

## 10. Motions

- 10.1. Motions are a fundamental form of parliamentary activity. They are, in a sense, the building blocks upon which the legislature conducts its business. In undertaking its key functions, the Assembly must consider propositions put to it and reach decisions on those propositions, not by consensus but by way of the agreement of the majority of members present and voting.
- 10.2. Within the framework of its standing orders, almost every matter requiring a decision of the Assembly is determined by a motion being moved, the chair proposing the question (for instance, ‘That the motion be agreed to’ or ‘That this bill be agreed to in principle’), the question being put and the Assembly determining the matter on the voices or by a vote.<sup>1</sup> The will of the Assembly is expressed by way of a resolution or order. For more information see under the heading ‘Orders and resolutions of the Assembly’ below in this chapter.
- 10.3. With certain exceptions, consideration of motions dominates the proceedings of the Assembly.<sup>2</sup> It is by way of motion and resolution that the Assembly conducts its business and reaches its decisions, whether it is expressing an opinion on a matter, making an order in relation to its own procedures, or ordering that a document be presented or that a committee consider a matter. The Assembly’s consideration of legislation, for instance, entails its consideration of a series of motions (albeit with certain key questions being set by the standing orders rather than by being moved on the floor). A question is proposed, and put, on whether the bill is to be agreed to in principle and, should that question be agreed to, each of the bill’s component parts is made the subject matter of additional motions, culminating in the final decision being made on the question that the bill (or the bill as amended) be agreed to.<sup>3</sup>
- 10.4. In certain limited circumstances, the standing orders make provision for the chair to propose or put a question without a motion having been moved.<sup>4</sup> The determination of committee membership where there are more nominations than

---

1 Or by ballot if so ordered (standing order 265).

2 Exceptions are questions (on notice and without notice) and statements. Though the Assembly may and does order that papers be presented (initiated by motion), the majority of papers are presented pursuant to stipulations the Assembly has inserted in the laws of the Territory.

3 See *Redlich*, Vol II, p 215.

4 As referred to above in this chapter, the standing orders set down key questions to be proposed and put by the chair in consideration of the components of bills at the detail stage and the final question on agreement on a bill. In a similar vein, standing orders make limited provision for the Speaker to propose, or put a question forthwith, without a motion being moved following: (a) the Assembly resolving that a debate be adjourned (the question to fix the time for the resumption of the debate—standing order 65); (b) a declaration of urgency (standing order 192); (c) the naming of a member (standing order 203); (d) at 6.30 pm on each sitting day (the ‘automatic adjournment’—standing order 34); and (e) following the Clerk’s announcement of petitions and responses (the Speaker proposes the question ‘That the

places available<sup>5</sup> is not initiated by motion (and is determined by ballot rather than by a vote).<sup>6</sup> On occasions, especially when making a decision regarding the order of its business or the application of a particular procedural rule or standing order (for example, the relaxation of the relevancy rule to facilitate a cognate debate), the Assembly will proceed by way of leave, with the chair ascertaining whether it is the wish of the Assembly that a certain course be followed.<sup>7</sup>

10.5. *House of Representatives Practice* defines a motion as, in its widest sense:

... any proposal made for the purpose of eliciting a decision of the House. It may take the form of a proposal made to the House by a Member that the House do something, order something to be done or express an opinion with regard to some matter.<sup>8</sup>

10.6. Not all motions lead to a decision of the Assembly. Motions are often defeated where they do not receive the support of the majority of members voting or, where required under the standing orders or in statute,<sup>9</sup> a motion fails to achieve a special majority. In addition, and as set out below, a notice of motion not called upon is removed from the *Notice Paper* after four sitting weeks and a motion may be otherwise dropped, withdrawn, deferred, or superseded.<sup>10</sup>

10.7. The House of Representatives divides motions into two classes—substantive motions and subsidiary motions. The former are described as ‘self-contained proposals drafted in a form capable of expressing a decision or opinion of the House’ whereas subsidiary orders are described as ‘largely procedural in character’ relating directly to the conduct of business in the House or arising in the course of it.<sup>11</sup> Generally, though not definitively, substantive motions require notice to be

---

petitions and responses so lodged be noted’ (standing order 98A)). In one instance, the standing orders even provide for an ‘automatic’ order of the Assembly authorising the publication of certain documents upon their presentation to the Assembly (standing order 212A). In addition, standing order 179 provides that, in considering a bill at the detail stage, the title and preamble stand postponed without a question being proposed. Standing order 22 also makes provision for the ‘automatic’ leave of absence for a member who is pregnant and standing order 223 makes provision for the Assembly to resolve committee membership upon report from the Speaker.

5 Standing order 222.

6 In the election of Speaker, Deputy Speaker and Chief Minister (and Leader of the Opposition), members vote by delivering to the Clerk a ballot paper in writing containing the name of the candidate for whom the member votes.

7 Leave of the Assembly may only be granted if no member present objects; see standing order 82.

8 *House of Representatives Practice*, p 285.

9 See, for instance, s 25(3)(b) of the Integrity Commission Act, which requires a resolution of the Assembly passed by a two-thirds majority prior to the appointment, by the Speaker, of the Integrity Commissioner.

10 That is, where a member has written to the Clerk seeking to amend a notice of motion.

11 *House of Representatives Practice*, p 285.

given while subsidiary motions do not. The Legislative Assembly acknowledges this distinction<sup>12</sup> and, to a certain extent at least, the practice of the Assembly is based upon it.<sup>13</sup>

- 10.8. This chapter examines the general procedure for dealing with motions in the Assembly, the procedures for giving notice, the rules regarding their subject matter, their progress in the Assembly, the determination of the question on motions, the procedure on amendments, and orders and resolutions of the Assembly.

## Requirement for notice to be provided

- 10.9. Generally, motions that put before the Assembly any question of substance (substantive motions) require notice of at least one sitting day. Standing order 123 stipulates that a member may not, except by leave of the Assembly or as otherwise provided for by the standing orders, move any motion except pursuant to notice appearing on the *Notice Paper*. The importance of the requirement for notice to be provided is not to be underestimated. It allows members to prepare for the consideration of important issues, permits time for community scrutiny and input (the *Notice Paper* is circulated to members and published on the Assembly website), and protects against ambush, the misuse of a majority on the floor of the Assembly and matters being considered in haste. Generally, the minimum period of notice required is one sitting day, though more would be expected for many matters and in certain circumstances a longer period is required. To be effective, a motion of no confidence in a Chief Minister requires at least one week's notice;<sup>14</sup> a motion to rescind a resolution or a vote of the Assembly ordinarily requires at least three days notice;<sup>15</sup> and the Assembly itself has imposed extraordinary restrictions on the manner in which a member may raise a matter that relates, or may relate, to the behaviour or physical or mental capacity of a judicial officer.<sup>16</sup>
- 10.10. Notice, however, is not required to be given for all motions. The Assembly can waive the requirement for notice by granting a member leave to move a motion.<sup>17</sup> In 2018, standing order 81A was inserted to provide that, in relation to proposed motions of censure and motions proposing to establish committees on matters of privilege, copies of the relevant motions shall be provided to the Speaker for circulation to all members at least 90 minutes prior to the time at which the motion is proposed to be moved. This provision was recommended

---

12 See standing orders 48 and 117(d).

13 For example, a member is only permitted to make a charge against another member or to reflect upon the character or conduct of another member by way of a substantive motion, which admits of a distinct vote of the Assembly.

