents by the executive

- 14.18. Standing order 213A sets out the procedure that is to be followed where the Assembly orders the production of documents that are held by the executive. These matters are discussed in detail in Chapter 2: Parliamentary privilege—The powers and immunities of the Assembly, under the heading ‘Production orders and public interest immunity’.
- 14.19. The Assembly may also pass resolutions seeking, rather than ordering, the presentation to the Assembly of certain documents by the executive. For example, on 24 May 2000, a resolution was passed calling on the Minister for Education to issue six-monthly reports on his department’s progress on Indigenous education.²⁸ On the same day, a motion was passed ‘calling on’ the Gambling and Racing Commission to report to the Assembly on a number of issues relating to interactive gambling.²⁹ The Commission’s report was presented to the Assembly on 27 June 2000.³⁰

24 MoP, No 80, 27 November 2018, p 1142.

25 MoP, No 28, 8 August 2013, p 275.

26 MoP, No 70, 17 August 2006, p 778.

27 MoP, No 99, 4 May 2004, pp 1320-1321. And see Chapter 12: Legislation, under the heading ‘Subordinate legislation’.

28 MoP, No 90, 24 May 2000, pp 868-869. The resolution was amended on 16 February 2006 to change the reporting requirements (MoP, No 52, 16 February 2006, p 554).

29 MoP, No 90, 24 May 2000, pp 873-875.

30 MoP, No 92, 27 June 2000, p 902.

- 14.20. Notwithstanding that historically a resolution has been regarded as a less compelling procedural mechanism than an order,³¹ there is nonetheless an onus on the government to comply with, or otherwise address, the wishes of the Assembly or risk the political consequences.

Leader of the Opposition

- 14.21. On 7 May 2009, the Assembly ordered the production of certain documents by the Leader of the Opposition relating to an ‘investigation conducted by the Liberal Opposition into the creation of a fraudulent Facebook website defaming the Deputy Chief Minister’.³²

Committee reports

- 14.22. The Assembly may also require the presentation of a report before, or by, a certain date by a select or standing committee through a resolution establishing the committee (in the case of a select committee) or a resolution referring an inquiry (in the case of a standing committee).³³

Tabling of quoted documents

- 14.23. Standing order 213 enables the Assembly to order that a member table a document that they have quoted from during a speech. The standing order also states that the order may be moved without notice immediately upon the conclusion of the speech of the member who has quoted from the document. The standing order has typically been used by members to evaluate the validity of a document, which has been directly relied upon by a member during a debate.³⁴
- 14.24. In applying the standing order, the distinction between quoting from, rather than merely referring to, a document has been recognised by the Speaker. For example, on 25 November 1993 a member moved a motion requesting that a minister present a document he had raised during question time. After some debate the Speaker ruled that the motion was out of order as the minister had not quoted from the document but had referred to it only.³⁵

31 *House of Representatives Practice*, p 314, states that, ‘An order has been described as a command, and a resolution as a wish. By its orders the House directs its committees, its Members, its staff, the order of its own proceedings and the acts of all persons whom they concern. By its resolutions the House declares its own opinions and purposes. In practice, however, the terms are often used synonymously, resolution being the term most generally used’.

32 A number of papers were tabled by the Leader of the Opposition in anticipation that the motion ordering production of the documents would pass. See MoP, No 10, 7 May 2009, pp 218-219, 222.

33 MoP, No 52, 22 March 2018, pp 751-754.

34 See Chapter 11: Rules of debate and the maintenance of order, under the heading ‘Reading speeches and presentation of documents quoted from’.

35 Assembly Debates, 25 November 1993, pp 4165-4166. The document in question was a statutory declaration stating certain matters which a minister relied upon in answering a question without notice.

