

STANDING COMMITTEE ON
ADMINISTRATION AND PROCEDURE

Review of Standing Orders

AUGUST 2004

Discussion Paper 1

Introduction

1 The Legislative Assembly for the Australian Capital Territory first adopted standing orders on the first day that the Assembly met, 11 May 1989. Although they have been amended on approximately twenty occasions, they have largely remained the same as those adopted in 1989. It was considered by the Committee that, after almost 15 years in operation, it was timely to review those standing orders to see whether they still met the needs of the Assembly as it operates in 2004.

Conduct of the inquiry

2 On 11 December 2003 the Speaker, as Presiding Member of the Standing Committee on Administration and Procedure, informed the Assembly, pursuant to standing order 246A, that the Committee would be conducting a review of standing orders.

3 Subsequently, the Speaker wrote to all Members of the Assembly, the Law Society for the Australian Capital Territory, and the Office of Parliamentary Counsel seeking submissions on the inquiry. Five members responded, and of those responses three members lodged submissions.

Discussion paper

4 In the time available it has not been possible for the Committee to undertake a comprehensive review of the standing orders, and it will be left to the Members of the Sixth Assembly whether they wish to finalise such a review. However, the Committee considered that it would be useful to present a discussion paper to the Assembly outlining its views on which standing orders it considers need further examination and possible amendment.

5 The Committee has attached a list of those standing orders it considers worthy of discussion. The attachment lists the standing order in its current form, the proposed change that the Assembly may wish to consider, as well as a comment on why a change is considered necessary. The Committee does not endorse or recommend any of the changes, it simply lists possible changes for discussion by Members.

6 The discussion paper also addresses the issue of late night sittings which was raised in the Assembly last week. On Wednesday 18 August 2004 the Assembly passed a resolution calling on this committee to inquire into the issue of late night sittings. It should be noted that the discussion paper lists an earlier start time (at 10am) for the Assembly, as well as a later adjournment time (at 6.30pm). If these measures are adopted, it may have the effect of reducing the need for late night sittings to consider the Assembly's business.

7 The Committee hopes that this discussion paper will promote a debate on what are the most appropriate standing orders for the Legislative Assembly that it will enable it to carry out its business in an efficient and effective manner, and provide good governance to the citizens of the Australian Capital Territory.

Wayne Berry, MLA
Presiding Member

August 2004

STANDING ORDER	PROPOSED CHANGE	COMMENTS
2. The election of the Speaker shall be conducted in the following manner: A Member proposed as Speaker (a) At the first meeting of an Assembly after a general election, after the Members present have been sworn, or whenever the office of Speaker becomes vacant, a Member, addressing the Clerk, shall propose some Member, then present, to the Assembly for its Speaker and move that such Member do take the Chair of the Assembly as Speaker. A Member when proposed shall inform the Assembly whether the nomination is accepted. If unopposed, elected (b) The Clerk shall then ask if there is any further proposal, and if there is not shall say that the time for proposals has expired. No Member may then address the Assembly or propose any other Member, and the Clerk shall, without question put, declare the Member so proposed to have been elected as Speaker, and such Member shall take the Chair of the Assembly as Speaker. When two or more Members proposed (c) If more than one Member is proposed as Speaker, the Clerk shall, after the second proposal, and after each subsequent proposal (if any), is made, ask if there is any further proposal, and if there is not the Clerk shall say that the time for proposals has expired. Debate and speech limitation (d) When the time for proposals has expired, debate may ensue, but it shall be relevant to the election. (e) A Member may not speak for more than 5 minutes. Election to be proceeded with (f) Before the Assembly proceeds to a ballot the bells shall be rung as in a vote and the election shall then be proceeded with as provided in this standing order. Mode of decision between candidates (g) When only two candidates are proposed as Speaker, each Member shall deliver to the Clerk a ballot-paper in writing containing the name of the	Omit “Before the Assembly proceeds to a ballot”, substitute “If all Members are not present,”.	If all MLAs are present, it seems superfluous for the bells to be rung. This change provides for bells to be rung only if all MLAs are not present.

STANDING ORDER	PROPOSED CHANGE	COMMENTS
ballot-paper in writing, containing the name of the candidate for whom that Member votes. The votes shall be counted by the Clerk and the candidate who has the greater number of votes shall be the Speaker, and take the Chair, provided the candidate also has a majority of the votes of the Members present and voting; but if no candidate has such a majority a fresh ballot shall take place. If, after the counting of votes, neither candidate has the required majority the Clerk shall so declare. Thereupon the sitting shall be suspended for 30 minutes and when the Assembly reassembles the votes shall be taken again, unless this is rendered unnecessary by a withdrawal. Mode of decision when more than two candidates (h) When more than two candidates are proposed, the votes shall be taken in like manner. The candidate who has the greatest number of votes shall be the Speaker, provided the candidate also has a majority of the votes of the Members present and voting; but if no candidate has such majority, the name of the candidate having the smallest number of votes shall be excluded from subsequent ballots, and a fresh ballot shall take place. This shall be done as often as necessary, until one candidate is declared to be elected as Speaker by such majority, when that candidate shall take the Chair. Withdrawal of candidate (i) At any time after the result of the first ballot is declared, but before the commencement of the second or subsequent ballot, a candidate may withdraw from the election which shall then proceed as if that candidate had not been proposed. Equality of votes (j) If at any ballot it is impossible by reason of the equality of votes to determine which name shall be excluded from subsequent ballots, a special ballot shall take place at which there shall be submitted only the names of those candidates who have received equal votes. At such special ballot each Member shall write on a ballot-paper only the name of the candidate that Member wishes to retain. The candidate whose name appears upon the smallest number of ballot-papers shall then be excluded from subsequent ballots.		