14 Self-Government Act, s 19(b) and standing order 81.

15 If moved within the same calendar year. Standing order 137.

16 See Chapter 7: The courts, under the heading 'Complaints about judicial officers'.

17 In the United Kingdom House of Commons the sanction of the chair is also necessary. See *May*, p 331.

by the Standing Committee on Administration and Procedure in response to concerns at the lack of notice being given of proposals to move these motions.<sup>18</sup>

10.11. As the Assembly could not proceed in the day-to-day consideration of its business without some degree of procedural flexibility, standing orders provide that the following motions may be moved without notice:

- a motion to grant a member or members leave of absence from the Assembly;<sup>19</sup>
- a motion for the adjournment of the Assembly (which may only be moved by a minister);<sup>20</sup>
- a motion moved to fix the next meeting of the Assembly (when moved by a minister);<sup>21</sup>
- a motion for the adjournment of a debate;<sup>22</sup>
- a closure motion;<sup>23</sup>
- a motion to call upon executive business during consideration of Assembly business or private members' business;
- a motion to extend the time allotted to Assembly business;<sup>24</sup>
- a motion to refer a petition to a committee;<sup>25</sup>
- a motion to take note of an explanation by a minister concerning an unanswered question or a motion in regard to a minister's failure to provide an answer, explanation or statement as to why an answer has not been provided;<sup>26</sup>
- a motion to postpone consideration of a notice of motion moved by the member who gave the notice;<sup>27</sup>

---

18 See *Review of the standing orders and continuing resolutions of the Legislative Assembly*, Report of the Standing Committee on Administration and Procedure, October 2018, Volume 1, p 16. The report actually recommended a notice period of two hours, but the provision was amended by the Assembly. MoP, No 82, 29 November 2018, pp 1173 and 1175-1176; Assembly Debates, 29 November 2018, pp 5090-5092 and 5116-5117.

19 Standing order 22.

20 Standing order 35.

21 Standing order 36.

22 Standing order 65.

23 Standing order 70.

24 Standing order 77 (f).

25 Standing order 99.

26 Standing order 118A(b) and (c).

27 Standing order 124.

- a motion to postpone an order of the day or (when moved by the member in charge thereof when an order of the day is reached) a motion to discharge an order of the day;<sup>28</sup>
- a motion to postpone clauses and (at the conclusion of the detail stage) a motion to reconsider a bill in whole or in part;<sup>29</sup>
- a motion for the allotment of time for an urgent bill (should the Assembly agree to the declaration of a bill as an urgent bill);<sup>30</sup>
- a motion ordering the presentation of a document quoted from (if moved immediately upon the conclusion of the relevant speech);<sup>31</sup>
- on any paper being presented to the Assembly, a motion moved by a minister to take note of the paper or to refer the paper to a committee for inquiry and report;<sup>32</sup>
- a motion by a minister to appoint members of a committee<sup>33</sup> and motions to discharge members from a committee and appoint other members;<sup>34</sup>
- certain motions moved pursuant to standing order 254 by the chair of a committee (or, in their absence, the deputy chair) upon the presentation of a report of a committee to the Assembly<sup>35</sup> or moved in the event that a government response to a report has not been made available within four months of the presentation of the report;<sup>36</sup>
- in a case of necessity, a motion to suspend standing orders;<sup>37</sup> and
- should the Speaker inform the Assembly that a matter of privilege (or contempt) merited precedence, a motion to refer the matter to a select committee, provided that the provisions of standing order 81A are complied with.<sup>38</sup>

---

28 Standing orders 150 and 152.

29 Standing orders 185 and 187.

30 Standing order 192.

31 Standing order 213.

32 Standing order 214.

33 Standing order 222.

34 Standing order 223.

35 Standing order 254.

36 Standing order 254A.

37 Standing order 272.

38 Standing order 276(e).

- 10.12. In addition, money proposals may be submitted by a minister without notice<sup>39</sup> and standing order 126 provides that, as a courtesy, the Assembly will ordinarily grant precedence to a motion moved without notice for a vote of condolence or thanks of the Assembly.<sup>40</sup>
- 10.13. For obvious reasons, the practice of the Assembly is that the Speaker will accept a motion without notice, moved pursuant to standing order 133, to divide a question or to consider reports of committees and other matters by parts. There may be other occasions when, though the standing orders do not provide a specific exemption from the requirement for notice, the Speaker may wish to ascertain whether it is the wish of the Assembly to proceed forthwith to the resolution of a matter and, should there be no dissentient voice, allow that course to proceed. Such occasions may include:
- resolving a question concerning the application of standing order 156 (conflict of interest);
  - resolving a course of action arising out of a witness's objection to a question;<sup>41</sup>
  - deciding whether a ballot should be taken and the manner of so taking;<sup>42</sup>
  - motions arising out of a matter of privilege;
  - motions in respect of the privileges and immunities of the Assembly; and
  - motions arising from questions of order.

## Giving notice

- 10.14. A member gives notice of a motion by delivering a copy of its terms to the Clerk in the chamber during a sitting.<sup>43</sup> However, there is an exception. Where it is proposed that a notice of motion be considered by the Standing Committee on Administration and Procedure pursuant to standing order 16(a)(iii), the notice must be delivered to the Clerk no later than 12 noon on the Monday of the sitting

---

39 Standing order 200.

40 Practice has varied. See MoP, No 106, 25 September 1997, p 816 (vote of thanks for Emeritus Professor Douglas Whalan AM); MoP, No 29, 24 November 1998, p 233 (motion of thanks for Miss Sylvia Curley); MoP, No 5, 19 February 2002, p 47 (motion of thanks for bushfire personnel and volunteers, moved by leave); MoP, No 59, 8 May 2008, p 725 (retirement of Clerk, motion of appreciation, moved by leave); MoP, No 17, 5 May 2009, p 195 (retirement of Parliamentary Counsel, motion of thanks).

On 29 April 2008, the Standing Committee on Administration and Procedure endorsed the *Guidelines on condolence motions and other practices dealing with the deaths of individuals and/or a natural or other disaster*.