- 14.25. On this occasion, the relevant minister also expressed a concern that the tabling of the document could leave the author of the document exposed to reputational damage or invasion of privacy. Whether or not such orders are made is solely for the Assembly to determine. However, it will sometimes be prudent for the Assembly to undertake a balancing exercise in considering such a motion. For instance, where the disclosure of information gives rise to the possibility of harm to a person, that prospect may be weighed against the public interest in members of the Assembly having access to primary sources of information allowing them to conscientiously perform their roles as legislators.
- 14.26. A further issue has arisen with regard to the application of standing order 213 and possible conflict with established practices or conventions of the Assembly. On 23 August 1995, the Minister for Education and Training was ordered, after a vote of the Assembly, to present a document from which he had quoted. During debate on the motion, the government argued that the minister had not been quoting directly from a particular document but had instead relied on speaking notes prepared by his office, and that:

If I may speak to the matter that Ms Follett has raised, I would say it is within the competence of the house to move this motion and to carry it. However, it is a most unfortunate precedent. There has been an informal agreement in this place that members are entitled to read from briefs or speaking notes without having to table those notes. Where a member reads from, say, a letter or a document, that is another matter. Members would certainly expect to have to table that document if they use it on the floor of the house. This is a speaking note prepared for Mr Stefaniak in his office and he has read it in full. I think, as a matter of principle, it is undesirable to open that up for members to see generally. Members can annotate that or cross things off. That really is a matter for members to have to deal with on their own. We have not traditionally asked for those documents, and I would urge members not to now start doing that.³⁶

- 14.27. While members accepted the distinction between primary documents that had been quoted from and speaking notes, in this particular instance the Assembly accepted that the document in question was not a private briefing note and was instead in the form of a ministerial statement. As such, the Assembly insisted that it be tabled.
- 14.28. On 16 November 2010, following an occasion where a minister was ordered to table a document that was being quoted from and subsequent concerns about the potential for question time briefs to be the subject of such orders, Speaker Rattenbury provided the following guidance:

I believe that the standing order quite rightly places no restriction on what constitutes a document. It should be open to the Assembly, on a case-by-case basis, to insist that a document quoted from be tabled so that others may judge the veracity of the claims made during the member's speech. However, that

decision should be an informed one and, in reaching its decision, the Assembly should take into account the nature of the document and any arguments put forward for not tabling. It does rest upon the member being asked to table the document to make a clear case why the document should not be tabled if that is that member's position so that the Assembly can vote in an informed way on the motion. The member should be explicit about the exact nature of the document ...³⁷

- 14.29. As it stands, the standing order does not give the chair any discretion or guidance once a member moves for the tabling of a document. The decision on whether or not the motion to table is agreed to is a vote of the Assembly.³⁸ On 20 March 2012, following a minister's refusal to table a document on the grounds that it was a private note, the Speaker was asked to rule on 'the nature of a private note'.³⁹ The Speaker stated that it was his view that standing order 213 did not give the Speaker the authority to decide whether a document is a private note or not and that whether or not the document was ordered to be tabled was a matter for the Assembly.⁴⁰ On the question as to whether or not private notes or other kinds of briefing materials ought not to be the subject of such disclosures, the Speaker indicated that it was open to the Assembly to either abide by such a convention or not.⁴¹ The minister tabled the document in question.

Presentation when the Assembly is not sitting

- 14.30. The capacity to present certain documents when the Assembly is not sitting is addressed in s 257 of the Legislation Act, which provides, among other things, that where a provision of a law requires a person to present a document to the Legislative Assembly within a stated period that is not expressed as a certain number of sitting days and it is not reasonably practicable to present the documents within the stated period:
- (a) the person may give the document, and a copy for each member of the Legislative Assembly, to the Speaker before the end of the stated period; and
 - (b) the document is taken for all purposes to have been presented to the Legislative Assembly on the day the person gives it to the Speaker; and

37 Assembly Debates, 16 November 2010, p 5422.

38 Assembly Debates, 16 November 2010, p 5422. The Speaker also went on to provide advice to members about the arrangements that ought to apply in relation to the tabling of a document that was being read by a member on a computer device. The Speaker stated that 'the practical and commonsense response should simply be that, where a member is so ordered, that member should, in a timely manner, arrange for the document or web page to be printed, then return to the chamber and table the print-out as soon as reasonably practicable'.

39 Assembly Debates, 20 March 2012, p 906.

40 Assembly Debates, 20 March 2012, p 906. This was much the same position adopted by the Speaker in relation to the matters raised on 23 August 1995 mentioned above. The then Speaker advised the Assembly: 'I am advised by the Minister that it is a briefing note. I am not in a position to judge whether it is a letter, a briefing note or a billet-doux; but you can move that it be tabled if you wish'. Assembly Debates, 23 August 1995, p 1388.