STANDING ORDER	PROPOSED CHANGE	COMMENTS
(k) If by reason of equality of votes a ballot or special ballot is rendered inconclusive, the Clerk shall so declare, and unless by a withdrawal another ballot or (as the case may be) another special ballot is rendered unnecessary, another ballot or special ballot shall be taken. If, after the counting of votes, the equality continues the Clerk shall so declare. Thereupon the sitting shall be suspended for 30 minutes and when the Assembly reassembles the votes shall be taken again, unless this is rendered unnecessary by a withdrawal. One candidate remaining (l) Whenever at any stage a withdrawal leaves only one candidate remaining that candidate shall, without further voting, be declared elected as Speaker and shall then take the Chair. Speaker takes Chair (m) Having moved to the Chair, the Member elected returns acknowledgments to the Assembly for the honour conferred, and then sits down in the Chair.		
3. The election of the Chief Minister shall be conducted in the following manner: Member proposed by motion (a) At the first meeting of an Assembly after a general election and after the Speaker has been elected, or whenever the office of Chief Minister becomes vacant, a Member shall propose some Member as Chief Minister, and move that such Member be elected Chief Minister for the Territory. If unopposed, elected (b) The Speaker shall then ask if there is any further proposal and if there is not, shall say that the time for proposals has expired. No Member may then address the Assembly or propose any other Member as Chief Minister. The Speaker shall then, without question put, declare the Member proposed to have been elected as Chief Minister. When two or more Members proposed (c) If more than one Member is proposed as Chief Minister, the Speaker shall after the second proposal, and after each subsequent	Add “A Member when proposed shall inform the Assembly whether the nomination is accepted.”.	This brings the standing order into line with the one that exists for the election of Speaker. It also prevents the situation where a Member who does not want to stand for the office being included in the ballot against their wishes.

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proposal (if any), ask if there is any further proposal, and if there is no further proposal, the Speaker shall say that the time for proposals has expired. Debate and speech limitation (d) When the time for proposals has expired, debate may ensue, but it shall be relevant to the election. (e) A Member may not speak for more than 5 minutes. Election to be proceeded with (f) Before the Assembly proceeds to a ballot the bells shall be rung as in a vote and the election shall then be proceeded with as provided in this standing order. Mode of decision between candidates (g) When only two Members are proposed as Chief Minister, each Member shall deliver to the Clerk a ballot-paper in writing, containing the name of the candidate for whom that Member votes. The votes shall be counted by the Clerk and the candidate who has the greater number of votes shall be declared by the Speaker to be the Chief Minister, provided the candidate also has a majority of the votes of the Members present and voting; but if no candidate has such a majority a fresh ballot shall take place. If, after the counting of votes, neither candidate has the required majority the Speaker shall so declare. Thereupon the sitting shall be suspended for 30 minutes and when the Assembly reassembles the votes shall be taken again, unless this is rendered unnecessary by a withdrawal. Mode of decision when more than two candidates (h) When more than two Members are proposed as Chief Minister, the votes shall be taken in like manner. The candidate who has the greatest number of votes shall be the Chief Minister, provided the candidate also has a majority of the votes of the Members present and voting; but if no candidate has such majority, the name of the candidate having the smallest number of votes shall be excluded from subsequent ballots, and a fresh ballot shall take place. This shall be done as often as necessary until one candidate is declared to be elected as Chief Minister by such majority. Withdrawal of candidate (i) At any time after the result of the first ballot is declared, but before		

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the commencement of the second or subsequent ballot, a candidate may withdraw from the election which shall then proceed as if that candidate had not been proposed. Equality of votes (j) If at any ballot it is impossible by reason of the equality of votes to determine which name shall be excluded from subsequent ballots, a special ballot shall take place at which there shall be submitted only the names of those candidates who have received equal votes. At such special ballot each Member shall write on a ballot-paper only the name of the candidate that Member wishes to retain. The candidate whose name appears upon the smallest number of ballot-papers shall then be excluded from subsequent ballots. (k) If by reason of equality of votes a ballot or special ballot is rendered inconclusive, the Speaker shall so declare, and unless by a withdrawal another ballot or (as the case may be) another special ballot is rendered unnecessary, another ballot or special ballot shall be taken. If, after the counting of votes, the equality continues the Speaker shall so declare. Thereupon the sitting shall be suspended for 30 minutes and when the Assembly reassembles the votes shall be taken again, unless this is rendered unnecessary by a withdrawal. One candidate remaining (l) Whenever at any stage a withdrawal leaves only one candidate remaining, that candidate shall, without further voting, be declared elected as Chief Minister.		
Temporary Deputy Speakers 8. The Speaker shall nominate at the commencement of every Assembly not more than 3 Members, not being Ministers, any one of whom shall act as temporary Deputy Speaker. The Speaker may revoke the nomination of any Member. <i>(Amended 30 April 1998).</i>	Omit “3”, substitute “2”.	Mr Cornwell, MLA, in his submission, queried whether the increase in the number of temporary Deputy Speakers from 2 to 3 (a change made to the standing orders in 1994 to allow participation by the crossbench) was really necessary, given that crossbench Members usually participate in all debates. This makes it difficult for them to take the Chair.
Speaker relieved by temporary Deputy Speaker 10. The Speaker, or Deputy Speaker, may call on either of the temporary Deputy Speakers to take the Chair.		Mr Cornwell, MLA pointed out in his submission that, if the number of temporary Deputy Speakers is left at 3, then the words “or either of” will need to be