41 Or other matter arising, standing order 263.

42 Standing orders 265 and 267.

43 Standing order 101. The notice must be signed by the member or, if co-sponsored, by each of the members. Three members have co-sponsored a motion—MoP, No 122, 28 November 2019, p 1808. The requirement that the notice should indicate the day proposed for moving the motion was dropped from standing order 101 in the amendments of March 2008.

week at which it is proposed to be moved.<sup>44</sup> There is no provision in Assembly standing orders for a notice to be given orally, though this has occurred with the leave of the Assembly.<sup>45</sup>

- 10.15. Should a member be absent, another member may give a notice of motion upon a request of the absent member.<sup>46</sup> Should the motion be co-sponsored, the co-sponsor may give the notice of motion for that member or another member at the co-sponsor's request. The member giving the notice at the sponsor's or co-sponsor's request must put the name of the absent member on the notice and must also sign the notice.
- 10.16. With the exception of the circumstances provided for in standing order 101, a notice cannot be lodged while the Assembly is not sitting and a member who has been suspended from the service of the Assembly is precluded from lodging notices during the period of the suspension.<sup>47</sup>
- 10.17. At least one week's notice must be given for a motion of no confidence in the Chief Minister given in accordance with standing order 81.<sup>48</sup> The notice of such a motion must be reported to the Assembly by the Clerk at the first convenient opportunity and the Clerk may not enter the notice on the *Notice Paper* until it is so reported.<sup>49</sup>
- 10.18. A motion for the purpose of rescinding a resolution or other vote of the Assembly during the same calendar year requires three days notice if it is to be moved in the same calendar year.<sup>50</sup> The Judicial Commissions Act contains particular procedures for the lodgement of notices of motion that relate to the behaviour or physical or mental capacity of judicial officers.<sup>51</sup>
- 10.19. Standing order 108 prohibits the giving of a contingent notice of motion.<sup>52</sup>

---

44 Standing order 101.

45 MoP, No 45, 16 December 1992, p 254. The motion was a motion of censure of a minister.

46 Standing order 104.

47 Standing order 206.

48 Self-Government Act, s 19(b) and standing order 81.

49 Standing order 103. See also Chapter 6: The Executive.

50 Standing order 137. The standing order also provides that one day's notice is sufficient to correct irregularities or mistakes, or the corrections may be made at once by leave of the Assembly.

51 See Chapter 7: The courts, under the heading 'Complaints about judicial officers'.

52 *House of Representatives Practice* describes contingent notices as being those notices that 'are conditional upon an event occurring in that House which in fact may not eventuate'. They are often used in the House of Representatives to facilitate the passage of legislation (a motion to suspend the standing orders moved pursuant to contingent notice requires only a simple majority to pass, while the same motion without notice requires an absolute majority). *House of Representatives Practice* notes that contingent notices do not form part of UK House of Commons practice and, 'Because the device of a contingent notice may cut across or defeat the normal operation of certain standing orders, which generally have been framed for sound reasons and which provide safeguards against hasty or ill-considered action, any extension of this use is questionable'. See *House of Representatives Practice*, p 294.

## Entry of notice on the Notice Paper

- 10.20. As a general rule, notices are listed on the *Notice Paper* ahead of orders of the day and in the order in which they are provided to the Clerk.<sup>53</sup> However, the standing orders contain two significant provisos which, in fact, determine the order in which notices (and orders of the day) are listed on the *Notice Paper*. These are:
- the determination of the days and times precedence is allocated to the three categories of business (executive, private members' and Assembly business) as set by standing order 77; and
  - the responsibility for arranging the order of Assembly business and private members' business lies with the Standing Committee on Administration and Procedure<sup>54</sup> and standing order 78 gives the Manager of Government Business the option of arranging the order of executive business.
- 10.21. The notices and orders determined in this way are, subject to any specific order of the Assembly and the provisos referred to above in this chapter under the heading 'Giving notice', those that appear on the *Notice Paper*.<sup>55</sup>
- 10.22. A notice of motion becomes effective only when it appears on the *Notice Paper*.<sup>56</sup>

## Rules regarding content of notices

- 10.23. Standing order 107 places upon the Speaker an obligation to amend the content of a notice of motion that is too long, contains unbecoming expressions or offends against any standing order. If the Speaker is of the opinion that a notice is too long, contains unbecoming expressions, or offends against any standing order, the Speaker is obliged to amend the content of the notice but must first refer the notice back to the member for clarification before it appears on the *Notice Paper*.<sup>57</sup>
- 10.24. Notices of motions have been ruled out of order and withdrawn from the *Notice Paper* because they infringed standing order 130 (the anticipation rule). For example, in 2000 a notice was ruled out of order because it anticipated debate on an order of the day for the resumption of debate on a bill.<sup>58</sup> In 2003, a notice was

---

53 Standing order 125.

54 Standing order 16(a)(iii).

55 See Chapter 9: Conduct of the Business of the Assembly, under the heading 'Progress of business in the Assembly'.

56 Standing order 112.

57 Prior to its amendment on 29 November 2018, standing order 107 obliged the Speaker to amend the content of such notices of motion. In recommending the amendment, the Standing Committee on Administration and Procedure considered that it was desirable that a member is first given the opportunity to clarify the content of the motion. *Review of the standing orders and continuing resolutions of the Legislative Assembly*, Report of the Standing Committee on Administration and Procedure, October 2018, Volume 1, pp 20-21.

58 MoP, No 109, 6 December 2000, p 1119; Assembly Debates, 6 December 2000, p 3721.



disallowed for anticipating debate on an order of the day for the consideration of a report of an Assembly committee which was scheduled for debate the following day.<sup>59</sup> The Speaker has also directed that a notice be removed from the *Notice Paper* because it infringed the same question rule,<sup>60</sup> has ruled a notice out of order as the motion sought to have an effect which it had no legal capacity to achieve,<sup>61</sup> and has ruled a notice of a motion proposing to amend a determination relating to bus fares for students out of order and directed that it be removed from the *Notice Paper*.<sup>62</sup>

- 10.25. The Assembly has taken the unusual step of ordering that a notice relating to the conduct of a senior public servant be removed from the *Notice Paper* and it prohibited the placement on the *Notice Paper* of a notice relating to the allegations contained therein for the remainder of that year.<sup>63</sup> The Speaker has also directed that a notice containing inappropriate material be removed from the *Notice Paper*.<sup>64</sup>
- 10.26. The provisions of standing order 276 would preclude a member raising a matter of privilege by way of a notice of motion but would not necessarily preclude a member from lodging a notice of motion on a matter if the Speaker was of the opinion that the matter did not merit precedence.<sup>65</sup>
- 10.27. The Speaker may also direct that a notice that offended against the sub judice convention be amended or removed and, as referred to above, the provisions incorporated by the Assembly in the Judicial Commissions Act contain particular restrictions on members wishing to raise matters in the Assembly relating to the behaviour or capacity of judicial officers.

---

59 MoP, No 67, 20 August 2003, p 853; Assembly Debates, 20 August 2003, p 2881.

60 Standing order 136. MoP, No 115, 25 September 2019, p 1672; Assembly Debates, 25 September 2019, p 3842. A motion that has been superseded or withdrawn by leave of the Assembly may be moved again (standing order 131) as the matter would not have been resolved either in the negative or in the affirmative.

61 MoP, No 43, 28 November 2013, pp 445-446; Assembly Debates, 28 November 2013, pp 4461-4462. The notice was subsequently amended, by leave, and considered by the Assembly.