41 Assembly Debates, 20 March 2012, p 906.

- (c) the Speaker must arrange for a copy of the document to be given to each member of the Legislative Assembly; and
- (d) the Speaker must present the document to the Legislative Assembly—
 - (i) on the next sitting day; or
 - (ii) if the next sitting day is the first meeting of the Legislative Assembly after a general election of members of the Assembly—on the second sitting day after the election.⁴²

14.31. There are also other provisions across ACT legislation which require the presentation of certain documents to the Speaker when the Assembly is not sitting. For example, s 17(5) of the Auditor-General Act provides that in the event that the Assembly is not sitting when the Auditor-General has finished a report for the Legislative Assembly, the Auditor-General must give the report, and a copy for each Member of the Legislative Assembly, to the Speaker. A report that has been so presented is taken for all purposes to have been presented to the Legislative Assembly on the day that the Auditor-General gives it to the Speaker and publication of the report is taken to have been ordered by the Assembly on that day. However, notwithstanding that presentation is taken to have occurred, the Speaker must present the report to the Legislative Assembly on the next sitting day. Pursuant to standing order 254C, committee reports may also be tabled when the Assembly is not sitting.

Presentation by the Clerk

- 14.32. On the first sitting day of a new Assembly, the Clerk is required to present the official instrument notifying the names of candidates elected to the Legislative Assembly for the ACT at a general election.⁴³ The Clerk is also responsible for tabling documents held by the executive and ordered for production by the Assembly pursuant to standing order 213A(b).⁴⁴
- 14.33. The Clerk may also be called upon, pursuant to a resolution of the Assembly, to table certain documents. For instance, the Assembly resolved on 5 August 2014 that the Clerk develop and table an ACT Register of Lobbyists and supporting guidelines.⁴⁵

42 In the relevant section, Speaker includes: (a) if the Speaker is unavailable—the Deputy Speaker; and (b) if both the Speaker and the Deputy Speaker are unavailable—the Clerk of the Legislative Assembly.

43 MoP, No 1, 4 November 2004, p 2.

44 More information on production orders pursuant to standing order 213A is included in Chapter 2: Parliamentary privilege—the powers and immunities of the Assembly, under the heading ‘Standing order 213A—Arbitration of privilege claims’.

45 MoP, No 62, 5 August 2014, pp 651-652.

Time of presentation

14.34. Under the routine of business for each sitting day,⁴⁶ the presentation of papers occurs at the conclusion of question time. However, standing order 211 allows for papers to be presented by the Speaker and ministers at any time (see under the headings ‘By the Speaker’ and ‘By ministers’ in this chapter). Generally, the practice of the Assembly has been to allow papers to be presented at any time as long it does not interrupt a member who is speaking and it occurs between items of business. Standing order 75 permits the presentation of standing or select committee papers and reports at any time when other business is not before the Assembly.

Custody of records

14.35. Standing order 26 gives the Clerk custody of *Minutes of Proceedings*, records and all documents laid before the Assembly.

Publication, inspection and copying of documents

14.36. It is the practice of the House of Representatives and the Senate that all tabled papers are automatically authorised for publication.⁴⁷ However, the adoption by the federal parliamentary chambers of procedures for automatic publication is only relatively recent, occurring in 1997 and 1988 respectively.

14.37. When the draft standing orders for the Assembly were being prepared in the lead-up to its inauguration in 1989, no provision for automatic publication was made. There was a concern, particularly in the early Assemblies, that such a procedure could be abused and result in documents receiving the protection of parliamentary privilege that ought not to receive that protection.⁴⁸

14.38. However, the Assembly has over a number of years progressively amended its standing orders so as to expand the circumstances in which certain documents are automatically authorised for publication.

14.39. Standing order 212 provides that papers which have been tabled but not ordered to be published—whether by way of a substantive motion or pursuant to standing order 212A—may be made available to members. It also provides that if permission is given by the Speaker, a paper may be inspected by other persons or copies or extracts may be made from it. Such papers are held by the Chamber

46 See standing order 74.

47 Standing order 203 of the House of Representatives and standing order 167 of the Senate. See *House of Representatives Practice*, p 606 and *Odgers*, p 443.