STANDING ORDER	PROPOSED CHANGE	COMMENTS
		changed. If only 2 temporary Deputy Speakers are appointed, the current wording can remain
Days and hour of meeting 27. Unless otherwise ordered, the Assembly shall meet for the despatch of business on each Tuesday, Wednesday and Thursday at 10.30 a.m. (<i>Amended 4 May 1995</i>).	Omit “10.30 a.m.”, substitute “10.00 a.m.”.	In the latter part of the Fifth Assembly, the Assembly has often had to sit late to consider the business before it. One option is for the Assembly to start earlier each sitting day to allow more time during the day to consider its program. Whilst this may have an effect on some party and other meetings, as well as affect the Secretariat’s preparation time, it is an option that may ensure that the Assembly does not continually sit after 8.00 p.m.
Members not to leave before quorum present 29. A Member shall not be permitted to withdraw from the Chamber within 5 minutes after the time appointed for the meeting of the Assembly unless a quorum is obtained. <i>Prayer or Reflection</i> 30. Upon the Speaker taking the Chair at the commencement of each sitting, and a quorum of Members being present, the following shall be read: 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. (<i>Amended 1 June 1995</i>).	Add “The Speaker shall also acknowledge, at the beginning of each period of sittings, that the Assembly is meeting on the lands of the traditional owners.”.	Since the beginning of the Fifth Assembly, the Speaker has adopted the practice of making an acknowledgement concerning the traditional owners. The Assembly may wish to consider formalising this practice by including it in the standing orders.
Adjournment of Assembly 34. At 5 p.m on each sitting day, the Speaker shall propose the question - That the Assembly do now adjourn - which question shall be open to debate. No amendment may be moved to this question: Provided that: (a) if a vote is in progress at the time for interruption, that vote, and any vote consequent upon that vote, shall be completed and the result announced; (b) if, on the question - That the Assembly do now adjourn - being	Omit “5 p.m.”, substitute “6.30 p.m.:.	The Assembly, in its 15 year history, has rarely adjourned at 5 p.m. It is suggested that a more realistic time to put the automatic adjournment is at 6.30 p.m., which is when the Assembly usually sits to when it sits later in the night. Mr Cornwell, MLA argued in his submission that the standing order should either be abolished or moved to a later hour.

STANDING ORDER	PROPOSED CHANGE	COMMENTS
proposed, a Minister requires the question to be put forthwith without debate, the Speaker shall forthwith put the question; (c) a motion for the adjournment of the Assembly may be moved by a Minister at an earlier hour; (d) any business under discussion and not disposed of at the time of the adjournment shall be set down on the Notice Paper for the next sitting; and (e) if the question - That the Assembly do now adjourn - is negatived, the Assembly shall resume the proceedings at the point at which they had been interrupted: Provided further that, if at 5.30 p.m. on each sitting day, the question before the Assembly is - That the Assembly do now adjourn - the Speaker shall interrupt the debate, at which time: Minister may extend debate: (f) a Minister may require that the debate be extended until 5.40 p.m. to enable the Ministers to speak in reply to matters raised in the preceding adjournment debate; at 5.40 p.m. or upon the earlier cessation of the debate, the Speaker shall forthwith adjourn the Assembly until the time of its next meeting; or (g) if no action is taken by a Minister under paragraph (f), the Speaker shall forthwith adjourn the Assembly until the time of its next meeting. <i>(Amended 4 May 1995).</i>	(a) if the time is changed above to 6.30 p.m., then the times should be amended as follows: Omit “5.40 p.m.” wherever occurring, substitute “7.10 p.m.”; or (b) delete (f) and (g).	The purpose of this standing order is to allow Ministers to respond to points raised by Members in the adjournment debate without taking up the time allotted in the adjournment debate. In practice, this standing order is rarely used. If the adjournment time is moved to 6.30 p.m., then the times should be adjusted. Alternatively, the standing order could be deleted.
Allusion to previous debate or proceedings 51. A Member may not allude to any debate or proceedings of the same calendar year unless such allusion is relevant to the matter under discussion.	Omit the standing order.	Mr Cornwell, MLA has suggested that this standing order be rewritten to more accurately reflect their intention. He queried why Members could not allude to any debate of the same calendar year and suggested that it could be misused to stifle debate. The Assembly could either re-write the standing order of simply omit it.
Reflections upon votes 52. A Member may not reflect upon any vote of the Assembly, except upon a motion that such vote be rescinded.		Mr Cornwell, MLA suggested that the standing order could be clarified to more accurately reflect their intention.

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69. The maximum period for which a Member may speak on any subject indicated in this standing order, and the maximum period for any debate, shall not, unless otherwise ordered, exceed the period specified opposite to that subject in the following schedule: <table><thead><tr><th>Subject</th><th>Time</th></tr></thead><tbody><tr><td>(a) Election of Speaker, Chief Minister, Deputy Speaker or Leader of the Opposition (<i>Amended 11 May 1989</i>). Each Member.....</td><td></td></tr><tr><td>(b) Motion for adjournment of the Assembly to terminate sitting (<i>Amended 4 May 1995</i>). Whole debate.....no more than 30 minutes Each Member5 minutes</td><td></td></tr><tr><td>(c) Want of confidence motion provided under standing order 81 Mover 20 minutes Chief Minister or a Minister delegated.....20 minutes Any other Member.....15 minutes</td><td></td></tr><tr><td>(d) Bill be agreed to in principle Main Appropriation Bill for year Mover not specified Member next speakingnot specified Any other Member.....15 minutes Other bills Mover.....20 minutes Member next speaking.....20 minutes Any other Member.....15 minutes</td><td></td></tr><tr><td>(e) Detail stage of bill - each question before the Chair Executive bills Minister in charge.....periods not specified Any other Member - 2 periods each not exceeding.....10 minutes Other bills Members in charge.....periods not specified Any other Member - 2 periods each</td><td></td></tr></tbody></table>	Subject	Time	(a) Election of Speaker, Chief Minister, Deputy Speaker or Leader of the Opposition (<i>Amended 11 May 1989</i>). Each Member.....		(b) Motion for adjournment of the Assembly to terminate sitting (<i>Amended 4 May 1995</i>). Whole debate.....no more than 30 minutes Each Member5 minutes		(c) Want of confidence motion provided under standing order 81 Mover 20 minutes Chief Minister or a Minister delegated.....20 minutes Any other Member.....15 minutes		(d) Bill be agreed to in principle Main Appropriation Bill for year Mover not specified Member next speakingnot specified Any other Member.....15 minutes Other bills Mover.....20 minutes Member next speaking.....20 minutes Any other Member.....15 minutes		(e) Detail stage of bill - each question before the Chair Executive bills Minister in charge.....periods not specified Any other Member - 2 periods each not exceeding.....10 minutes Other bills Members in charge.....periods not specified Any other Member - 2 periods each			Mr Cornwell, MLA has raised in his submission that: (a) extensions of time have been given too freely in the past, and the standing order should be tightened or deleted; (b) agreement in principle speeches to bills being introduced should be shortened as they are often a regurgitation of the explanatory statement and far too long; and (c) the Committee considering the desirability of Members not being allowed to read their speeches.
Subject	Time													
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not exceeding.....10 minutes (f) Urgent bills (under standing order 192) Bill be declared urgent Whole debate.....15 minutes Each Member.....5 minutes Allotment of time Whole debate.....15 minutes Each Member.....5 minutes (g) Matter of public importance (under standing order 79) Whole debate.....1 hour Proposer.....15 minutes Member next speaking.....15 minutes Any other Member.....10 minutes (h) Suspension of standing orders (under standing order 272) Whole debate.....15 minutes Minister.....5 minutes Any other Member.....5 minutes (i) Debates not otherwise provided for Mover.....15 minutes Member next speaking.....15 minutes Any other Member.....10 minutes (j) Extension of time - with the consent of a majority of the Assembly, to be determined without debate, a Member may be allowed to continue a speech interrupted under the foregoing provisions of this standing order for one period not exceeding.....10 minutes Provided that no extension of time shall exceed half of the original period allotted and any Member may be granted leave by the Assembly to conclude their speech within a period of time which is no greater than half the original period allotted or for the period specified in the request for leave. <i>(Amended 4 May 1995).</i>		