62 NP, No 23, 23 June 2009, p 311; MoP, No 24, 23 June 2009, p 255; Assembly Debates, 23 June 2009, p 2627, the ability for non-executive members to amend a subordinate law where the amendment would have the effect of waiving or changing any fee, charge, penalty et cetera having been lost with the commencement of the Legislation Act. See Chapter 12: Legislation, under the heading 'Financial initiative of the Crown'.

63 MoP, No 61, 13 May 1993, pp 344-345; Assembly Debates, 13 May 1993, pp 1463-1464.

64 The Speaker having made an explanation concerning the issues raised, (the terms of the motion were critical of the Speaker's conduct and did not relate to his responsibilities as a member). MoP, No 72, 12 September 1990, p 293; Assembly Debates, 12 September 1990, pp 3092-3094.

65 Or, for that matter, if the Speaker was of the opinion that the matter merited precedence and the member did not at that stage wish to move a motion referring the matter to a select committee.

## Notice divided

- 10.28. Should a notice of motion contain matters that are not relevant to each other, the Speaker may instruct the Clerk to divide the notice into two or more notices. The member who lodged the notice must be notified of the revision.<sup>66</sup>

## Terms of notice altered by member

- 10.29. A member (or, if a co-sponsored motion, the co-sponsors) may alter the terms of a notice they have given by notifying the Clerk in writing within time for the alteration to be made on the *Notice Paper*.<sup>67</sup> The amended notice may not exceed the scope of the original notice, nor may it otherwise offend against the standing orders or practices of the Assembly. The fact that a notice has been amended is indicated on the *Notice Paper*, together with the date the amendment was made.<sup>68</sup>
- 10.30. It is not unusual in the Assembly for members to be granted leave to amend notices of motion immediately prior to moving the motion.<sup>69</sup>

## Consideration postponed or motion withdrawn

- 10.31. Consideration of a motion may be postponed before it is moved, and motions may also be removed or withdrawn from the *Notice Paper*. Postponement of consideration may occur when:
- the member who gave notice of the motion moves to postpone it and the Assembly so orders;<sup>70</sup>
  - a member is absent from the chamber when their notice is called upon, and another member, at the request of the proposer, fixes a future time for moving the motion (otherwise the motion must be withdrawn from the *Notice Paper*);<sup>71</sup> and
  - a member fails to move their notice when it is called upon, then they fix a future time for moving the motion (otherwise the motion must be withdrawn from the *Notice Paper*).<sup>72</sup>

---

66 Standing order 106.

67 Standing order 110.

68 NP, No 129, 7 May 2020, p 2446.

69 MoP, No 98, 16 May 2019, pp 1466-1467; Assembly Debates, 16 May 2019, pp 1812-1813.

70 Standing order 124. MoP, No 19, 16 May 2002, p 168 (consideration was postponed until after consideration of a specified item of business); MoP, No 130, 7 May 2020, p 1936.

71 Standing order 127. MoP, No 124, 12 February 2020, p 1853; Assembly Debates, 12 February 2020, p 189. And see Chapter 9: Conduct of the business of the Assembly, under the heading 'Postponement, withdrawal or discharge of business'.

72 MoP, No 130, 7 May 2020, p 1936; Assembly Debates, 7 May 2020, p 954.

- 10.32. A provision whereby a member may fix a future day for moving a motion by notifying the Clerk in writing was removed from the standing orders in March 2008.
- 10.33. Motions are removed or withdrawn from the *Notice Paper* when:
- a member (or, if the motion is co-sponsored, the co-sponsors) who has given notice of a motion withdraws the notice by notifying the Clerk in writing at any time prior to that proposed for moving the motion;<sup>73</sup>
  - the Clerk, after notifying the member who gave notice, removes from the *Notice Paper* a notice which has not been called upon for four sitting weeks;<sup>74</sup>
  - a member is absent from the chamber when their notice is called upon and no other member, at the request of the member who lodged the notice, fixes a future time for moving the motion;<sup>75</sup>
  - a member fails to move their notice when it is called upon and they do not fix a future time for moving the motion;<sup>76</sup> and
  - it has been debated, adjourned, passed, or negated by the Assembly.

## Progress in the Assembly

- 10.34. There is a particular logic in the rules that apply to the Assembly's consideration of motions: a member moves a motion, the Speaker proposes the question on the motion and, at the conclusion of the debate, the Speaker puts the question and elicits the will of the Assembly. The process can be more complicated, however, and prior to examining the detail of the progress of a motion it is worth considering the distinction between the Speaker 'proposing' the question and 'putting' the question.
- 10.35. There are two stages where the Speaker lays the question before the Assembly. As an example, a motion which undergoes no change (and its consideration is not interrupted), is first 'proposed' by the Speaker and debate may then ensue. The Speaker may propose the question a number of times during the debate, when each member concludes their speech, and the debate will conclude when no further member rises to speak (or the mover has spoken in reply, the time allotted to a debate expires or a closure motion is proposed and carried). The Speaker then puts the question: 'The question is that ...' (stating the exact words of the motion)

---

73 Standing order 111. MoP, No 12, 25 March 2009, p 141; Assembly Debates, 25 March 2009, p 1247.

74 Standing order 125A.

75 Standing order 127. MoP, No 88, 11 February 2004, p 1113. And see Chapter 9: Conduct of the business of the Assembly, under the heading, 'Postponement, withdrawal or discharge of business'.

76 Standing order 128. MoP, No 61, 13 May 1993, p 342; Assembly Debates, 13 May 1993, pp 1406-1407. And see MoP, No 130, 30 November 1994, p 789; Assembly Debates, 30 November 1994, p 4315; MoP, No 70, 25 November 1999, p 621; Assembly Debates, 25 November 1999, p 3682; MoP, No 81, 8 March 2000, p 767; Assembly Debates, 8 March 2000, p 655.

or 'The question is that the motion standing in Ms X's name be agreed to'. The Assembly makes its decision known, either by the voices or by a vote.<sup>77</sup>

## Motion moved and question proposed

- 10.36. Motions have precedence over each other according to the order in which they are listed on the *Notice Paper*<sup>78</sup> although, as outlined above, the standing orders make provision for certain motions to be moved without notice and for motions to be moved with the leave of the Assembly.
- 10.37. Once a notice is called upon by the Clerk or the Speaker calls upon a member to move their motion,<sup>79</sup> the practice is for the member to then move the motion by proposing its terms or by stating that they move the motion standing in their name on the *Notice Paper* or 'in the terms as circulated in the chamber'. The practice now is that the member speaks to the motion after the question is proposed from the chair.<sup>80</sup> A minister may move a motion on behalf of another minister who is absent from the chamber.<sup>81</sup>
- 10.38. Immediately after the member has moved their motion (there is no provision for motions to be seconded in the Assembly), the Speaker must 'propose' the question on the motion to the Assembly for the purpose of eliciting the will of the Assembly.<sup>82</sup> The Speaker does so either by proposing the full terms of the motion (especially if the motion does not appear on the *Notice Paper* or the terms have not been circulated in the chamber) or by proposing 'That the motion be agreed to' or 'That Ms X's motion be agreed to'. Once the question has been proposed by the Speaker, the motion is in possession of the Assembly. It is no longer the property of the mover and cannot be withdrawn without the leave (unanimous consent) of the Assembly.<sup>83</sup> The mover then speaks to the motion, unless the motion is one that must be moved 'without argument or opinion offered' and put forthwith.<sup>84</sup>
- 10.39. Debate may then ensue, though certain motions are not open to debate.<sup>85</sup> If the terms of the question under consideration have not been circulated, in the course of the debate any member may require the question on the matter under discussion