48 A document that is authorised for publication becomes a ‘proceeding in Parliament’ and its publication will be protected by parliamentary privilege (although it is only the particular document that has been authorised for publication that receives the protection and not all copies for all purposes). More detailed information on the application of parliamentary privilege is in Chapter 2: Parliamentary privilege—The powers and immunities of the Assembly.

Support Office within the Office of the Legislative Assembly, which provides copies to members and other persons as required.

- 14.40. Pursuant to standing order 212A, unless otherwise ordered, the following papers are authorised for publication when presented to the Assembly:
- (a) papers presented by the Speaker;
 - (b) reports, minutes of proceedings, extracts of minutes of proceedings and discussion papers of standing or select committees of the Assembly or government responses to committee reports presented in the Assembly or, if the Assembly is not sitting, provided to the Speaker in electronic and paper format;
 - (c) papers presented pursuant to standing orders or resolutions of the Assembly;
 - (d) papers presented pursuant to statute; and
 - (e) papers presented by Ministers.
- 14.41. From February 2018, an electronic copy of most papers that have been tabled in the Assembly that are authorised for publication pursuant to standing order 212A have appeared on the Assembly website (www.parliament.act.gov.au).
- 14.42. The following categories of tabled papers are not published on the website as they are routinely published elsewhere:
- ministerial statements—appear as read in the Assembly in the Hansard;
 - Assembly committee reports—are provided on the relevant committee page of the Assembly website;
 - ACT Government budget papers—available on the Treasury website;
 - ACT Government annual reports—available on directorate websites;
 - Auditor-General reports—available on the ACT Audit Office website;
 - subordinate laws—available on the ACT Legislation Register; and
 - disallowable instruments—available on the ACT Legislation Register.

Motion to take note of paper/s

- 14.43. A motion to take note of a paper that has been presented to the Assembly may be moved without notice by a minister, pursuant to standing order 214(a). This practice is used in cases where the Assembly may wish to debate the subject matter of the document immediately or at a later time. If such a motion is moved, debate may proceed or be adjourned and made an order of the day for the next day of sitting.⁴⁹ If the motion is not moved by a minister at the time a paper is presented, it may be moved at a later time with notice or by leave.

- 14.44. While rare, amendments may be moved to such motions. Generally, these amendments have added words to the motion proposing action relating to the document presented or expressing an opinion on the subject matter of the document.⁵⁰

Referral to committee

- 14.45. Standing order 214(b) allows a minister to move without notice that a paper which has been presented to the Assembly be referred to a committee for inquiry and report.⁵¹ The standing order also states that if the motion is not moved at the time of presentation of the paper, it may be moved subsequently with notice or by leave.⁵²

Assembly documents

Notice Paper

- 14.46. The *Notice Paper* is an official document of the Assembly which is published by authority of the Clerk. It lists all proposed and outstanding business currently before the Assembly. The *Notice Paper* consists of three distinct sections: the business section, the questions section, and the general information section. With the exception of the first sitting day of an Assembly, a *Notice Paper* is issued for every sitting day. It is available electronically on the Assembly's website the evening before a sitting day and as hard copy on each day of sitting.

Items of business

- 14.47. Business before the Assembly is listed on the *Notice Paper* under the headings 'Executive business', 'Private members' business' and 'Assembly business' and, depending on the composition of a given Assembly, there may also be a 'Crossbench executive members' business' heading.⁵³ Each of these sections is divided into 'notices' and 'orders of the day' (see further under the headings 'Notices' and 'Orders of the day' in this chapter). Executive business refers to

50 MoP, No 74, 10 December 1996, p 537; MoP, No 120, 27 March 2001, pp 1317-1318; MoP, No 56, 3 April 2003, p 694.

51 Petitions may also be referred, see Chapter 15: Petitions, under the heading 'Lodgement and presentation'.

52 The Assembly has utilised this standing order from time to time. For example, on 18 February 1999 a motion was agreed to referring the 1999-2000 draft capital works program to the Standing Committee on Urban Services for inquiry and report by 24 March 1999. The committee report was presented to the Assembly on Tuesday, 20 April 1999 after the reporting date had been altered. On 1 July 1999, a motion was passed referring a discussion paper entitled *A Parliamentary Ethics Adviser for the ACT Legislative Assembly* to the Standing Committee on Administration and Procedure for inquiry and report. The report was presented on 22 August 2001. See MoP, No 38, 18 February 1999, p 321; MoP, No 42, 23 March 1999, pp 352-353; MoP, No 136, 22 August 2001, p 1660.

