

9. Conduct of the business of the Assembly

- 9.1. This chapter outlines the internal rules and practices by which the Assembly conducts its business, their source and their operation. Along with subsequent chapters, it also examines the Assembly's organisation of its program of business each day; the methods by which the Assembly reaches its decisions; the maintenance of order; the rules of debate; and related matters.
- 9.2. The source of the Assembly's power to make rules to govern the conduct of its business is the Self-Government Act. Section 21(1) provides that, subject to the provisions of the Self-Government Act itself, the Assembly may make standing rules and orders for the carrying out of business.¹ The Assembly also inherits the House of Representatives' power to 'make rules and orders regarding the order and conduct of its business and proceedings'² through s 24(3).³
- 9.3. In addition to the Self-Government Act and custom, the conduct of the business of the Assembly is governed by certain Territory legislative provisions and, perhaps most importantly, the standing orders, resolutions, and other orders and rules adopted by the Assembly.
- 9.4. In addition to providing the source of the Assembly's power to regulate its own proceedings, the Self-Government Act contains a number of provisions directly related to the conduct of the business of the Assembly (many of which are also incorporated in the standing orders). Examples of matters set out in the Self-Government Act are:
- the requirement that members must make and subscribe to an oath or affirmation before taking their seats; the election of a Speaker and a Chief Minister at the first meeting of an Assembly;
 - the role and powers of the Speaker; provisions relating to conflict of interest, times of meetings and quorums; and
 - the determination of questions arising in the Assembly.
- 9.5. Certain provisions in both Territory and Commonwealth legislation also impact upon and authorise Assembly procedures. Perhaps most importantly, given the core function of the Assembly as a legislature, the Legislation Act contains a wide range of such provisions, including those related to the presentation, amendment

1 The Assembly adopted the more commonly known term 'standing orders' rather than 'standing rules'.

2 *House of Representatives Practice*, pp 15-16,734.

3 This is one of the principal powers drawn from the law and custom of the House of Commons in 1901. See *Quick and Garran*, pp 507-508.

and disallowance of subordinate laws and disallowable instruments.⁴ At the Commonwealth level, the Commonwealth Electoral Act sets down requirements for the Assembly to fill casual vacancies for senators for the Territory.

- 9.6. Custom and practice are also important. Certain practices of the Assembly not set down in any standing or other order, or its own practice, are inherited from the House of Representatives and, on occasion, the United Kingdom House of Commons.⁵ These include the custom of the government sitting to the Speaker's right in the Assembly chamber (not always having been followed in the Assembly);⁶ the alternation of the call during questions without notice and debate;⁷ and the practice that a charge against a member must be made by way of a substantive motion, which requires a distinct vote of the House.⁸
- 9.7. The Assembly has often turned to the Australian Senate when needing to meet new or evolving circumstances. On privilege matters, for example, in establishing the criteria to be taken into account by the Speaker when determining whether a motion arising from a matter of privilege should be given precedence, reference is made regularly to Senate procedures. The Assembly has also turned to the Senate to improve its practices—for example, with the creation of a committee for the scrutiny of bills and subordinate legislation, the adoption of procedures for a citizen's right of reply, and making provision for electronic participation in committee meetings. Many of the Assembly's continuing resolutions have their provenance in Senate procedures.
- 9.8. The Assembly has developed its own practices, often based on rulings of the chair but also determined by other precedents and decisions of the Assembly and even, in part at least, affected by the architecture of the chamber and the precincts.⁹ The Assembly has also regularly referred matters to the Standing Committee on Administration and Procedure to meet the Assembly's changing requirements.

4 Further examples include: the Oaths and Affirmations Act for the form of oath and/or affirmation made by members; the process for making enactments on electoral matters in the Proportional Representation (Hare-Clark) Entrenchment Act; the Legislative Assembly Precincts Act concerning the management of the Assembly precincts; the Broadcasting Act, providing for the broadcasting of Assembly proceedings; and the Electoral Act, on the filling of casual vacancies, the determination of questions relating to the eligibility of a person declared elected to be an MLA and vacancies in the membership of the Assembly.

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

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

7 Not adopted in its entirety from practice of the House of Representatives.

8 See *House of Representatives Practice*, p 191.

9 In fact, the layout of the temporary chamber in the First and part of the Second Assembly meant that members had to contravene the provisions of standing order 41 in moving about the chamber. Similarly,

- 9.9. As a young legislature, the Assembly has found itself less affected by the inertia imposed by established practice or tradition in responding to contemporary demands. For example, the provision enabling members to make a personal ‘prayer or reflection’ was possibly unique in legislatures derived from Westminster when adopted by the Assembly in 1995.¹⁰ In the consideration of bills, the Assembly has never used the sequence of first and second readings, followed by the committee-of-the-whole stage and a third reading. Instead, the formal reading of the title of a bill by the Clerk is followed by the motion ‘That this bill be agreed to in principle’ and, if the question is resolved in the affirmative, then consideration of the bill in detail. At the completion of the detail stage, the motion ‘That this bill (as amended) be agreed to’ is moved and is not open to debate.
- 9.10. The standing orders do not contain a provision for dissent from a ruling of the chair,¹¹ yet the Assembly has considered such motions from time to time (usually moved by leave of the Assembly). The relatively small number of members and fewer constraints on time has meant that, compared to other Australian legislatures, a significant proportion of time is allocated to private members’ business.
- 9.11. While the key set of rules governing the business of the Assembly is its standing orders, certain resolutions and orders of the Assembly clearly have an ongoing effect, either by reason of the substantive terms of the resolution or order or because they have been made pursuant to or in accordance with legislative provisions. The Assembly has made orders and resolutions of ongoing effect pursuant to or in accordance with provisions of the Self-Government Act¹² and other Commonwealth¹³ and Territory¹⁴ legislation. It has also made orders and resolutions of ongoing effect without reference to particular legislation.¹⁵

standing order 41 was amended in 2016 to take account of the government and opposition leadership sitting at the new central table in the expanded 25-member Assembly; see MoP, No 2, 13 December 2016, p 12.

- 10 See below, under the heading ‘Acknowledgement of country and invitation to pray or reflect’.
- 11 It is thought that such a provision was deliberately omitted from the draft standing orders circulated for discussion and presented on the first sitting day of the Assembly.
- 12 ‘Authority to receive resignations of members and Speaker’ (Self-Government Act, s 13): see MoP, No 1, 27 March 1992, p 5; ‘Title of Presiding Officer’ (Self-Government Act, s 11(2)), MoP, No 1, 27 March 1992, p 5.
- 13 ‘Senator for the Australian Capital Territory, Procedures for election’ (Commonwealth Electoral Act, s 44); MoP, No 45, 18 February 2003, pp 528-529.
- 14 ‘Broadcasting guidelines’ (Broadcasting Act, s 5(2)); MoP, No 10, 7 March 2002, pp 93-95; MoP, No 13, 17 March 2005, pp 122-123; MoP, No 23, 23 June 2005, p 204.
- 15 For example, ‘Authority to publish Hansard’, MoP, No 1, 27 March 1992, p 5; ‘Citizen’s right of reply’, MoP, No 4, 4 May 1995, pp 32-35; ‘Privilege and contempt’, MoP, No 126, 6 December 2007, p 1323, MoP, No 132, 6 March 2008, p 1388; ‘Code of Conduct for Members’, MoP, No 33, 25 August 2005, p 318; ‘Commissioner for Standard’, MoP, No 37, 24 October 2013, p 378, MoP, No 40, 31 October 2013, p 409; ‘Latimer House principles’, MoP, No 4, 11 December 2008, p 50; ‘Integrity Commission’, MoP, No 82, 29 November 2018, p 1187.