---

77 See under the heading 'Determination of question' in this chapter. And see *Redlich*, Vol II, pp 221-222.

78 Standing order 124. See under the heading 'Giving notice' in this chapter.

79 Should the motion not require notice, or it is moved by leave of the Assembly.

80 In the past, where a motion appeared on the *Notice Paper* or its terms had been circulated in the chamber (and it was open to debate) members were occasionally permitted to speak before actually moving the motion, but they were required to move the motion at the conclusion of their speech. This is not current practice.

81 Standing order 80.

82 Standing order 129.

83 Standing order 129.

84 Standing order 63.

85 Standing order 63.

to be read by the Speaker, but not so as to interrupt a member speaking.<sup>86</sup> In the normal course of events, at the conclusion of the debate the Speaker will ‘put’ the question and the will of the Assembly will be determined (and the motion disposed of).

- 10.40. Should proceedings be interrupted before the Speaker proposes the question (and before the motion is in the possession of the Assembly) by the Assembly adjourning in accordance with the ‘automatic adjournment’ at 6.30 pm, standing order 34(d) makes provision for ‘any business under discussion and not disposed of’ to be set down on the *Notice Paper* for the next sitting. Things are more problematical, however, should proceedings be interrupted by (a) the failure to obtain a quorum, (b) the 2 pm interruption of business or (c) the expiration of the time allotted to private members’ business or Assembly business. In each of these circumstances, the relevant standing orders<sup>87</sup> make provision for the Speaker to fix the time for ‘the resumption of the debate’ on any business under discussion. As there is no debate (the question not being in the possession of the Assembly), the proceedings would be dropped from the *Notice Paper* unless the Speaker were to seek the guidance of the Assembly on the matter. Should the Speaker be required to adjourn the Assembly in the case of grave disorder,<sup>88</sup> the proceedings would be dropped.
- 10.41. Consideration of a motion by the Assembly may be interrupted prior to its resolution by, for example, a motion to suspend the standing orders, a motion arising out of a matter of order<sup>89</sup> or a motion on a matter of privilege given precedence by the Speaker. In the normal course of events, once the intervening matter had been determined or disposed of, the Assembly would return to consideration of the original question. A motion may, however, be withdrawn, its consideration deferred or amended, or the question may even be dropped.

## Motion withdrawn

- 10.42. As outlined above, there are procedures whereby a notice may be withdrawn by a member (see under the heading ‘Consideration postponed or motion withdrawn’ above in this chapter). However, once the question has been proposed by the Speaker, a motion may not be withdrawn by a member without the leave of the Assembly.<sup>90</sup>

---

86 Standing order 60.

87 Standing orders 68, 74 and 77(g).

88 Standing order 207.

89 See, for example, MoP, No 66, 25 September 1996, p 463. The matter arose out of a ruling by the Speaker in the course of a debate. A dissent motion was moved, by leave, and negatived. Debate on the original question resumed.

90 Standing order 129.

- 10.43. A motion may only be withdrawn by the member who moved it<sup>91</sup> (though, in the absence of a minister, another minister may act on their behalf).<sup>92</sup> Where an amendment has been proposed to a question, the original motion cannot be withdrawn until the amendment has been first disposed of by being agreed to, withdrawn, or negatived. The question on the amendment stands before the main question.<sup>93</sup>
- 10.44. A motion that has been withdrawn by leave of the Assembly may be moved again.<sup>94</sup>

## Consideration of question deferred

- 10.45. Consideration of a question may be deferred by the Assembly adjourning the debate and fixing a future time for its resumption. During a debate a member (apart from a member who has spoken to the question or has the right of reply) may move ‘That the debate be now adjourned’. The Speaker is required to put the question forthwith and it must be determined without amendment or debate. If the motion is agreed to, the Speaker must propose the question to fix the time for the resumption of the debate.<sup>95</sup> Should that question be agreed to, consideration of the question is deferred. Should it be negatived, the business would be dropped from the *Notice Paper*.
- 10.46. In similar fashion, consideration of a question is deferred should:
- debate on a question be interrupted at 6.30 pm by the ‘automatic adjournment’ and the question ‘That the Assembly do now adjourn’ is agreed to or the Speaker adjourns the Assembly at the conclusion of the time allotted for the adjournment debate;<sup>96</sup>
  - debate on a question be interrupted at 2 pm in order to call on questions without notice and the Speaker fixes the time for the resumption of the debate;<sup>97</sup> and

---

91 *House of Representatives Practice*, p 303. Standing order 111 gives co-sponsors the right to withdraw a notice; it is probable that the Speaker would permit a co-sponsor to withdraw a motion, provided that leave was granted to do so.

92 Standing order 80.

93 *House of Representatives Practice*, pp 298-299.

94 Standing order 131.

95 Standing order 65. The standing order actually stipulates that, if the question on the adjournment is decided in the affirmative, the Speaker must ‘put’ a question to fix a time for the resumption of the debate. In fact, the Speaker proposes the question, which is open to debate and amendment. And see MoP, No 93, 3 April 2019, p 1359, where, on the question for the adjournment of the debate being agreed to, a member moved that the resumption of the debate be set down for the day after the tabling of a particular report by an Assembly committee.

96 Standing order 34. Any business under discussion and not disposed of at the time of the adjournment is set down on the *Notice Paper* for the next sitting. Also, should the question be negatived the proceedings are resumed at the point at which they had been interrupted.

97 Standing order 74.

- the Speaker fix the next sitting day for the resumption of the debate on any business under discussion and not disposed of at the expiration of any 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.<sup>98</sup>

### Question superseded

- 10.47. A question is temporarily superseded should a member move an amendment to the question (see under the heading 'Amendments' below in this chapter). Once an amendment is moved, the question proposed is 'That the amendment be agreed to' and this question temporarily supersedes consideration of the original question. Should the amendment be negatived or, by leave, be withdrawn, the original question is again proposed and, at the conclusion of the debate, it is put.<sup>99</sup> If the amendment is agreed to, the original question is superseded and the question that is then proposed is 'That the motion, as amended, be agreed to'.

### Question dropped

- 10.48. A question would be dropped from the *Notice Paper* if the Assembly, having agreed to the question 'That the debate be now adjourned', then went on to negative the question to fix the time for the resumption of the debate put in accordance with standing order 65.