53 Crossbench executive members' business refers to any bill or motion initiated by a crossbench member, who is also a member of the executive, that is not related to the member's role as a member of the executive. This item of business was a feature of the Eighth and Ninth Assemblies but was discontinued in the Tenth Assembly; see MoP, No 7, 30 March 2021, p 87.

any bill or motion initiated by a government minister in his/her official capacity. Similarly, private members' business includes any bill or motion initiated by a member who is not a minister, including government backbenchers and the Speaker.

14.48. Assembly business is defined in standing order 77 as:

- any notice of a motion or order of the day relating to the establishment or membership of a committee or the referral 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 or order of the day to amend, disallow, disapprove or declare void and of no effect any instrument made under any Act of the Assembly which provides for the instrument to be subject to amendment, disallowance or disapproval of the Assembly or subject to a resolution of the Assembly declaring the instrument to be amended or void and of no effect or any other order of the day to consider such a motion (and, if such a notice has not been called on by the end of the day before the stipulated period ends, the member shall move the notice on the next sitting day and such business shall take precedence over other business); 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 proceedings.

Notices

14.49. Standing order 105 stipulates that notices have priority over orders of the day and that they shall be entered on the *Notice Paper* in the order in which the Clerk receives them.⁵⁴ Any notice of motion that appears on the *Notice Paper* and has not been called on for four sitting weeks is removed from the *Notice Paper* by the Clerk, pursuant to standing order 125A.

Orders of the day

14.50. Standing orders define an order of the day as a bill or any other matter which the Assembly has ordered to be taken into consideration on a particular day.⁵⁵ Standing orders also set out the order in which orders of the day will appear on the *Notice Paper*⁵⁶ and the course of action that will be taken if an order of the day has not been called on at an adjournment of the Assembly.⁵⁷

54 Section 19 of the Self-Government Act sets out the procedures that need to be followed when a no confidence motion against the Chief Minister is lodged in the Assembly. Standing order 81 also reflects this requirement.

55 Standing order 148. See also Chapter 6: The Executive, under the heading 'Resolution of no confidence'.

56 Standing order 149.

57 Standing order 151.

- 14.51. Standing order 152A provides that the Clerk shall remove from the *Notice Paper* any private members' business order of the day, excluding bills, and any Assembly business order of the day to take note of a paper or report that has not been called on for four sitting weeks.

Order of business on the *Notice Paper*

- 14.52. Standing order 78 gives responsibility for arranging the order of executive business to the Manager of Government Business, with standing order 16(a)(iii) giving the Standing Committee on Administration and Procedure the task of organising private members' and Assembly business. The committee does this at its meeting every Monday of a sitting week.

General information

- 14.53. The final sections of the *Notice Paper* appear after the Clerk's signature. They are not an official part of the document and are included for information only. They contain a list of outstanding ministerial responses to petitions and a list of all committees for the current Assembly, together with up-to-date committee membership information.

Questions on *Notice Paper*

- 14.54. Standing order 113 gives members the authority to place questions on notice, and standing order 120 sets out the rules for giving notice of a question to be placed on the *Questions on Notice Paper*. A question will remain on the *Notice Paper* until an answer is received or until it is withdrawn by the member who lodged the question (see Chapter 13: Questions seeking information).

Minutes of Proceedings

- 14.55. Section 20 of the Self-Government Act states that the Assembly shall cause minutes of meetings to be kept and that those minutes shall, on request, be made available for inspection.⁵⁸
- 14.56. The minutes of the Assembly are known as the *Minutes of Proceedings*. They provide the official record of the business transacted on every sitting day. Standing orders state that 'All proceedings of the Assembly shall be recorded by the Clerk, and such records shall constitute the *Minutes of Proceedings* of the Assembly and shall be signed by the Clerk'.⁵⁹ Standing orders also set out what must be included in the *Minutes of Proceedings*. For example, standing order 21 states that the attendance of members for each sitting shall be included in the *Minutes of Proceedings* and standing order 164 states that the Clerk shall record lists of votes in the minutes.