- 9.12. Even if no duration is fixed, certain orders, until revoked or varied by the Assembly, are recognised as having ongoing validity.¹⁶ The November 1995 order of the Assembly regarding amendments to appropriation bills and that of August 1998 in relation to the ordering of private members' business were regarded in this way until, respectively, the adoption of standing order 201A and amendments to standing order 16.¹⁷

Explanation of the term 'order'

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

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

In the first sense, an order is the most common act of the Assembly—the motive power of all its actual positive work.¹⁸ Over the course of an Assembly, a myriad of such orders would be made; it is how the Assembly conducts its business.

In the second sense, it sets down general rules for the conduct of business which, if adopted as 'standing' orders or orders of continuing effect, are expressly meant to bind future Assemblies.¹⁹

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

Standing orders

- 9.13. At its first meeting on 11 May 1989, the Assembly adopted its standing orders. They were based on a set of proposed standing orders presented by the Presiding Officer that had been prepared in consultation with officers of the Territory Administration, the Department of the House of Representatives and the then Assembly Secretariat. While they reflected the practice that had evolved in the former House of Assembly and were originally derived from the House of

16 *Redlich*, Vol II, pp 5-6, and *May*, 22nd edn, p 6.

17 MoP, No 28, 23 and 24 November 1995, pp 202-3; MoP, No 126, 6 December 2007; MoP, No 132, 6 March 2008, p 1388; MoP, No 16, 27 August 1998, p 134; MoP, No 2, 27 November 2012, p 10.

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

19 *Redlich*, Vol II, pp 5-6.

Representatives standing orders (and further proposals being considered for a possible revision of the standing orders of the House of Representatives), they also took into account experience gained in other small legislatures such as those of the Northern Territory and Norfolk Island.²⁰

- 9.14. There are approximately 280 standing orders.²¹ Together with a range of resolutions of ongoing effect (that is, continuing resolutions), they provide a comprehensive set of rules governing the conduct of the business of the Assembly and are formally titled as the *Standing orders and continuing resolutions of the Assembly*. Standing order 275 (General rule for conduct of business) provides that any question relating to procedure or the conduct of business of the Assembly not provided for in the standing orders or practices of the Assembly shall be decided according to the practice at the time prevailing in the House of Representatives.
- 9.15. The operation of standing orders is ongoing, standing order 274 providing that they continue in force ‘until altered, amended or repealed’. They are taken to be binding, though apart from the basic rule of notice being required, they are not protected by any rules or barriers preventing their suspension, amendment, or repeal. Certain standing orders or other orders of the Assembly have arrangements for their suspension or variance provisions,²² and standing order 82 itself gives authority for the many occasions when leave of the Assembly (which must be granted without any objection) is granted for a course of action to be taken that is contrary to the provisions of the standing orders.²³
- 9.16. Where necessary, the standing or other orders of the Assembly can be suspended on the passage of a motion moved without notice (standing order 272).²⁴ Such a motion must be carried by an absolute majority of members and the suspension is limited to the particular purpose for which the suspension is sought.²⁵ Standing

20 MoP, No 1, 11 May 1989, p 3; Assembly Debates, 11 May 1989, pp 4-6. The standing orders were amended later that day.

21 When standing orders are omitted or inserted, the whole compilation is not necessarily renumbered. For example, standing orders 17 to 19 were omitted in 1995 (as were several others in 2008 and 2019) and the numbers were not reallocated.

22 Standing and other orders which include provisions for the Assembly to ‘otherwise order’ are: 9 (absence of Speaker and Deputy Speaker); 27 (days and hours of meeting); 76 (new business rule); 69 (time limits for debates and speeches); 180 (order in considering bill); 220 (committees—membership); and the order of the Assembly for the procedures for election of senators for the Australian Capital Territory.

23 Standing order 182A also states that leave of the Assembly is required should an amendment to a bill be proposed which has not had prior consideration by the scrutiny committee.

24 For example, to expedite the passage of a bill, to alter the order of business, to move a motion without notice, and to call on private members’ business during executive business.

25 Standing orders 272 and 273. Standing order 272 originally provided that only a minister could move a motion without notice to suspend any standing order or orders. This requirement was omitted by temporary order for a number of years before being omitted from standing order 272 (see MoP, No 10, 29 June 1989, p 38; Assembly Debates, 29 June 1989, pp 550-1). Should a majority, but not an absolute majority, of members vote in favour of a motion without notice to suspend standing orders, the Speaker declares that the vote has not been carried (see, for example, MoP, No 54, 19 June 1996, p 365; MoP, No 115, 16 October 2007, p 1238; MoP, No 116, 17 October 2007, p 1242; MoP, No 155, 26 August 2008, p 1757).

order 272 has itself been suspended for a sitting.²⁶ Should such a motion be moved pursuant to notice, or by leave of the Assembly, the motion would not need to be carried by an absolute majority of members; a simple majority would be adequate. A member moving such a motion would need to have received the call of the chair. The practice in the House of Representatives is that such a motion may be moved only if the substance of the motion is relevant to the item of business before the House or, alternatively, between items of business.²⁷

- 9.17. From time to time, the Assembly may put aside the operation of a standing order or orders by, in effect, suspending them indirectly. It does this by making ‘a concrete order prescribing a course of procedure inconsistent with the standing orders, and thus by implication cancell[ing] their operation upon a particular occasion’.²⁸ In such cases, the Assembly includes in an order words such as ‘notwithstanding the provisions of’.²⁹
- 9.18. In addition to the standing orders, the Assembly has adopted temporary orders to trial changes to its standing orders. These temporary orders are operational until the date or event set down in their provisions or until the expiration of a given Assembly.³⁰ For example, the practice of each Assembly has been to establish general-purpose standing committees by resolution at the commencement of an Assembly, the order having effect until the expiration of the Assembly unless amended or repealed earlier than that. Should it wish to do so, the Assembly may adopt temporary orders as standing orders.³¹

Routine of business

- 9.19. As a small legislature comprising 25 members, the pressures on the time of the Assembly are not as great as those of many other legislatures. However, rules still need to be set down for the introduction, consideration and disposal of the various categories of its business and the allocation of time for the executive (which has priority), private members (non-ministers), and the corporate business of the Assembly (Assembly business). This is addressed by the standing

26 MoP, No 40, 14 December 1989, p 163; Assembly Debates, 14 December 1989, p 3127. The move followed a change of government in the first year of the Assembly and was seen as necessary to avoid a repeat of the alleged disruption to proceedings which had occurred during the previous sitting.