STANDING ORDER	PROPOSED CHANGE	COMMENTS
Privilege 71. Upon a matter of privilege arising: (a) a Member shall give written notice of the alleged breach to the Speaker as soon as reasonably practicable after the matter has come to that Member's attention; (b) if the matter arises from a statement published in a newspaper, book or other publication, the Member shall provide the Speaker with a copy of the newspaper, book or publication; (c) the Speaker will determine as soon as practicable whether or not the matter merits precedence over other business; (d) if, in the opinion of the Speaker, the matter does not merit precedence, the Speaker will inform the Member, in writing, accordingly, and may also inform the Assembly of the decision; and (e) if, in the opinion of the Speaker, the matter merits precedence, the Speaker will inform the Assembly of the decision, and the Member who raised the matter may move a motion without notice forthwith to refer the matter to a select committee appointed by the Assembly for that purpose. <i>(Amended 9 March 1995).</i>	Insert after "inform", the words "the Member who raised the matter and".	If the Speaker decided to give precedence to a matter, there is no mechanism to allow the Speaker to inform the Member who raised the matter of this decision until the Assembly next meets. As this could be some considerable time, it is considered that a mechanism be put in place as set out in paragraph (d) of informing the Member of the decision made.
Point of order 72. A Member may at any time raise a point of order which shall, until disposed of, suspend the consideration and decision of every other question.	Add "A Member shall not make frivolous vexatious or disruptive points of order."	Mr Quinlan, MLA, Deputy Chief Minister, has pointed out that there is no specific standing order forbidding Members making frivolous or vexatious and disruptive points of order.
Proceedings on question of order 73. Upon a question of order being raised, the Member called to order shall cease speaking and sit down, and, after the question of order has been stated to the Speaker by the Member raising it, the Speaker shall rule thereon.	Add "During points of order made while questions without notice is occurring, the speech clock shall be stopped."	Mr Quinlan, MLA, Deputy Chief Minister and Mr Hargreaves, MLA have both submitted that, during points of order being taken during question time, the clock should be stopped.

STANDING ORDER	PROPOSED CHANGE	COMMENTS
Presentation of papers and reports 75. Papers and reports of standing and select committees may be presented at any time when other business is not before the Assembly.	Authorisation for publication.	
Business - precedence of 78. Executive business shall, on each day of sitting, have precedence of all private Members' and Assembly business, except that: (a) On sitting Wednesdays private Members' business shall have precedence of Executive business; (<i>Amended 11 December 1996</i>). (b) On sitting Thursdays, Assembly business shall have precedence of Executive business in the ordinary routine of business for 45 minutes from the conclusion of consideration of any Executive notices of intention to present bills; Provided further that: (c) if a vote is in progress at the time precedence expires, that vote or any vote consequent upon that vote shall be completed and the result announced; (d) when there is no question before the Chair during private Members' business and at any time during the consideration of Assembly business any Member may move that Executive business be called on and such motion shall be put forthwith without amendment or debate; (<i>Amended 11 December 1996</i>). (e) at the time precedence to Assembly business expires any Member may move that the time allotted to Assembly business be extended by 30 minutes and such motion shall be put forthwith without amendment or debate; and (f) the Speaker shall fix the next sitting Wednesday for the resumption of the debate on any business under discussion and not disposed of at the expiration of the time allotted to private Members' business and the next sitting Thursday for the resumption of the debate on any business under discussion and not disposed of at the expiration of the time allotted to Assembly business or at the time Assembly business is interrupted. For the purpose of this standing order and standing order 16, Assembly	Add "for a period of 4 hours". Omit "45", substitute "60".	Mr Cornwell, MLA has suggested that: (a) the time allotted for private Members' business could be reduced from the current full day (Wednesday) to, perhaps, a set time period or a set number of motions; and (b) the time for Assembly business (currently 45 minutes) appears too short and should be extended.

STANDING ORDER	PROPOSED CHANGE	COMMENTS
business is: (g) 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; (h) 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; and (j) any notice of motion 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. <i>(Amended 4 May 1995)</i>		
Matter of public importance 79. A Member may propose to the Speaker that a matter of public importance be submitted to the Assembly for discussion. Written notice of the matter shall be given to the Speaker not less than 2 hours before the time fixed for the meeting of the Assembly; and if the Speaker determines that the matter is in order it shall be submitted to the Assembly. If more than one matter is proposed for the same day the Speaker shall determine by lot before the commencement of the sitting the matter to be submitted to the Assembly for discussion that day. <i>(Amended 4 May 1995).</i>	Omit “2”, substitute “1 ½ ”	If the Assembly decide to meet at 10am each day rather than the current time of 10.30am it is suggested that the time of 8.30am be retained as the cut off time for an MPI to be lodged with the Speaker.