### Question put

- 10.49. At the conclusion of debate on a question (that is, where no member rises, the mover has spoken in reply, the closure has been agreed to, or the time allotted by the standing orders has expired), the Speaker must put the question to the Assembly.

### Question divided

- 10.50. It is not unusual for the Assembly to order that a question be divided, in accordance with standing order 133.<sup>100</sup> Care needs to be taken by the chair because, as with amendments, there is a need to ensure that the question, if altered, is left in an intelligible and internally consistent form.

---

98 Standing order 77(g).

99 Standing order 147. A further amendment, or further amendments, may of course intervene.

100 See, for example, MoP, No 40, 2 November 2017, p 540.

## Determination of question

- 10.51. Unless a special majority is required (see under the heading ‘Special majorities’ in this chapter) all questions arising at a meeting of the Assembly must be decided by a majority of the votes of the members present and voting. The chair has a deliberative vote only, and if the votes on a question are equal the question ‘shall pass in the negative’.<sup>101</sup>
- 10.52. A member who is a party to, or has a direct or indirect interest in, a contract made by or on behalf of the Territory or a Territory authority is precluded from voting on a question where the matter or question relates directly or indirectly to that contract (see Chapter 4: Membership of the Assembly, under the heading ‘Conflict of interest’).
- 10.53. The vast majority of votes in the Assembly are determined on the voices. Should the opinion of the chair be challenged when determining that the ‘Ayes’ or ‘Noes’ have it, standing orders provide for a vote, or a call, of the Assembly.<sup>102</sup>
- 10.54. The practice is that the Speaker puts the question by stating that ‘The question is that ...’ (stating the exact words of the motion) or ‘The question is that the motion standing in Ms X’s name be agreed to’ and calls upon all members voting in favour of the question to say ‘Aye’ and then calls upon all members against the question to say ‘No’. The question is resolved in the affirmative or the negative by the majority of the voices.<sup>103</sup> The Speaker then states whether, in the chair’s opinion, the ‘Ayes’ or the ‘Noes’ have it.
- 10.55. Should the chair’s opinion be challenged, the question must be decided by a vote—a call of the Assembly.<sup>104</sup> Any member may challenge the chair’s opinion by requesting a call of the Assembly. A member must do so as soon as possible<sup>105</sup> by stating the contrary case.<sup>106</sup>

---

101 Self-Government Act, ss 18(2) and 18(3).

102 It is of note that the standing orders of the Assembly draw a distinction between a question being decided on the voices and a question being decided by a vote—equating a vote with a call of the Assembly as set out in Chapter 14 of the standing orders. That distinction is not included in s 18 of the Self-Government Act.

103 Standing order 134.

104 Standing orders 135 and 153.

105 Assembly Debates, 24 May 1989, p 65.

106 In the Second Assembly a motion proposing to amend standing order 153 to require at least two members to call for a vote was referred to the Standing Committee on Administration and Procedures. The committee, having stated that the proposed amendment raised significant issues in relation to the rights of independent members, recommended that standing order 153 remain in its current form but also advised that it had resolved to monitor the operation of the standing order. The report was noted (MoP, No 3, 8 April 1992, p 16, MoP, No 6, 13 May 1992, p 32 and MoP, No 10, 21 May 1992, p 52; Assembly Debates, 21 May 1992, pp 690-692). In a later report, having monitored the operation of the standing order, the committee recommended the adoption of temporary orders to facilitate the trial of a procedure whereby (a) at least two members would be needed to challenge the chair’s opinion before a vote could be called and (b) should only one member call for a vote, that member’s dissent be recorded in the *Minutes of Proceedings* and Hansard. The report was adopted by the Assembly and the



10.56. Upon the chair's opinion being challenged and a vote being called for, the following procedures apply:

- the chair directs that the bells be rung and the Deputy Clerk rings the bells and turns a four-minute sand glass;<sup>107</sup>
- any member who called for the vote (challenged the opinion of the chair) must remain seated until after the call of the Assembly and must vote with those who, in the opinion of the chair, were in the minority when the voices were taken;<sup>108</sup>
- a member is not entitled to vote unless, when the call of the Assembly is taken, they are in their allotted seat;<sup>109</sup>
- members must vote in accordance with their voices (either 'Yes' or 'No');<sup>110</sup>
- should a member wish to abstain from voting, they must absent themselves from the chamber;<sup>111</sup>
- when all members are in their places or after the lapse of four minutes as indicated by the sand glass, the Speaker states the question and directs the Clerk to call the Assembly;
- on the commencement of the call of the Assembly, every member within the seats allotted to members must vote and the members may not move from their places until the result is announced;<sup>112</sup>
- the Clerk calls the names of the members in alphabetical order and each member, on being called, must vote either in favour or against the question by signifying 'Yes' or 'No' accordingly, the member presiding having a deliberative vote only;<sup>113</sup> and
- the Clerk must then present the division sheet (a record of how members voted) to the Speaker, who must declare the result.<sup>114</sup>

---

temporary orders operated for the remainder of the Second Assembly (*Standing order 153—Calling for a vote*, Report of the Standing Committee on Administration and Procedures, August 1993; MoP, No 73, 26 August 1993, p 411; Assembly Debates, 26 August 1993, pp 2729-2730; and see MoP, No 119, 15 September 1994, p 706).

107 Standing order 158.

108 Standing order 155.

109 Standing order 157. During 2020, this standing order was suspended for the remainder of the Ninth Assembly due to the COVID-19 pandemic.

110 Standing order 160. During the Second Assembly, a point of order was raised concerning whether a member had voted in accordance with their voice. The Speaker ruled that, as the member in questions had called 'Aye' when the question was put, their vote shall be recorded with the 'Ayes'. MoP, No 51, 24 February 1993, p 296.

111 Standing order 157. This requirement was inserted in the standing orders in the March 2008 amendments. For the background to the change see Standing Committee on Administration and Procedure, *Review of standing orders and other orders of the Assembly—Volume 1, Report 2*, December 2007, pp 42-43.

112 Standing order 160.

113 Standing orders 160 and 161.

114 Standing order 162. The lists are also recorded in the Assembly Debates.

- 10.57. If the votes are equal, the question is negated.<sup>115</sup>
- 10.58. The time for which the bells are rung is determined by a sand glass mounted adjacent to the Deputy Clerk's seat in the chamber. Upon the Speaker directing that the bells be rung, the Deputy Clerk rings the bells and turns the sand glass. The vote may not proceed until after four minutes has elapsed, as indicated by the sand glass.<sup>116</sup> If it is apparent to the Speaker that all members who can be present are in the chamber, the Speaker may dispense with this requirement.<sup>117</sup> The Speaker would normally rely on party whips to advise of any 'pairs' that were in operation.<sup>118</sup>
- 10.59. Should a point of order arise during a vote (from the stating of the question after all members are in their places, through the call of the Assembly until the declaration of the result), it must be decided by the Speaker.<sup>119</sup>
- 10.60. Should there be confusion or error concerning the numbers reported, the Assembly must proceed to another vote (unless the situation can be otherwise corrected).<sup>120</sup>
- 10.61. The lists of votes must be recorded in the *Minutes of Proceedings* and, should a complaint be made to the Assembly that a vote has been inaccurately recorded, the Speaker may cause the record to be corrected.<sup>121</sup>

### Typographical, clerical and grammatical errors

- 10.62. The Clerk may correct typographical, clerical and grammatical errors contained in motions and amendments that have passed the Assembly.<sup>122</sup>

---

115 Standing order 162. MoP, No 73, 13 September 1990, p 299; MoP, No 119, 8 March 2001, p 1309; MoP, No 96, 30 March 2004, p 1248.