27 *House of Representatives Practice*, p 265.

28 *Redlich*, Vol II, p 8.

29 See, for example, MoP, No 7, 17 February 2005, p 69: reference of an appropriation bill to a standing committee before the completion of the debate on the motion ‘That this bill be agreed to in principle’, ‘notwithstanding the provisions of standing order 174’.

30 MoP, No 30, 28 August 2002, p 296. The Assembly adopted an order permitting committees to authorise members of the committee to participate in deliberative meetings by electronic means. The Assembly adopted a provision for rostered ministers’ questions at the conclusion of question time from September 2011, MoP, No 117, 25 August 2011, pp 1478-1479. The temporary order was omitted in February 2012, MoP, No 138, 23 February 2012, p 1788.

31 See, for example, MoP, No 141, 22 March 2012, p 1820, where the Assembly adopted as standing orders a number of temporary orders which had been trialled since the beginning of the Seventh Assembly.

orders and continuing resolutions of the Assembly. They establish procedures which endeavour not only to give each competing interest 'a proper share of parliamentary opportunity' but also to subordinate the element of chance to that of stability in the despatch of business and the necessity to act upon a prearranged program.³²

9.20. Up until late 2008, the Assembly, subject to any order, conducted its business on Tuesdays, Wednesdays and Thursdays at 10.30 am.³³ In the Seventh Assembly the meeting time changed to 10 am. Following a formal recognition of the traditional custodians in the Ngunnawal language,³⁴ the ordinary routine of business for consideration each day as set by standing order 74 is followed:

- Prayer or reflection³⁵
- Presentation of petitions
- Ministerial statements
- Notices and orders of the day
- Questions without notice
- Presentation of papers
- Private members' business
- Ministerial statements
- Notices and orders of the day

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

9.22. The routine each day is set out below. The *Daily Program* (colloquially known as the 'Blue' as it is printed on blue paper) is an informal document which lists the items of business as set out in standing order 74, together with other matters that are expected to arise. It is made available on the Assembly website prior to 9am on each sitting day.

9.23. Should the Assembly meet on a Monday, Friday, Saturday or Sunday, standing order 77 provides that the routine would be that of a Tuesday/Wednesday unless the Assembly otherwise ordered.

32 See comments regarding the UK House of Commons in *Redlich*, Vol III, p 10.

33 The sitting pattern for 2021 agreed to by the Assembly included three Friday sittings. MoP, No 2, 2 December 2020, pp 16-17.

34 See below, under the heading 'Acknowledgement of country and invitation to pray or reflect'.

35 Unlike the practice in many other legislatures, the prayer (or reflection) is actually included in the routine of business in the Assembly.

Figure 1: Legislative Assembly for the Australian Capital Territory—Routine of Business

	Tuesdays & Wednesdays	Thursdays
10:00	Prayers Petitions and responses	Prayers Petitions and responses
10:30 <i>approx</i>	Ministerial statements	Ministerial statements
11:00 <i>approx</i>	Executive business	Executive business (presentation of bills)
11:30 <i>approx</i>		Assembly business
		Executive business
12:00	<i>Lunch break</i>	<i>Lunch break</i>
14:00	Question time	Question time
15:00 <i>approx</i>	Presentation of papers	Presentation of papers
15:30 <i>approx</i>	Private Members' business	Private Members' business
17:00 <i>approx</i>	Ministerial statements	Ministerial statements
17:30 <i>approx</i>	Executive business	Executive business
18:30	Adjournment debate	Adjournment debate

Ordinary routine of business

Acknowledgement of country and invitation to pray or reflect

9.24. Since 2002, it has been the practice of the Assembly that, on the first meeting day following an adjournment for more than a week, prior to inviting members to pray or reflect on their responsibilities to the people of the Territory, the Speaker has made a formal recognition that the Assembly was meeting on the lands of the traditional custodians.³⁶ In 2008, this practice was adopted as a standing order,³⁷ and in 2018 the standing order was amended requiring the acknowledgement at the commencement of each sitting.³⁸

36 The practice has been followed since 4 June 2002.

37 MoP, No 132, 6 March 2008, pp 1388-1389. In 2009, the standing order was amended to refer to 'custodians' instead of 'owners'. MoP, No 16, 2 April 2009, p 182.

38 MoP, No 74, 21 October 2014, p 832.

- 9.25. Since 30 July 2020,³⁹ the Speaker has made an ‘acknowledgement of country’ in the Ngunnawal language and in English⁴⁰ as follows:

Dhawura nguna, dhawura Ngunnawal.

Yanggu ngalawiri, dhunimanyin Ngunnawalwari dhawurawari.

Nginggada Dindi dhawura Ngunnaawalbun yindjumaralidjinyin.

This is Ngunnawal Country.

Today we are gathering on Ngunnawal country.

We always pay respect to Elders, female and male, and Ngunnawal country.

- 9.26. Standing order 30 provides that at the commencement of each day’s proceedings the chair is taken by the Speaker and, a quorum being present, the Speaker addresses the Assembly in the following terms:

Members, at the beginning of this sitting of the Assembly, I would ask you to stand in silence and pray or reflect on our responsibilities to the people of the Australian Capital Territory.⁴¹

- 9.27. Members then stand in silence for a brief period.

Presentation of petitions

- 9.28. Following the invitation to pray or reflect, the Clerk announces the particulars of any petitions (including e-petitions) that have been lodged for presentation and indicates, for each petition lodged for presentation, the member who lodged it, the number of petitioners, and the subject matter of the petition. Any ministerial responses to petitions previously presented are also announced. The subject matter of a petition, the member who lodged it, and any ministerial responses are listed on the *Daily Program*.
- 9.29. After the Clerk’s announcement, the Speaker proposes the question: ‘That the petitions (and responses) so lodged be noted’. Thirty minutes is provided for this debate, with each member speaking for not more than five minutes. The only other question that may be entertained by the Assembly is that a particular petition be referred to a committee. The terms of all petitions are printed in Hansard. For further details, see Chapter 15: Petitions.

39 MoP, No 122, 28 November 2019, pp 1808-1809.

40 See MoP, No 136, 30 July 2020, p 2063. The practice was adopted following the passage of a tri-partisan resolution in 2019; see MoP, No 122, 28 November 2019, pp 1808-1809.

41 The Legislative Assembly is the only Australian legislative chamber that does not include the reading of a Christian prayer at the commencement of its proceedings. The current provisions were adopted on 1 June 1995, following earlier consideration of the issue by the Standing Committee on Administration and Procedure. See *Standing Orders and Citizen’s Right of Reply*, Report of the Standing Committee on Administration and Procedure, May 1995, pp 3-4; Assembly Debates, 1 June 1995, pp 695-714. The original prayer was actually included in the draft standing orders presented by the Presiding Officer at the first sitting on 11 May 1989.