58 Pursuant to s 6(1)(c) of the OLA Act, the Office is responsible for 'maintaining an official record of proceedings of the Assembly'. *The Minutes of Proceedings* are that official record.

59 Standing order 25.

If a complaint is made to the Assembly that a vote has been inaccurately reported, standing order 166 states that the Speaker may cause the record to be corrected. The *Minutes of Proceedings* also include details about the status of particular items presented and debated.

- 14.57. Proof *Minutes of Proceedings* are usually available on the Assembly website within two hours of the Assembly rising, with final versions available some days later.

Daily Program

- 14.58. The *Daily Program* (or ‘Blue’ as it is sometimes called) is an outline of the business that the Assembly is likely to consider during each sitting day. The *Daily Program* is a guide only—the business may change if requested by the Assembly. For more information, see Chapter 9: Conduct of the business of the Assembly, under the heading ‘Routine of business’.

Hansard

- 14.59. Hansard is the name given to the official report of debates in the Assembly and to transcripts of public and in camera committee hearings. The Hansard area within the Office of the Legislative Assembly produces proof and final transcripts.⁶⁰
- 14.60. There are three main stages of the production of a transcript.
- 14.61. Firstly, an uncorrected proof is produced. It is produced from the audio recording of proceedings and is not checked. As a result, it may contain mistakes which need to be corrected by the Assembly’s Hansard editors. The uncorrected proof transcript is emailed to a range of recipients the day after a sitting, including to members, staffers and departmental staff.
- 14.62. When uncorrected proof transcripts are sent to members for information, there is a notice on the cover and on the header of each page to indicate that the uncorrected proof is not for quotation, reproduction or publication.
- 14.63. Secondly, a corrected proof transcript is produced by Hansard editors who check the uncorrected proof against the audio recording of proceedings. At this stage, changes include verifying names and quotes, checking grammar and spelling, and applying a consistent style to the document. The aim is to produce a transcript that matches the proof minutes.
- 14.64. Thirdly, a final transcript is created after the corrected proof is published on the website and emailed to members and others. Hard copies are not sent out.

60 Pursuant to s 6(1)(b) of the Legislative Assembly (Office of the Legislative Assembly) Act, the Office is responsible for ‘reporting proceedings of the Assembly and meetings of committees’.

- 14.65. Members may suggest changes to proof transcripts, but not additions or changes that alter the sense or meaning of what was said, and the Speaker may order that matters be omitted from the record.⁶¹ Accordingly, there may be some variation between the proof and final versions. When there is dispute about what precisely was said in the chamber, with the Speaker's approval reference may be made to the audiovisual recording of proceedings. Members have five working days to propose changes to Assembly transcripts so that the final transcript can be published within 20 working days. The committee transcript timeline differs because witnesses have the opportunity to review the transcript and have 20 days to provide changes to the Hansard area of the Office of the Legislative Assembly.
- 14.66. The corrected proof transcript is then checked to ensure that the layout of the document is consistent. The final transcript is published on the Office's website.
- 14.67. Although Hansard is essentially a record of the spoken word, it also contains other information relating to proceedings in the chamber, including the results of divisions, the text of motions and amendments moved to motions and bills, the text of petitions presented, and the titles of papers tabled. In the event that there is a procedural discrepancy between what is published in the *Minutes of Proceedings* and Hansard, the *Minutes of Proceedings* are the definitive reference.
- 14.68. On 27 March 1992, the Assembly agreed to a resolution⁶² authorising the preparation and publication of the Hansard record of the Assembly and its committees. Continuing resolution 1 also authorises publication of extracts of Hansard of the Assembly and its committees by the Clerk. The resolution had effect from the commencement of the Second Assembly and continues in force unless amended or repealed by a subsequent Assembly.
- 14.69. Proof and final Hansard transcripts are published on the Assembly website and are covered by privilege. Any unofficial transcript that a person might create directly from the sound recording of the Assembly's proceedings is not covered by privilege.