STANDING ORDER	PROPOSED CHANGE	COMMENTS
To contain a request 86. Every petition shall contain a request at the end thereof.	Omit the standing order	Standing order 85 stipulates that every petition shall request action by the Assembly, so this standing order appears redundant
Rules for questions 117. The following general rules shall apply to questions: (a) Questions shall be brief and relate to a single issue; (b) Questions shall not contain: (i) statements of fact or names of persons unless they are strictly necessary to render the question intelligible and the facts can be authenticated; (ii) arguments (iii) inferences; (iv) imputations; (v) epithets; (vi) ironical expressions; or (vii) hypothetical matters. (c) Questions shall not ask Ministers (i) for an expression of opinion; (ii) to announce Executive policy, but may seek an explanation regarding the policy of the Executive and its application, and may ask the Chief Minister whether a Minister's statement represents Executive policy; or (iii) for a legal opinion; (d) Questions shall not be asked which reflect on or are critical of the character or conduct of those persons whose conduct may only be challenged on a substantive motion, and notice must be given of questions critical of the character or conduct of other persons; (e) Questions shall not refer to:		Mr Cornwell, MLA has suggested that the word epithets be changed for clarity

STANDING ORDER	PROPOSED CHANGE	COMMENTS
(i) debates that have taken place during that calendar year; or (ii) proceedings in committee not reported to the Assembly; (f) Questions may be asked to elicit information regarding business pending on the Notice Paper but discussion must not be anticipated; (g) The Speaker may direct that the language of a question be changed, if, in the opinion of the Speaker, it is unbecoming or does not conform with the standing order; and (h) A question fully answered cannot be renewed.	117 (e) Omit paragraph (1)	If Mr Cornwell's proposal to change standing order 51 is accepted, then this will need to be omitted as well for consistency
Complicated question divided 133. The Assembly may order a complicated question to be divided and may order reports of committees and other matters be considered by parts.	Omit "complicated"	The practice has been adopted that all questions, whether complicated or not, have been ordered to be divided
Speaker states result 135. The Speaker shall state whether, in the Chair's opinion, the "Ayes" or the "Noes" have it; and if the opinion is challenged the question shall be decided by vote.	After "challenged" insert "by at least 2 members"	Mr Cornwell MLA has raised the question of whether there should be a requirement for at least 2 MLAs to call a vote

STANDING ORDER	PROPOSED CHANGE	COMMENTS
Reference to select or standing committee 174. Immediately after a bill has been agreed to in principle a Member may move that the bill be referred to a select or standing committee.	At any time after the presentation of a bill to the Assembly, including immediately after a bill has been agreed to in principle, a member may move that the bill be referred to a select or standing committee.	Further standing orders stipulate that discussion and debate on a bill can only recommence once the proceedings of the select or standing committee have been reported and that a motion referring a bill to a committee cannot be made after completion of the detail stage. These standing orders do not allow for a bill to be referred to a committee prior to agreement to the bill in principle. There have been some instances where it would have been useful to have detailed discussions on a bill prior to the agreement in principle. It would allow the proposer of the bill to more fully discuss the intentions and implications of a bill, and for other Members to more fully understand the bill prior to having to determine the merits of the bill. House of Representatives Practice indicates that the practice of referring bills to committee prior to the second reading stage (agreement in principle) is not uncommon and are normally referred before the end of the seven day period (the relevant standing order stipulates that at least seven days after the first reading and before the debate on the motion that the bill be agreed to in principle, a motion may be moved without notice that the bill be referred to a committee for consideration and advisory report.)
Committee proceedings not noticed until reported 175. Notice may not be taken of any proceedings of a select or standing committee on a bill until such proceedings have been reported.	Omit all words after “proceed” substitute “to consider the bill at the point at which the bill was referred to the committee”	If standing order 174 has been amended to allow the bill to be referred to a committee prior to the bill being agreed to in principle, this standing order will need to be amended
Order in considering bill 180. The following order shall be observed in considering a bill: (a) clauses as printed and new clauses, in their numerical order;	After 180 (c) add “(ca) dictionary”	With the change in drafting style from the Office of Parliamentary Counsel that has resulted in the inclusion of a dictionary towards the end of the bill, the relevant standing order needs to be amended

STANDING ORDER	PROPOSED CHANGE	COMMENTS
(b) schedules as printed and new schedules, in their numerical order; (c) postponed clauses (not having been specifically postponed until after certain other clauses); (d) preamble; and (e) title. In considering an appropriation bill for the ordinary annual services of the Executive, any schedule expressing the services for which the appropriation is to be made shall be considered before the clauses and, unless the Assembly otherwise orders, the schedule shall be considered by proposed expenditures in the order in which they are shown. In reconsidering a bill the same order shall be followed as far as possible.		
Bills for entrenching laws 194. Whenever a bill for an entrenching law has been passed by the Assembly and approved by a majority of the electors of the Territory at a referendum, it shall be so certified by the Clerk and presented to the Chief Minister by the Speaker for notification in the <i>Territory Gazette</i>.	Omit “in the Territory Gazette” substitute “in the Legislation Register”	The Legislation Act now provides for Acts to be notified on the Legislation Register, not the Territory Gazette
202. If any Member has: (a) persistently and willfully obstructed the business of the Assembly; or (b) been guilty of disorderly conduct; or (c) used offensive words, which the Member has refused to withdraw; or (d) persistently and willfully refused to conform to any standing order; or (e) persistently and willfully disregarded the authority of the Chair - that Member may be named by the Speaker.	Add: “(f) continually making frivolous point of order” Add: “or suspended for a period of one hour”	Mr Quinlan MLA, Deputy Chief Minister has suggested that making continual frivolous points of order be added to the list of categories of disorder Other Australian Parliaments have given the Speaker the power to “sin bin” members where it is considered that naming the member is too harsh a penalty. The penalty is usually for one hour