Ministerial statements

- 9.30. So long as copies have been provided to the Speaker for circulation to members at least two hours beforehand, ministers may make statements concerning matters of administration or policy for which they are responsible. The name and portfolio responsibility of the minister, and the subject matter of the statement, is listed on the *Daily Program*. Following a statement, a minister must table a copy of the statement and move that the paper be noted. This then provides an opportunity for the subject matter to be debated.⁴²
- 9.31. Another opportunity for ministerial statements exists in the routine of business after the presentation of papers, usually occurring in the afternoon.

Notices and orders of the day

- 9.32. The bulk of the substantive business of the Assembly is taken up with the consideration of notices and orders of the day, whether as part of executive business, private members' business or Assembly business. Executive business refers to business initiated by a minister and mainly consists of government bills. Private members' business is any matter initiated by an individual member who is not a minister.⁴³ Assembly business, as the name implies, refers to business relating to the operation of the Assembly (for example, the establishment of committees, changes to procedures), but also includes consideration of motions to disallow legislative instruments.⁴⁴
- 9.33. Notices relate to matters that members seek to bring before the Assembly. A notice is a statement of intent by a member to initiate an item of business in the Assembly—for example, to move a motion or to introduce a bill. As a general rule, no proposal can be put to the Assembly unless notice has been given of it. This protects the Assembly against surprise and enables members and the community to keep abreast of the program of business that is before the chamber. The requirement for notice to be given also helps to ensure that the rules governing content and form are adhered to. However, there are exceptions, and these are provided for in the standing orders.⁴⁵ For example, sometimes items of business

42 Standing order 74. Prior to 4 June 2015, ministers were required to seek leave of the Assembly to make ministerial statements.

43 On occasion, a minister has been appointed from the crossbench (one in the Fourth Assembly, one in each of the Eighth and Ninth Assemblies and three in the Tenth Assembly). In order for those ministers to initiate business as a crossbench member, rather than as a minister in the government, a category of business was established, variously called 'executive members' business' and 'crossbench executive members' business'.

44 For a full description of the matters covered by Assembly business, see standing order 77(h)-(k).

45 Motions that do not require notice include those relating to leave of absence for members, votes of thanks or condolence (standing order 126), bills initiated by leave (standing order 167) and money proposals (standing order 200). For example, see under the headings 'Motions to refer matters of privilege to a select committee' and 'Other matters that may interrupt the ordinary routine of business' below in this chapter.

are initiated with the leave of the Assembly (requiring the unanimous consent of members present).⁴⁶

- 9.34. Notice of a motion is given by delivering its terms in writing to the Clerk (in the chamber if on a sitting day and while the Assembly is sitting). It must be signed by the proposing member (or members if a co-sponsored motion). Matters proposed to be considered by the Standing Committee on Administration and Procedure under standing order 16(a)(iii) must be delivered to the Clerk no later than 12 noon on the Monday of the sitting week at which it is proposed that they be moved.⁴⁷ Notices of intention to present bills may also be delivered to the Clerk by 12 noon on the Monday of a sitting week, or in the chamber during a sitting.⁴⁸
- 9.35. A notice of intention to present a bill must specify the long title⁴⁹ of the bill and be signed by the member (or members if co-sponsored).⁵⁰ The Clerk is required to enter notices on the *Notice Paper* at the first available opportunity.⁵¹
- 9.36. A notice of motion or intention to present a bill becomes effective only when it appears on the *Notice Paper*.⁵²
- 9.37. A member who gives notice of intent to initiate an item of business retains the right to withdraw or amend the notice.⁵³ However, once the Assembly commences consideration of the item and the question on the matter is proposed, the notice is taken out of the hands of its proposer⁵⁴ and becomes the property of the Assembly.
- 9.38. The Assembly may decide the question so raised there and then. If it does so, it will be taken off the *Notice Paper*. Should the Assembly adjourn debate and order the resumption of the consideration of the matter for some future time, by reason of the decision of the Assembly and the order giving expression to it, it becomes an order of the day.

46 Standing order 123.

47 Standing order 101.

48 Standing order 168.

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

50 Standing order 168.

51 Standing orders 102 and 168. A notice of a motion of no confidence in the Chief Minister must be reported to the Assembly by the Clerk at the first convenient opportunity and shall not be entered by the Clerk on the *Notice Paper* until so reported (standing order 103).

52 Standing orders 112 and 168(d).

53 Members may do so by notifying the Clerk in writing, in accordance with standing orders 110 and 111.

54 Though as 'the member in charge', the member retains some limited prerogatives; for example, moving that the order be discharged (standing order 152).

9.39. An order of the day refers to any bill, motion or other item of business⁵⁵ that the Assembly has ordered to be considered or further considered on a particular day or at a particular time. More often than not, the order is for ‘the next day of sitting’; however, occasionally orders are set down for a particular day.⁵⁶ It is through consideration of orders of the day that the Assembly conducts the substantive portion of its business.

Determination of precedence

9.40. The notices and orders of the day listed for consideration are published in the *Notice Paper* prior to each sitting of the Assembly.⁵⁷ They have precedence in accordance with the order in which they are listed.⁵⁸ That order is determined by the standing orders, which set out specific provisions for the allocation of precedence to, and the ordering of, executive business, private members’ business and Assembly business (see under the heading ‘Notices and orders of the day’ below). Subject to these specific arrangements, the basic rules for the ordering of business are as follows:

- notices are entered by the Clerk on the *Notice Paper* and given priority in the order in which they are given;⁵⁹
- should a notice be given ‘for the next day of sitting’,⁶⁰ it is allotted precedence below notices previously given for that day but, if not called on during that day, it then drops below all notices previously given, the sitting day for which it had precedence having passed;⁶¹
- orders of the day are listed on the *Notice Paper* in the order in which the Assembly has ordered them to be taken into consideration and have precedence in the order set down; and
- should the Assembly order that consideration of a matter be set down as an order of the day for a particular day, it appears in the *Notice Paper* under a heading for that day and the priority of orders of the day for that day is determined by the order in which they were made. If not called on, it appears on the *Notice Paper* for the next sitting day at the end of the orders of the day for that day.⁶²

55 The presentation of, or consideration of, a report or other paper, for example.

56 For example, where a committee has a precise reporting date, the tabling of the committee’s report may be made an order of the day for that day. See NP, No 89, 28 February 2007, p 1489, Assembly Business, Orders of the day 2 and 3.

57 With the exception of the first sitting following a general election.

58 Standing orders 124 and 149.

59 Standing order 105.

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

61 Standing order 125.

62 Standing order 151; *May*, p 420; *House of Representatives Practice*, p 258.

- 9.41. The government (in practice, the Manager of Government Business) has sole discretion to arrange the executive business section of the Notice Paper for a sitting as it sees fit, while all other business is arranged by the Standing Committee on Administration and Procedure, pursuant to standing order 16(a)(iii).