116 Standing order 158.

117 Standing order 159.

118 *House of Representatives Practice*, p 483, describes pairing arrangements as follows: 'The pairs system, a practice of some antiquity, is an unofficial arrangement between Members, organised by party whips, which can be used to enable a Member on one side of the House to be absent for any votes when a Member from the other side is to be absent at the same time or when, by agreement, a Member abstains from voting. By this arrangement a potential vote on each side of a question is lost and the relative voting strengths of the parties are maintained'. The system was used extensively during period of the COVID-19 pandemic to achieve physical distancing in parliamentary chambers across Australia.

119 Standing order 163.

120 Standing order 165.

121 Standing orders 154, 164 and 166.

122 Standing order 147A. And see *Review of the standing orders and continuing resolutions of the Legislative Assembly*, Report of the Standing Committee on Administration and Procedure, October 2018, Volume 1, pp 23-24.

## Special majorities

- 10.63. The Self-Government Act makes provision for a special majority to be required to decide a question at a meeting of the Assembly. The relevant paragraphs are:
- paragraph 12(d), which provides that the person holding office as Presiding Officer (Speaker) vacate the office when an absolute majority of the members of the Assembly vote in favour of the person's removal from office;
  - s 18(2), which provides that the standing rules and orders may include the requirement that a special majority is required to decide a question;
  - paragraph 19(c), which provides that a resolution of no confidence in a Chief Minister has no effect unless it is passed by at least the number of members necessary to be a quorum (a quorum being formed by an absolute majority of members);<sup>123</sup> and
  - s 26, which provides for entrenching laws to include requirements for enactments (and thus the entrenching law itself) to be passed by a special majority of members.
- 10.64. In the precedents to date relating to entrenchment provisions, the special majority required for relevant bills considered by the Assembly has been 'at least' a two-thirds majority of members—now taken to be at least 17 members. At the necessary stage, the Speaker has directed that there be a call of the Assembly prior to the question requiring a special majority being put (see Chapter 12: Legislation, under the heading 'Entrenching laws and enabling laws').
- 10.65. In 2010, a motion proposing to appoint an independent reviewer and an alternative independent reviewer in accordance with s 12 of the *Government Agencies (Campaign Advertising) Act 2009* was negatived, not having been passed by a two-thirds majority as required by s 12 of the Act.<sup>124</sup> In 2019, the Assembly reaffirmed its earlier approval of the appointment of the ACT Integrity Commissioner by a two-thirds majority, the earlier vote on the question having originally been passed on the voices.<sup>125</sup>
- 10.66. Standing orders also require special majorities:
- for a motion of no confidence in the Chief Minister to be carried (an absolute majority of members);<sup>126</sup>

---

123 Self-Government Act, s 18(1).

124 MoP, No 63, 22 June 2010, pp 707 and 714. The proposed appointments were again considered later in the same year (standing orders having been suspended) and, again, the motion was negatived, a two-thirds majority not being reached. MoP, No 83, 28 October 2010, pp 1000-1001. A motion to appoint an independent reviewer was agreed to the following year; MoP, No 90, 15 February 2011, p 1118.

125 See MoP, No 99, 4 June 2019, pp 1490-1491, and MoP, No 96, 14 May 2019, p 1387.

126 Standing order 81.

- for a motion moved without notice to suspend the standing orders to be carried (an absolute majority of members).<sup>127</sup>

10.67. An absolute majority of members of the Assembly is taken to be 13 members of the Assembly (see Chapter 8: Sittings of the Assembly, under the heading ‘Forming a quorum’). The practice of the Assembly is that when the question on a motion without notice to suspend the standing orders is carried on the voices, it is taken to have been carried by an absolute majority of members.

## Balloting

10.68. Though no question has been determined in the Assembly by ballot (ballots have been used for the election of office holders<sup>128</sup> and for the determination of committee membership), the Assembly is not necessarily precluded from voting by way of ballot if the circumstances require. In fact, standing order 265 provides for a ballot to be taken whenever the Assembly thinks fit. Any procedures adopted by way of ballot may need to state explicitly that members voted in this way.<sup>129</sup>

10.69. Standing orders include specific provision for the election of Speaker, Deputy Speaker and Chief Minister by ballot (when two or more members are proposed for the same position). They also provide for the election of a Leader of the Opposition<sup>130</sup> and the determination of committee membership<sup>131</sup> by ballot.

10.70. Before the Assembly proceeds to any ballot, the bells must be rung for up to four minutes, as is the case when a vote is called for.<sup>132</sup>

10.71. The provisions set out in standing order 267 explicitly provide for the manner of taking a ballot.

## Amendments

10.72. Another key form of parliamentary proceeding is an amendment. An amendment is a subsidiary motion—a proposal for fundamental or partial change in, curtailment of, or addition to, a motion already before the House.<sup>133</sup> The procedure of moving amendments has been used prolifically in the Assembly

---

127 Standing order 272.

128 Where, though there are motions moved, no question is proposed or put.

129 Section 18(2) of the Self-Government Act providing that questions shall be decided at a meeting of the Assembly by a majority of the members present and voting (unless a special majority is required by the standing rules and orders).

130 Should the two largest non-government parties be of equal size—standing order 5B. MoP, No 1, 11 May 1989, p 4. Note the unusual procedures adopted by the Assembly on that occasion for the examination of the ballot papers by members.

131 Should there be more nominations for membership of a committee than there are places on the committee—standing order 222. MoP, No 75, 19 September 1990, p 307.

132 Standing order 266.

133 *Redlich*, Vol II, p 228.

and the practice is an important means by which members come to negotiate and compromise on the outcome of particular motions.

10.73. As *McGee* states:

Many Members may be totally opposed to [a motion that is before the House]. However, other Members may have some, but not entire, sympathy with the motion. Are they then to vote for the motion in its present form as being less than perfect but better than nothing, or are they to oppose it in the hope that they can support an improved motion later? The answer is that ultimately, when the question is put to the vote, they may well have to decide between these two alternatives, but meanwhile another course is open to them – they could seek to have the motion amended.<sup>134</sup>

- 10.74. Amendments may be moved after the main question has been proposed. They may be moved by any member (except the mover of the motion, who would need leave to do so) who has the call, and they must be in writing and signed by the mover. An amendment can only be moved if copies have been circulated to members.<sup>135</sup> Should a member propose to move an amendment in the detail stage of a bill's consideration, a signed copy of the amendment must be delivered to the Clerk's office by 12 noon on the day prior to the sitting at which the amendment is proposed to be moved and the Clerk must arrange for its circulation to members as soon as possible.<sup>136</sup> Debate may even be adjourned to give members a chance to consider recently circulated amendments.
- 10.75. Not every motion is open to amendment. For example, it is not permissible to move amendments to some motions that are set out in standing order 63 (Matters not open to debate), and no amendment may be moved to the question 'That the Assembly do now adjourn'.<sup>137</sup> Though there is no specific prohibition in the standing orders, it would not be permissible to move an amendment to a motion to appoint members to a committee.<sup>138</sup> The correct procedure is for all nominations to be notified in writing and, in the event that there are more nominations than places, the Assembly proceeds to a ballot to decide the matter.