STANDING ORDER	PROPOSED CHANGE	COMMENTS
Visitors not admitted into body of Chamber 210. While the Assembly is sitting a Member may not bring any visitor into, nor may any visitor be present in, any part of the Chamber appropriated to the Members of the Assembly. (a) the word “visitor” in Standing Order 210 shall not apply to an infant being breastfed by a Member. <i>(amended 13 March 2003)</i>	210 while the Assembly is sitting, a member may not bring any visitor (with the exception of an infant being breastfed by that member) into or be present in, any part of the chamber allocated to Members of the Assembly	This standing order was amended in the wake of a certain incident in the Victorian Legislative Assembly. It is suggested that the standing order be edited to conform with the style of the other standing orders.
Papers and documents may be inspected and copied 212. All papers and documents presented to the Assembly and not authorised for publication may be made available to members, and, with the permission of the Speaker, may be inspected by other persons or copies thereof or extracts therefrom may be made.	Insert new standing order 212A: The publication of a committee report, discussion paper, or Auditor General’s report is authorised by this standing order	Mr Hargreaves has suggested that the House of Representatives practice of automatically authorising for publication of committee reports be adopted
Quoting documents 213. A document quoted from by a Member, may be ordered by the Assembly to be presented; the order may be made without notice immediately upon the conclusion of the speech of the Member who has quoted from the document.	After presented insert: “unless stated by a Minister to be of a confidential nature or such as should more properly be obtained by a resolution of the Assembly”	The practice has developed whereby confidential Ministerial documents have not been required to be tabled pursuant to this standing order
216. Within the terms of reference agreed to by the Assembly, any standing committee may inquire into, and report on any matter referred by resolution of the Assembly.	Suggest amend as follows: Within the terms of the resolution of appointment agreed to by the Assembly, any standing committee may investigate/inquire into and report on any matter it considers merits investigation or which the Assembly refers to it.	
Select committees 217. The Assembly may appoint select committees but the terms of reference of such committees shall not include matters within the responsibility of any standing committee.	Amend to read "The Assembly may appoint select committees. A Standing Committee shall take care not to inquire into any matters which are being examined by a select committee and any question arising in this connection may be referred to the Assembly for resolution."	At present the establishment of the current Estimates Committees infringes the SO given the terms of reference of the Public Accounts Committee. It is likely that any select committee may impinge on a standing committee responsibilities.
First meeting 219. The time for the first meeting of a committee shall be fixed by the Speaker.	Amend to read: 219 The time for the first meeting of a committee shall be fixed by the Secretary to the Committee and shall be held within 7 days of the establishment of the Committee.	
Membership	Suggest amend to 5 members	The Senate Standing Committees have a membership of 6. it is rare for even Senate select committees to

STANDING ORDER	PROPOSED CHANGE	COMMENTS
220. A committee shall consist of not more than 7 Members unless otherwise ordered.		have more than that no of members appointed and this in an upper house Chamber of 72.
Election of Presiding Member and Deputy Presiding Member 225. Every committee, before proceeding to other business, shall elect a Presiding Member and a Deputy Presiding Member. Title of Presiding Member and Deputy Presiding Member 225A. Each Committee may determine the title of its Presiding Member and Deputy Presiding Member (<i>Adopted 18 August 1993</i>).	Amend terminology by changing titles to Chair and Deputy Chair.	The Title 'Presiding Member' is too easily confused with that of the position of Speaker. There is no ambiguity about the terms 'Chair' and 'Deputy Chair'. Further, the terms 'Chair' and 'Deputy Chair' are the terms commonly in use. [need to check still that not inconsistent with legislation] A number of consequential amendments will be required
Powers of Deputy Presiding Member 226. Whenever a committee is informed by the secretary to the committee of the absence of the Presiding Member, the Deputy Presiding Member shall perform the duties of the Presiding Member during that absence.	Insert the following words after 'informed': ... 'at the commencement of a meeting,' ...	Removes any vagueness about the question of when the Committee members are informed of the absences.
Absence of Presiding Member and Deputy Presiding Member 227. Whenever a committee is informed by the secretary to the committee of the absence of both the Presiding Member and Deputy Presiding Member, the members present may at once proceed to elect one of their number who shall perform the duties of the Presiding Member during that absence.	Insert the following words after 'informed': ... 'at the commencement of a meeting,' ...	
Adjournment and sitting of committee 229. A committee may adjourn from time to time, move from place to place and may sit during any adjournment of the Assembly. (<i>Amended 7 June 1990</i>). Presiding Member may adjourn or suspend sitting of Committee 229A. In the case of grave disorder arising either when a committee is taking evidence or deliberating, the Presiding Member may adjourn the committee without the question being put, or may suspend the committee. The Committee shall reconvene at a time to be named by the Presiding Member or at a time to be fixed by the Speaker or, in the absence of the Speaker, the Deputy Speaker, on receipt of a request	Or suspension	

STANDING ORDER	PROPOSED CHANGE	COMMENTS
in writing from an absolute majority of members of the Committee. (Adopted 10 March 1999).		
Quorum 230. A majority of the members of a committee shall constitute a quorum when that committee is deliberating, with the exception of authorising publication of evidence as described in standing order 231. Deliberative Meetings by Electronic Communications 230A A committee may resolve to conduct deliberative meetings by electronic communications without the members of the committee being present in one place, only when face to face meetings are impossible, provided that: (d) when a committee deliberates, members of the committee constituting a quorum are able to speak to, and hear, each other contemporaneously; and (e) the Presiding Member of such a meeting takes care to ensure that a quorum is maintained during the meeting and that the standing orders and rules of the Assembly are observed. (Adopted 28 August 2002 for the remainder of the Fifth Assembly)	In SO 230A replace the word 'impossible' with the word 'impracticable'	The requirement for face to face meetings being impossible is impracticable in itself. The requirement is a difficult one to fulfil; further it may be that the matters to be discussed are urgent and unforeseen, and a meeting to clear up such business is more efficiently conducted by electronic communications. Further, it is difficult to see why this SO is restricted to deliberative meetings – there is no reason why the SO should not provide for hearings to be held electronically, or at least for witnesses in remote or distant locations or who physically are unable to attend a hearing to be heard electronically.
Quorum for taking of evidence 231. For the purposes of taking and authorising the publication of evidence, 2 members shall constitute a quorum of a committee.	Amend to read: Quorum for taking of evidence For meeting, the primary purpose of which is the taking and authorising the publication of evidence, 2 members shall constitute a quorum of a committee	This change removes the uncertainty around whether or not the normal quorum is required to start the public hearing or any other form of hearing.
Lapse of quorum 233. If any member of the committee takes notice that a quorum of members is not present the Presiding Member shall count the committee; and if a quorum is not present, the committee shall suspend until a quorum is present. If in the opinion of the Presiding Member a quorum cannot be obtained the committee shall adjourn to a date and time to be fixed.	Suggest amend to read: If the Committee Secretary draws to the attention of the Chair the lack of a quorum, the Chair will immediately suspend proceedings: (a) for 15 minutes to allow a quorum to be formed; (b) if no quorum can be formed to adjourn the meeting until a later time or date.	Should a change to this SO be considered to require the committee secretary to advise the Chair that there is no quorum present and then set out what the Chair is required to do as a result of that advice.