Progress of business in the Assembly

- 9.42. As the Speaker calls on the business of the day, the Clerk calls on the notices or reads out the orders of the day in the order as listed on the *Notice Paper*. In the case of a notice, the member who gave the notice may then move the motion or present the bill.
- 9.43. In the case of a motion of which notice has been given, debate may then ensue after the Speaker proposes the question ‘That the motion be agreed to’. Debate can proceed to its conclusion or until adjourned by the Assembly determining that the resumption of the debate will be made an order of the day for a future time, either pursuant to motion or pursuant to the provisions in the standing orders.⁶³
- 9.44. A member presenting a bill must move ‘That this bill be agreed to in principle’, and after the presentation speech the debate on the question must be adjourned to a future day on the motion of another member. Standing orders require that the question on the agreement in principle may not be determined by the Assembly during the sitting period in which the bill is introduced.⁶⁴ This procedure ensures that members have adequate time to consider the content of a bill before being asked to agree to it.

Postponement, withdrawal or discharge of business

- 9.45. A notice of a motion or intention to present a bill may be postponed. The member who gave the original notice⁶⁵ has the option of moving a motion without notice to defer consideration. A member who has given notice of a motion or intention to present a bill may also withdraw the notice by notifying the Clerk in writing at any time prior to that proposed for moving the motion.⁶⁶
- 9.46. In addition, if a member is not present in the chamber when a notice given by that member is called on, it must be withdrawn from the *Notice Paper* unless another member, at the request of the proposer, fixes a future time for moving the motion

63 Should the Assembly not so determine, the matter would be dropped from the *Notice Paper*. See Chapter 11: Rules of debate and the maintenance of order, for a full account of this procedure.

64 Standing orders 171 and 172. See Chapter 12: Legislation, under the heading ‘Money bills’, for a full account of this procedure. In exceptional circumstances a bill may be declared urgent by the member in charge of the bill and the question decided by a simple majority of members and the bill dealt with immediately or later that day (see Chapter 12: Legislation, under the heading ‘Urgent bills’). It is rare for a bill to be declared urgent in the Assembly.

65 Standing orders 124 and 168(d). See, for example, MoP, No 110, 29 August 2007, p 1195; MoP, No 116, 17 October 2007, p 1246.

66 Standing orders 111 and 168(d).

or presenting the bill.⁶⁷ Likewise, when a notice given by a member is called on and the member fails to move the motion or present their bill, it must be removed from the *Notice Paper* unless the member fixes a future time for moving the motion or presenting the bill.⁶⁸ Standing orders have been suspended to enable another member to move a motion standing in the name of an absent member.⁶⁹ In the case of government business, a minister may act for another minister with regard to any matter before the Assembly that is the responsibility of that minister.⁷⁰

- 9.47. When an order of the day is called on by the Clerk, it may be postponed on a motion moved without notice by any member.⁷¹ Similarly, when an order of the day is called on, it may, on a motion moved without notice by the member who originally moved the motion or who presented the bill, be discharged.⁷²
- 9.48. An order of the day has been referred to a committee for inquiry and report.⁷³
- 9.49. Should a member vacate their seat, any notices standing in their name are removed from the *Notice Paper* (as are notices of questions). Orders of the day of which that member has charge remain on the *Notice Paper*, being the property of the Assembly.
- 9.50. Earlier in the life of the Assembly it was common practice at regular intervals (often after each winter and summer adjournment period), and following consultation with all members, for the Manager of Government Business to seek and be granted leave by the Assembly to move a motion to discharge orders of the day with which the originating members no longer wished to proceed.⁷⁴ In more recent times, such motions have been moved less frequently.⁷⁵

67 Standing orders 127 and 168(d); MoP, No 54, 1 July 1999, p 457; MoP, No 87, 13 December 2006, p 918. See also MoP, No 21, 2 August 2017, p 308 (member was not present when notice was reached and so it was withdrawn. Standing orders were suspended to enable motion to be moved).

68 Standing orders 128 and 168(d); see also MoP, No 54, 1 July 1999, p 459 (member fixed a later hour for moving the motion) and MoP, No 63, 6 August 2014, p 680 (notice withdrawn from the *Notice Paper*).

69 MoP, No 21, 2 August 2017, p 307; MoP, No 24, 16 August 2017, p 334. Leave has been granted for a member to move a motion lodged by another member, MoP, No 112, 18 September 2019, p 1639.

70 Standing order 80.

71 Standing order 150.

72 Standing order 152. See MoP, No 106, 24 June 2004, p 1457; MoP, No 81, 20 October 1993, p 459. Regarding the second precedent on that page, the motion to discharge was moved by leave as the matter had not been reached on the *Notice Paper*.

73 MoP, No 58, 7 May 2003, p 712. The matter was a bill which had just been introduced and standing order 174 (as it then stood) effectively precluded a bill which had not yet been agreed to in principle from being referred to a committee.

74 MoP, No 113, 15 February 2001, p 1177; MoP, No 48, 4 March 2003, p 566.

75 MoP, No 13, 30 March 2017, p 151.

- 9.51. Standing order 125A allows for the removal from the Notice Paper of any notice which has not been called on for four sitting weeks. Similarly, standing order 152A permits the removal of certain private members' business and Assembly business orders of the day that have not been called on for four sitting weeks.⁷⁶

Questions without notice

2 pm interruption

- 9.52. At 2 pm on each sitting day, the Speaker is required to interrupt the business before the Assembly in order that questions without notice may be called on. In the normal course of events, this occurs when proceedings are resumed following the suspension of the sitting for the lunch break. However, if the Assembly continues to sit without a lunch break, and should a vote be in progress at 2 pm, that vote and any vote consequent upon it must be completed and the result announced.
- 9.53. In relation to any business that is before the Assembly at the time of interruption but that has not been disposed of, the Speaker is required to fix a later hour for the resumption of the debate on the question.⁷⁷ Should the notice or order of the day under consideration at the time of interruption be an item of private members' business, there are special procedures in place relating to the resumption of consideration of that business (see under the heading 'Notices and orders of the day' below).
- 9.54. All non-executive members of the Assembly have the right to ask at least one question without notice and a supplementary question on each sitting day.⁷⁸ The Speaker may also allow a further supplementary question to be asked by another non-executive member. Accordingly, the duration of question time is not fixed; it varies according to the number of questions and supplementary questions asked, and the length of answers.
- 9.55. Giving each non-executive member the opportunity to ask a question every sitting day is possible because of the relatively small number of members, but it also represents a significant change from the practice in the early years of the Assembly. Originally, the Assembly accepted the practice of the House of Representatives and other Australian parliaments where the duration of question time is determined by the government of the day.⁷⁹ Standing order 113A, which provides for the current practice, was adopted in 1994. Question time is terminated by the Chief Minister asking that further questions be placed on the

76 When originally inserted into the standing orders in 2008, the original time frame was eight sitting weeks. In 2016, this was reduced to four sitting weeks.