Broadcasting of Assembly proceedings

- 14.70. The *Legislative Assembly (Broadcasting) Act 2001* authorises the proceedings of the Assembly and its committees to be broadcast or recorded for broadcast to the public. Under section 3 of the Act, a broadcast includes a transmission to the public by radio, television, landline, the internet or any other electronic means.

61 For example, the name of a person who was the subject of a coronial inquest and whose name was the subject of a suppression order by the Coroner was mentioned in the Assembly. The Speaker advised the Assembly that he had instructed that the name not be included in the day's Hansard; see MoP, No 7, 21 May 1998, p 53.

62 MoP, No 1, 27 March 1992, p 5.

- 14.71. The Assembly broadcasts its proceedings in several ways:
- reticulating audio and vision throughout the Assembly building;
 - live webstreaming of proceedings via the Assembly website;
 - an audiovisual replay, via the Assembly website, of Assembly proceedings on each sitting day; and
 - an audiovisual replay of committee proceedings, via the Assembly website, on each hearing day.
- 14.72. Pursuant to section 5(2) of the Act, the Assembly has adopted a resolution setting out guidelines governing the broadcasting of proceedings.⁶³ The Assembly resolution sets out the minimum requirements that must be observed by persons or organisations wishing to broadcast the proceedings of the Assembly or its committees. The guidelines are supplemented by the *Broadcasting policy framework and guidelines* issued by the Speaker, setting out arrangements for recording and broadcasting the Assembly's proceedings and the conditions for subsequent re-use of the broadcast recordings and the record of proceedings available on the Assembly's website.
- 14.73. The policy and guidelines apply to all persons involved in the filming, photographing,⁶⁴ broadcasting or rebroadcasting of Assembly or committee proceedings.⁶⁵ All other users of an Assembly broadcast, whether or not they intend to rebroadcast all or part of a record of proceedings, must accept the conditions under which broadcast material may be used.
- 14.74. The policy framework and guidelines stipulate the types of photographic or videographic shots that may be taken and the subjects that may be covered in making a recording of or broadcasting proceedings. For example, panning shots of the benches, coverage of the galleries and any demonstrations are not permitted.⁶⁶ A person involved in recording or broadcasting proceedings must also observe any instructions given by the Speaker or committee chair.
- 14.75. The Speaker is responsible in the first instance for granting permission each year to persons or organisations that wish to record for broadcast Assembly and committee proceedings.

63 'Broadcasting Guidelines', Resolution agreed by the Assembly, 7 March 2002 (amended 17 March 2005, 23 June 2005, 11 February 2010 and 29 November 2018).

64 Legal advice received by the Office in July 2008 concluded that the taking of a photograph of Assembly proceedings would fall within the meaning of 'record' under the Broadcasting Act.

65 Guidelines for filming and operating broadcasting equipment within the Assembly building are also included.

66 The guidelines allow the filming of the galleries with the permission of the Speaker.

- 14.76. Any recording and subsequent broadcasting or publication of any extract of the audio, vision or text from any of the proceedings of the Assembly or any of its committees must be a fair and accurate record of those proceedings. Any recording must not be used for:
- advertising for or by political parties;
 - electioneering; or
 - commercial advertising or sponsorship.⁶⁷
- 14.77. The Speaker, in the case of the Assembly, or a committee chair, in the case of a committee, can cancel the permission to record proceedings. The Speaker has taken strong action when the broadcasting guidelines have been breached. This has included suspending reporters' access to the Assembly building for a specified period of time.⁶⁸
- 14.78. Under standing order 277, the wilful publication of a false or misleading report of the proceedings of the Assembly or of a committee, or disobeying a lawful order of the Assembly or a committee, may be treated by the Assembly as a contempt.
- 14.79. The audiovisual record may be subject to amendment in the same way as Hansard. For example, in the Ninth Assembly a witness before the Standing Committee on Health, Ageing and Community Services used a profanity and the committee had the profanity edited out of the audiovisual record before it was placed online.

67 *Broadcasting policy framework and guidelines*, pp 1-2.

68 MoP, No 114, 27 September 2007, p 1228; Assembly Debates, 27 September 2007, p 2774.