STANDING ORDER	PROPOSED CHANGE	COMMENTS
Admission of other Members 234. Members of the Assembly may be present when a committee is examining witnesses, but shall withdraw if requested by the Presiding Member or any member of the committee, and shall always withdraw when the committee is deliberating.	Amend to read: Members of the Assembly may be present when a committee is examining witnesses. Members of the Assembly not members of the committee shall not be present when the Committee is deliberating. Members of the Assembly not members of the committee shall leave the meeting if requested to do so by the Presiding Member or any other member of the committee.	Removes the quaint terminology 'withdraw'.
Admission of visitors 236. When a committee is examining witnesses, visitors may be admitted, but shall be excluded at the request of any member, or at the discretion of the Presiding Member of the committee, and shall always be excluded when the committee is deliberating.	Suggest replace SO 236 with the following: [replicates the Senate SO 36] Admission of visitors Persons other than members and officers of a committee may attend a public meeting of a committee but shall not attend a private meeting except by express invitation of the committee, and shall always be excluded when the committee is deliberating.	Senate SO 36 says all that is necessary in a more succinct format

STANDING ORDER	PROPOSED CHANGE	COMMENTS
Publication of evidence and other documents 241. The evidence taken by any committee and documents presented to and proceedings and reports of the committee shall be strictly confidential and shall not be published or divulged by any member of the committee or by any other person, until the report of the committee has been presented to the Assembly: Provided always that the publication or divulging of any evidence, documents, proceedings or report confidentially to any person or persons by the committee or by any member of the committee for the execution of any clerical work or printing, or to the Speaker, a Member, or, if it be necessary, in the course of their duties, to the Clerk or other officers of the Assembly, shall not be deemed to be a breach of this standing order.	Amend to read either Disclosure of evidence and documents The evidence taken by a committee and documents presented to it, which have not been reported to the Assembly, shall not, unless authorised by the Assembly or the committee, be disclosed to any person other than a member or officer of the committee. OR <u>Privileges Committee wording</u> Disclosure of proceedings, evidence and documents (a) A committee may receive and authorise publication of evidence given before it or documents presented to it. i. Oral evidence taken during public hearings does not require authorisation for publication. ii. In camera evidence and documents presented to the committee shall not be disclosed to any person other than a Member or parliamentary employee assigned to the committee unless the Assembly or the committee authorises their publication. iii. A document received by a committee shall not be withdrawn or altered without the approval of the committee. (b) A committee's proceedings and reports which have not been reported to the Assembly must not, unless authorised by the Assembly or the committee, be disclosed or published to any person other than a member of the committee or parliamentary employee assigned to the committee. (c) A committee may resolve to: (i) publish press releases, discussion or other papers or preliminary findings; (ii) divulge evidence, documents, proceedings or reports on a confidential basis for comment for the purpose of assisting the committee in its inquiry or for any administrative purpose; and/or (iii) authorise the Presiding Member of the committee to give public briefings on matters related to an inquiry but not so as to disclose evidence, documents, proceedings or reports which have not been authorised for publication. (iv) The committee determines the limits of the authorisation.	Needs rewording to remove the inconsistency between SO 241 and SO 242 - the amendment will remove the need for SO 242 See privileges committee report 2003 – wording attached. Adoption of the recommended wording will

STANDING ORDER	PROPOSED CHANGE	COMMENTS
242. Standing order 241 shall not apply to: (a) proceedings of a committee that are public; (b) any press release or public statement made by the Presiding Member of a committee relating to an inquiry; (c) submissions, exhibits or oral evidence received by a committee that have been authorised for publication by that committee; (d) any submission which the Presiding Member may refer to any person for comment for the purpose of assisting the committee in its inquiries; and (e) any evidence taken or documents received ‘in camera’ or on a confidential basis by a committee which will remain strictly confidential unless its publication is authorised by a resolution of the committee or the Assembly. <i>(Amended 4 May 1995).</i>	See above – proposed amendment removes the need for SO 242	
243. A committee shall have power to authorise publication of any evidence given before it and any document presented to it.	See above – proposed amendment removes the need for SO 243	
Examination of witnesses 245. The examination of witnesses before every committee shall be conducted as follows: The Presiding Member shall first put to the witness all such questions as that member may deem essential, according to the mode of procedure agreed on by the committee and then call on each of the other members to put any other questions.	Replace with an equivalent to Senate SO 35(1) The examination of witnesses before a committee shall be conducted by the members of the committee in accordance with procedures agreed to by the committee, subject to the rules of the Assembly.	The revised SO would then remove the need for SO 246 in its entirety, as the Committee would still have the power to set the rules as to who can and who cannot appear before the committee to represent an organisation or person, or speak to a submission.