77 Standing order 74.

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

79 Assembly Debates, 29 June 1989, p 548; Statement by the Speaker. The first Chief Minister of the ACT advised that her government would allow approximately 30 minutes for questions without notice.

Notice Paper when it becomes apparent that the requirements of standing order 113A have been complied with (that is, when all non-executive members wishing to do so have asked at least one question).

- 9.56. At the conclusion of questions without notice, it has become the practice for the Speaker to ask ministers if they have anything to add to an answer given, either from the current or a previous sitting. Afterwards, a non-executive member may seek an explanation from the relevant minister about a question on notice that has not been answered 30 days after it has been asked (a question that has been placed on the *Questions on Notice Paper* for written reply) or a question that the minister has taken on notice during an earlier question time. At the conclusion of the minister's explanation, the member may move 'That the Assembly take note of the explanation' or, in the event that the minister does not provide an explanation, the member may, without notice, move a motion with regard to 'the minister's failure to provide either an answer or an explanation'.⁸⁰
- 9.57. Detailed commentary is included in Chapter 13: Questions seeking information.

Presentation of papers

- 9.58. The next item in the routine of business is the presentation of papers. Papers may be presented by the Speaker or a minister.⁸¹
- 9.59. There may be other business arising from the presentation of papers. It is not uncommon for a minister to seek leave to make a statement following the presentation of a paper and, on the presentation of any paper by the Speaker or a minister,⁸² a minister may move without notice either:
- (a) that the Assembly take note of the paper; or
 - (b) that the paper be referred to a committee for inquiry and report.⁸³
- 9.60. The procedure adopted by the Assembly from 2019 is for a schedule of papers to be presented at a sitting to be circulated to members by noon, and on which, prior to question time, members (including ministers) may indicate which papers they wish to have a motion to take note moved. The Manager of Government Business presents the papers, moves the requested motions individually, and debate on each paper may ensue or be adjourned.⁸⁴

80 Standing order 118A.

81 Standing order 211.

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

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

84 Standing order 211. See, for example, MoP, No 102, 30 July 2019, pp 1543-1544. See also Chapter 14: Papers and documents of the Assembly.

Notices and orders of the day

- 9.61. The Speaker next calls on the business of the day and the Clerk announces the notices and orders of the day in the order as listed on the *Notice Paper*. However, regard must be had to the status of business that was under consideration prior to questions without notice (in effect, prior to the lunch suspension). Determining the precedence of business that was either adjourned until a later hour that day or interrupted at 2 pm for questions (and in relation to which the Speaker fixed resumption of debate ‘at a later hour this day’) is subject to a variety of considerations.
- 9.62. Should the matter be an item of executive business, the Manager of Government Business would determine when (in the order of business) the item was called on in accordance with standing order 78.⁸⁵
- 9.63. In the event that the matter was an item of Assembly business, the time for precedence for that business on a sitting Thursday not having expired, it would be expected that the matter would have precedence at the resumption of consideration of notices and orders of the day (see under the heading ‘Assembly, executive, and private members’ business’ below).⁸⁶

New business rule

- 9.64. Standing order 76 provides that new business may not be taken after 10 pm unless the Assembly orders otherwise prior to 9 pm.⁸⁷ *House of Representatives Practice* sets out the background to the rule in that chamber, including the following considerations:
- in 1913, the Speaker of the House of Representatives defined ‘new business’ as a proposal relating to a matter not before the House;
 - as a general rule, the only business which the House should proceed with after the time nominated is the matter which is immediately before the House or business of a formal nature;⁸⁸

85 Or, in the absence of the Manager of Government Business, a minister acting on behalf of the Manager of Government Business in accordance with standing order 80.

86 The precedence that Assembly business enjoys pursuant to standing order 77(b) is precedence over executive business on sitting Thursdays; it does not override the 2 pm interruption pursuant to standing order 74.

87 Prior to 2019, the rule was referred to as the eleven o’clock rule, as it stipulated that no new business could be taken after 11 pm.

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

- the rule has a purpose in protecting the minorities in the House from the introduction, perhaps by surprise late in a sitting, of new business upon which a vote may be taken;
- the following business, on which the House does not have to make a decision of substance, may be transacted after 11 pm without infringing the rule:
 - a minister may provide information, or additional information, in response to a question; and
 - a statement may be made by the Speaker.⁸⁹

9.65. Standing order 76 often has been suspended, most frequently when the Assembly sits late into the evening with the intention of passing a package of bills and associated orders (for example, the main appropriation bill and related items).⁹⁰ The standing order has also been suspended for a series of sittings.⁹¹

Notices and orders not called upon

- 9.66. As outlined above, any notices not called upon at the adjournment of the Assembly are set down on the *Notice Paper* for the next sitting day after the notices for that day have been given.⁹² Any orders of the day not called upon are set down on the *Notice Paper* for the next sitting day at the end of the orders set down for that day.⁹³
- 9.67. Any notice not called on within four sitting weeks shall be removed from the *Notice Paper*. Similarly, any order of the day relating to private members' business (excluding bills) or Assembly business to take note of a paper or report shall also be removed from the *Notice Paper*.⁹⁴
- 9.68. Should a notice to disallow, amend or declare void an instrument subject to disallowance, amendment or disapproval not be called on by the end of the day before the stipulated period ends, the member who lodged the notice shall move the notice on the next sitting day and such business shall take precedence over other business.⁹⁵

89 *House of Representatives Practice*, pp 266-267.

90 MoP, No 145, 27 June 2008, p 1565. The current practice in the House of Representatives is that when a cognate debate is before the House at the new business time nominated in that chamber, bills in respect of which questions have not yet been put from the chair—that is, the second or subsequent bills of the group—have been allowed to be dealt with without the need to suspend standing orders, the reasoning being that the House had previously agreed that the bills be debated together. *House of Representatives Practice*, p 267.

91 MoP, No 155, 22 August 2012, p 2054.

92 Standing orders 125 and 168(d).

93 Standing order 151; May, p 420; *House of Representatives Practice*, p 258.

94 Standing orders 125A and 152A.

95 Standing order 77(j).

Matters accorded precedence

- 9.69. Motions have precedence over each other in the order in which they appear on the *Notice Paper* (see under the heading ‘Determination of precedence’ above).⁹⁶ In addition, certain matters are accorded precedence in the ordinary routine of business. Assembly business, executive business, and private members’ business each have precedence at certain times. Standing order 77 gives executive business precedence over private members’ business and Assembly business except at specified times.⁹⁷ In addition, certain matters are accorded precedence by the standing orders and the Self-Government Act.⁹⁸
- 9.70. While not strictly qualifying as matters of precedence, committee reports and other papers may be presented to the Assembly at any time between items of other business, provided only that the member presenting the report on behalf of the committee gets the call from the Speaker. Debate on the report may take place immediately after tabling.⁹⁹

Assembly, executive and private members’ business

- 9.71. Assembly standing orders allocate the bulk of the Assembly’s time to the consideration of executive notices and orders of the day. Unless otherwise ordered, executive business has precedence over all other business on sitting Tuesdays, Wednesdays and Thursdays (except for the time allotted to private members’ business, following the presentation of papers each sitting day, and Assembly business on a sitting Thursday).¹⁰⁰ Were the Assembly to sit on a Monday, Friday, Saturday or Sunday, executive notices and orders of the day would have precedence (except for the time allotted to private members’ business) unless the Assembly ordered otherwise.
- 9.72. Assembly business is:
- any notice or order relating to the establishment or membership of a committee or the reference of a matter to a committee;
 - any order of the day for the consideration of a motion moved upon the presentation of a committee discussion paper, committee report or the government response to a committee report;

96 Standing orders 124 and 149.

97 Standing order 77—see under the heading ‘Assembly, executive, and private members’ business’ below.

98 For example, election of the Presiding Officer and Chief Minister; see Self-Government Act, s 11(1) and 40(1).

99 Standing orders 75 and 254—see under the heading ‘Presentation of committee reports and papers’ below.

100 The sitting calendar for 2021 included three sitting Fridays with the same order of business that applied to a sitting Tuesday and Wednesday applying to those three sitting days, unless otherwise ordered by the Assembly.

- any notice of motion to amend, disallow, disapprove or declare void any statutory instrument which is subject to disallowance by the Assembly; and
 - any notice of motion or order of the day which deals with the administration of the Assembly or the manner in which the Assembly conducts its business.¹⁰¹
- 9.73. Executive business is any motion or bill sponsored by a member of the executive and any ministerial statement, excluding items of Assembly business. It includes orders of the day for the consideration of any such matters.
- 9.74. Private members' business is any motion or bill sponsored by a non-executive member, again excluding items of Assembly business. This would include any motion or bills sponsored by the Speaker subject to standing order 77 and the definition of administration of the Assembly matters.
- 9.75. In relation to the apportionment of business throughout the sitting week, executive business has precedence over other business each sitting day, with the following exceptions:
- private members' business (as ordered by the Standing Committee on Administration and Procedure) has precedence over executive business each sitting day immediately after the presentation of papers; and
 - Assembly business has precedence over executive business on sitting Thursdays for 45 minutes from the conclusion of any executive notices of intention to present bills.¹⁰²
- 9.76. There are provisos set down in standing order 77:
- if a vote is in progress at the time precedence expires, that vote and any consequent vote must be completed and the result announced;
 - between items of private members' business and at any time during Assembly business, any member may move 'That executive business be called on' and the Speaker must immediately put the question on the motion, which is not open to amendment or debate;
 - the time allotted to Assembly business may be extended by 30 minutes at the expiration of the initial period of precedence if a member moves 'That the time allotted to Assembly business be extended by 30 minutes'. Again, the question on the motion must be put immediately without amendment or debate; and
 - the Speaker must fix the next sitting day, in the case of private members' business, and the next sitting Thursday, in the case of Assembly business, for the resumption of the debate on any business under discussion and not disposed of at the expiration or interruption of the time allotted.¹⁰³

101 Standing order 77(g)–(j). The standing orders were amended in 2008 to include matters relating to the administration of the Assembly; see MoP, No 132, 6 March 2008, pp 1388-1389.

102 Standing order 77(a) and (b).

103 Standing order 77(g).

- 9.77. In addition to allocating specific periods when executive, private members' and Assembly business have precedence, standing orders 77, 78 and 16 provide that:
- the Manager of Government Business may arrange the order of executive business, notices and orders of the day on the *Notice Paper*, subject to the limitations imposed by standing order 77;
 - the order of private members' and Assembly business is as determined by the Standing Committee on Administration and Procedure.
- 9.78. The Standing Committee on Administration and Procedure, having regard to the composition of the membership of the Assembly, seeks to allocate time in private members' business reasonably equitably to ensure that all non-executive members in the Assembly have an opportunity to introduce business. It does this by noting the number of non-executive members and the opportunities available for private members' business and applying this to a multi-week rolling calendar.

Crossbench executive members' business

- 9.79. Crossbench executive members' business (formerly known as executive members' business and discontinued in the Tenth Assembly following amendments to the standing orders)¹⁰⁴ was a category of business that was recognised in the standing orders in the Ninth Assembly and related to business introduced by a crossbench member of the executive in their capacity as a private member. It was designed to recognise a situation in which a minister who was not a member of the majority governing party wished to sponsor legislation, or propose motions, outside of government business.
- 9.80. For a period during the Fourth Assembly, the Assembly created by temporary order an 'executive members' business' category of business. Executive members' business was defined in the temporary order as 'business which has been introduced by an executive member and has been so determined by the Manager of Government Business'.¹⁰⁵ In moving the motion for the adoption of the temporary order, the Manager of Government Business expressed his appreciation that the concept was one 'which may appear a little strange to some members'—it being promoted as 'a device to allow a member of the Government to act as a private member in order to be able to introduce business into the House for the consideration of the House, and to have matters debated'.¹⁰⁶ The procedure was established to address the appointment of a minister who was not a member of the governing party and who was bound by cabinet responsibility only with regard to matters relevant to his own portfolio but who could, by agreement, act as an independent member in relation to a range of other issues. The category

104 See MoP, No 7, 30 March, p 87 and Standing Committee on Administration and Procedure, *Review of standing orders for the Tenth Assembly*, March 2021, Report 4.

105 MoP, No 22, 24 September 1998, pp 196-197.

106 Assembly Debates, 24 September 1998, p 2214.

was reintroduced in the Eighth and Ninth Assemblies (and renamed crossbench executive members' business in the Ninth Assembly).

Precedence for specific matters

Election of Speaker and Chief Minister

- 9.81. The election of a Speaker takes precedence over all ordinary business either at the first meeting of the Assembly after an election or after a vacancy in the office occurring for any other reason.¹⁰⁷ Similarly, in the event of both the Speaker and Deputy Speaker being absent, the members present must elect a member (not being a minister) to perform the duties of Speaker or the Assembly must adjourn.¹⁰⁸
- 9.82. The election of a Chief Minister must take place immediately after the election of a Speaker, and 'before any other business', in a 'new' Assembly.¹⁰⁹ A motion of no confidence in the Chief Minister of which at least one week's notice has been given takes precedence over all other business until it has been resolved.¹¹⁰ In all cases where such notices have been called upon in the Assembly, at least seven days have elapsed between the reporting of the notice and its consideration, exclusive of the day of giving the notice and the day of its consideration.
- 9.83. Where there has been a vacancy in the office of Chief Minister or the Chief Minister has lost a motion of no confidence, a new Chief Minister is elected at the first opportunity.¹¹¹ Vacancies in the office of Chief Minister have, so far, been predictable and the candidates for the office have been obvious. However, were a vacancy to occur unexpectedly there may be good reasons to defer an election for the office—for example, to allow parties to select their candidates or to ensure that all members of the Assembly were present.
- 9.84. In October 2000, the announcement of the resignation of the Chief Minister and the election of a new Chief Minister took precedence over the notice of no confidence in the Chief Minister that had been given seven days earlier and had been listed to take precedence on the *Notice Paper*. The notice was called on following the election of a member as Chief Minister and, the member failing to move the no confidence motion, the Speaker advised the Assembly that, pursuant to standing order 128, it would be removed from the *Notice Paper*.¹¹²

107 Self-Government Act, s 11.

108 Standing order 9.

109 The executive from the preceding Assembly continues in office until immediately before the election of a new Chief Minister after a general election. Precedence for the election of a new Chief Minister and the choice of a new executive after an election is important because the outgoing executive may not be representative of the membership of the new Assembly.