Witnesses' right to advice 246. Witnesses before a committee may not be represented by counsel or advisers unless ordered by the Assembly, but a witness may consult with counsel or advisers while giving evidence.	Suggest amend to remove the words “or advisers” in the two places in which they appear: 247. Witnesses before a committee may not be represented by legal counsel unless ordered by the Assembly, but a witness may consult with legal counsel while giving evidence. OR simply delete the SO	This has caused some problems in the past especially in relation to “advisers”. The problems relate to the status of consultants or contractors engaged by organisations such as non-government agencies who may engage a consultant for a period to undertake a particular project. A committee may be interested in hearing about that project some time after the consultant has completed their work. The organisation can be placed in a difficult position as the best person to speak on the issue on behalf of the organisation is the consultant who undertook the work. A similar situation can occur with consultants engaged by commercial organisations such as developers. The purpose of this standing order is to prevent persons invited to appear before committees from sending a legal or other representative in their place or having such person speak for them at a hearing. This reflects the view that committees may determine their programs and ‘call for persons’ as they see fit. It is also intended to prevent committee hearings becoming too legalistic, particularly where counsel might try to introduce practices which are unnecessary or inappropriate to committee hearings. Other jurisdictions do not have a standing order in these terms. However the practice is to deny any general right to representation while permitting it in specific circumstances. There is no provision in the standing orders nor any statutory provision for a witness before a committee of the House to be represented by counsel. Furthermore, there is no precedent for such representation before the House of Representatives or its committees... There are precedents, however, for House of Representatives committees, to permit witnesses to have counsel or advisers present in an advisory capacity during hearings. Generally the House of Representatives permits witnesses to consult advisers but does not let advisers speak ‘for’ the witness. However there are a number of cases where individual committees have permitted advisers or counsel to appear and speak on behalf of the principal witnesses because committees believed that it would be of benefit to their inquiries if advisers were allowed to address them. Such permission has been given where the witness has been unable to speak for him or herself because of cultural differences, because the matter is highly technical, etc. In applying the standing order, the Assembly has less flexibility than other legislatures in dealing with this issue and responding to changing circumstances.
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Statement 246A. If a committee resolves that a statement should be made to the Assembly concerning an inquiry under the committee's consideration or a matter within the committee's terms of reference, the Presiding Member shall prepare for the committee's consideration a statement in the terms of the committee's resolution. Standing Orders 248, 249 and 250 apply to the consideration of a statement as if any reference to 'draft report' was a reference to 'draft statement'. The Committee may resolve to dispense with the consideration of the statement under standing orders 248, 249 and 250. The Presiding Member shall make the statement to the Assembly. (Adopted 4 May 1995).	Suggest SO 246A and 246B are replaced by the following: A committee may resolve to make a statement to the Assembly or to release a discussion paper generally on matters within a committee's resolution of appointment or which relate to a particular inquiry being undertaken by the committee. .	The SO does not limit the committee to a discussion paper or a statement, nor is it limited to the subject of an inquiry – it is a general provision and is separate from the provision of a report to the Assembly.
Discussion paper 246B. If a committee resolves to present a discussion paper to the Assembly on an issue under inquiry by the committee it shall be the duty of the Presiding Member to prepare a draft of the discussion paper. Standing Orders 248, 249 and 250 apply to the consideration of a draft discussion paper as if any reference to 'draft report' was a reference to 'draft discussion paper'. Every Discussion Paper will be signed by the Presiding Member and presented to the Assembly by the Presiding Member. Standing order 254 (a) and 254(d) apply to the presentation of a discussion paper as if any reference to 'report' was a reference to 'discussion paper'. (Adopted 4 May 1995).	Suggest delete	– in other jurisdictions committees routinely produce discussion papers, but they are not formally presented in the Chamber – their purpose is generally to inform the debate – the submissions and hearings process principally and to focus the committee's thinking – why would you have this formal process for a discussion paper?
Draft report 248. It shall be the duty of the Presiding Member of every committee to prepare a draft report.	If amendment to 248 agreed SO 247 is redundant	
Consideration of draft report 249. At a meeting convened for the purpose, the Presiding Member shall submit the draft report which may be considered at once. Copies shall be circulated in advance to each member of the committee. The report shall be considered paragraph by paragraph, or, by leave, paragraphs may be considered together. Appendices shall be considered in order at the conclusion of the consideration of the report itself. A member objecting to any portion of the report shall move an amendment at the time the	Suggest amend to read as follows: The Chair [presiding member] of a committee shall prepare a draft report and submit it to the committee. [mirrors Senate SO 38(1)] The consideration of a draft report shall be conducted by the members of the committee in accordance with procedures agreed to by the committee.	The requirement to submit and ability to consider it at once suggests that the chair can drop it on the table and then request that it be considered – however next sentence requires the draft report to be submitted in advance. The sentences are inconsistent and the amendment removes this inconsistency. The prescription of how the report is to be considered is unnecessary – reports are not

portion of the report shall move an amendment at the time the paragraph to be amended is under consideration.		legislation and are not likely to be the subject of consideration by the courts. the necessity to set down a highly formal process to go through a report clause by clause or para by para is not necessary – good committee practice will ensure that takes place anyway, but it does not need to be prescribed in the standing orders.
Reconsideration of draft report 250. After the draft report has been considered, the whole or any paragraph may be reconsidered and amended.	Suggest delete	The necessity for this SO is not apparent
Dissenting report 251. If any member dissents from part or all of the draft report under consideration, that member may present a dissenting report which shall be added to the report agreed by the committee.	Amend as follows Dissenting comment If any member dissents from part or all of the draft report under consideration, that member may present dissenting comments which shall be added to the report agreed by the Committee	Formalised existing practice of including dissenting comment in the body of the report.
Presentation of report 253. The report of a committee shall be presented to the Assembly by the Presiding Member together with the minutes of proceedings.	After “presiding member” insert “Or in the absence of the Presiding Member, by the Deputy Presiding Member.” Add “and the submissions to the inquiry”	If the Presiding Member is absent then this provision allows the Deputy Presiding Member to table the report. Other parliaments table the submissions lodged within the report. The Assembly may wish to consider also adopting this practice.
Summoning of Members 256. When the attendance of a Member is ordered by the Assembly for examination by the Assembly, that Member shall be summoned by the Speaker to attend in the Member’s place.	Delete “in the”	