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

111 Standing order 3(a).

112 MoP, No 103, 10 October 2000, p 1011 and MoP, No 104, 18 October 2000, pp 1013-1014; NP, No 102, 18 October 2000, p 1823.

Resignation of a member, announcement of a new member to fill a casual vacancy and swearing in of a new member

9.85. The announcement by the Speaker of the resignation of a member (and presentation of letter of resignation)¹¹³ and the announcement of a new member to fill a casual vacancy are ordinarily given precedence in the order of business, as is the subsequent admission of the Chief Justice (or nominated Judge of the Supreme Court) to administer the oath or affirmation of allegiance.¹¹⁴ It is the practice that, after making their oath or affirmation and affirming their commitment to the code of conduct, a member is granted leave to make their inaugural speech thereafter.¹¹⁵

Election of a senator for the ACT to fill a casual vacancy

9.86. If the Chief Minister advises the Assembly of a vacancy in the place of a senator for the ACT, they will then move that the Assembly either consider the choice of a person to fill the vacancy forthwith, or that consideration take place on a future day. If consideration is to take place on a future day, that matter will have precedence over other business.¹¹⁶

Vote of thanks or condolence

9.87. Precedence is given by courtesy to a motion for a vote of thanks of the Assembly¹¹⁷ or of condolence.¹¹⁸ Such motions may be moved without notice, in accordance with the provisions of standing order 126.

Motions to refer matters of privilege to a select committee

9.88. Should the Speaker determine, and inform the Assembly accordingly, that a matter raised as a matter of privilege in accordance with standing order 276 merits precedence, the member who raised the matter may move a motion without notice to refer the matter to a select committee.¹¹⁹ Standing order 81A requires details of the proposed motion to be circulated at least 90 minutes prior to being moved.¹²⁰

113 MoP, No 56, 28 March 2006, p 595; MoP, No 111, 13 February 2001, p 1145.

114 MoP, No 111, 13 February 2001, pp 1145-1146; MoP, No 59, 2 May 2006, pp 627-628.

115 Continuing resolution 5, 'Code of Conduct for all Members of the Legislative Assembly for the Australian Capital Territory', s (21).

116 Continuing resolution 9, 'Senator for the Australian Capital Territory—Procedures for election'.

117 MoP, No 106, 25 September 1997, p 816, which was moved by the chair of a committee. MoP, No 17, 5 May 2009, p 195.

118 MoP, No 41, 28 November 2017, p 549; MoP, No 89, 19 March 2019, p 1293.

119 For precedents, see Appendix 14.

120 See MoP, No 94, 4 April 2019, pp 1377 and 1380.

Motions to disallow or reject instruments in certain circumstances

- 9.89. Standing order 77(j) provides that if a notice to disallow or reject (or similarly disapprove) an instrument subject to disallowance by the Assembly has not been called on by the end of the day before the stipulated period ends, the member who lodged the notice shall move the notice on the next sitting day and such business shall have precedence over other business.

Other matters that may interrupt the ordinary routine of business

- 9.90. There are a range of other items of business that can and do interrupt the ordinary routine of business. Members may seek leave of the Assembly or may seek to suspend standing orders to enable them to move motions without notice, usually on issues of the day, and on occasion the Assembly facilitates such courses of action. Certain legislation in relation to money proposals may be introduced without notice, though in the normal course of events advice of the proposed introduction of such proposals is given on the *Daily Program*.
- 9.91. Following the delivery and reporting of a notice of a motion of no confidence in a Chief Minister, the usual, though not invariable, practice has been for the Assembly to adjourn until the day set down for consideration of the motion (see Chapter 6: The ACT Executive, under the heading 'Resolution of no confidence').

Announcements and statements by Speaker

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

Presentation of committee reports and papers

- 9.93. Papers and reports of standing and select committees may be presented at any time when other business is not before the Assembly.¹²¹ The standing orders permit only the Speaker and ministers to present papers¹²² (other members require leave). Reports of committees (together with minutes of proceedings or extracts thereof) and discussion papers¹²³ may be presented by chairs¹²⁴ when other business is not before the Assembly.

121 Standing order 75.

122 Standing order 211.

123 Standing order 246A.

124 Standing order 253.

- 9.94. The Assembly may order that a committee report by a particular date. This is particularly so with select committees. The *Notice Paper* published for the due reporting day will reflect that the presentation of the report of the committee will have precedence that day.¹²⁵
- 9.95. Current practice is that committee reports and discussion papers are usually scheduled for presentation after Assembly business on a Thursday, together with statements made pursuant to standing order 246A. If a committee chair wishes to present a report or a discussion paper at another time, it is usually presented on a Tuesday (or Wednesday) morning after prayers and petitions, in accordance with standing order 75.
- 9.96. Following the presentation of a paper by the Speaker or a minister, a minister may move a motion without notice in accordance with standing order 214. Similarly, a committee chair or deputy chair may move a motion in accordance with standing order 254 with regard to the presentation of a report.

Points of order and disorder

- 9.97. A member may raise a point of order at any time. A point of order is essentially a claim that a procedure or practice of the Assembly is not being followed. Until the point of order has been dealt with, consideration of, and decision on, every other question is suspended.¹²⁶ The member who has been called to order must cease speaking and resume their seat. The member raising the point of order then explains the basis for it and the Speaker is required to rule on the matter.¹²⁷ Until 2008, the practice in the Assembly was that the speech timing clock continued to run while points of order were being dealt with. However, in 2008 the Assembly amended its standing orders to allow the Speaker to direct the speech timing clock to be stopped during any point of order.¹²⁸
- 9.98. If the Assembly becomes disorderly, the Speaker can take action in accordance with Chapter 17 of the standing orders, including naming a member or ordering a member to withdraw from the chamber. The Assembly may as a consequence take action to suspend a member, which temporarily supersedes the business before the Assembly.

Personal explanations

- 9.99. Having obtained leave from the chair, a member may make a personal explanation in accordance with standing order 46 although there is no question before the Assembly (see Chapter 11: Rules of debate and the maintenance of order, under the heading 'Opportunities for members to speak').

125 NP, No 101, 30 July 2019, p 1965.

126 Standing order 72.

127 Standing order 73.

128 MoP, No 132, 6 March 2008, pp 1388-1389. Standing order 73.