## Form of amendments

- 10.76. A question, having been proposed, may be amended by:
- omitting certain words only;
  - omitting certain words in order to substitute other words; or
  - inserting or adding words.<sup>139</sup>

---

134 *McGee*, p 215 (Third edition).

135 Standing order 139.

136 Standing order 178A.

137 Standing orders 34 and 35.

138 Pursuant to standing order 222.

139 Standing order 138.

- 10.77. An amendment must, for the purposes of the record, be provided in writing and be signed by the mover and can only be moved if copies have been circulated to members.<sup>140</sup> An amendment must be legible and, further, every amendment must be drawn up so as to leave the question in an intelligible form<sup>141</sup> and not a meaningless collection of words.
- 10.78. As with motions, the Clerk may correct typographical, grammatical and clerical errors in amendments that have passed the Assembly.<sup>142</sup>

## Content of amendments

- 10.79. Though the standing orders do not contain any reference to amendments that are a direct negative, an amendment is not in order if it is confined to the mere negation of the terms of a motion. The proper mode of expressing a completely contrary opinion is by voting against a motion without seeking to amend it.<sup>143</sup> As in the House of Representatives, an amendment, either to the original question or a proposed amendment, must be framed so that, if it is agreed to, the question, or question as amended, is intelligible and internally consistent.<sup>144</sup> Amendments may be moved which evade an expression of opinion on the main question by entirely altering its meaning and object. This is usually effected by moving for the omission of all or most words of the question after ‘That’ or ‘That this Assembly’ and proposing the substitution of an alternative proposition. Most importantly, the alternative proposal must be relevant to the subject of the original question.<sup>145</sup>
- 10.80. The most important rule relating to amendments is that they must be relevant to the question upon which they are moved.<sup>146</sup> An amendment, whilst it may restrict the area of relevancy in a debate, may not expand it.<sup>147</sup> An amendment can be used to change the details of a proposition before the Assembly but not the proposition itself. An amendment may not expand the area of relevancy in a debate, though it may temporarily restrict it whilst the Assembly turns its exclusive attention to a narrower amendment.<sup>148</sup> This rule has not been strictly adhered to in the Assembly. For example, it has been permitted to widen the scope of a motion expressing lack of confidence in a minister over a particular issue to also

---

140 Standing order 139 and 182 (bills). An amendment circulated without the sponsoring member’s name on it has been accepted as the member had signed it, *Assembly Debates*, 2 August 2018, p 2627.

141 *Assembly Debates*, 21 November 1996, p 4204. *Redlich*, Vol II, p 229.

142 Standing order 147A.

143 *Assembly Debates*, 21 November 1996, pp 4205-4206. *House of Representatives Practice*, pp 309-310.

144 *Assembly Debates*, 7 May 2009, pp 2157-2158.

145 MoP, No 76, 22 October 2003, pp 980-981; *Assembly Debates*, 22 October 2003, pp 3930-3931; and see *House of Representatives Practice*, pp 310-311.

146 Standing order 140. And see *Redlich*, Vol II, p 229.

147 *Assembly Debates*, 21 November 1996, pp 4204-4205.

148 *McGee*, pp 215-216. Though it should be noted that the practice in the Assembly, in somewhat similar vein to that of the House of Representatives, is that unless a member clearly indicates otherwise (and so confines their remarks) a member speaking to an amendment is taken to also be speaking to the main question.

express lack of confidence in a second minister, though over the same issue.<sup>149</sup> In following the practice of the House of Representatives, many amendments have been moved in the Assembly, and accepted as being in order, that were arguably expanded negatives in that they usually sought to put alternative propositions to the Assembly. In other words, amendments have been allowed which evade an expression of opinion on the main questions by altering their meaning and object.<sup>150</sup>

10.81. This issue has received some consideration on the floor of the Assembly. It has also been the subject of a number of rulings by Speakers.

10.82. A key ruling was made by the Speaker in 1996 in relation to the following motion:

That this Assembly require the Government to put before it any proposed use of Lake Burley Griffin, Lake Tuggeranong or Lake Ginninderra or their foreshores prior to granting any permission for a new use of these areas for any purpose.

10.83. An amendment was circulated that proposed to omit all words after ‘That this Assembly require the Government to’ and substitute the words ‘undertake appropriate consultation in regard to significant public works development in the ACT’. The Speaker upheld a point of order that the foreshadowed amendment was not relevant to the motion. A motion of dissent from the ruling was then moved, by leave. Following debate, the motion of dissent was negatived. An amendment to insert the word ‘significant’ before the words ‘proposed use’ was ruled as being in order. Following the expression of concerns from the floor regarding consistency in practice, the Speaker later presented reasons for his rulings to the Assembly.<sup>151</sup> In rulings since, amendments that propose to widen the scope of motions have consistently been ruled out of order.<sup>152</sup>

---

149 MoP, No 83, 23 November 1993, pp 473-474; Assembly Debates, 23 November 1993, p 3953.

150 Assembly Debates, 21 November 1996, pp 4205-4206. An example given was where, a minister having moved a motion of censure of the Leader of the Opposition, the Leader of the Opposition moved an amendment which proposed to substantially change the nature of the motion in that it proposed to censure the Minister for Health on a related matter. See comments at *May*, pp 446-449. At the time of the adoption of the March 2008 amendments to the standing orders, a proposal to amend standing order 140 to declare amendments which omit a substantial part of a motion or offer an alternative proposition as unacceptable was negatived in the Assembly. See MoP, No 132, 6 March 2008, p 1389.

151 MoP, No 66, 25 September 1996, p 463; Assembly Debates, 25 September 1996, pp 3342-3350; Assembly Debates, 21 November 1996, pp 4203-4206.

152 See, for example, Assembly Debates, 11 December 1996, pp 4718-4719; Assembly Debates, 25 August 1999, pp 2430-2431; MoP, No 15, 8 May 2002, p 135; Assembly Debates, 8 May 2002, pp 1298-1299; MoP, No 18, 15 May 2002, p 165, Assembly Debates, 15 May 2002, p 1684; MoP, No 97, 31 March 2004, p 1284; Assembly Debates, 31 March 2004, pp 1393-1394. And see, in particular, Assembly Debates, 19 November 2003, pp 4363-4364; MoP, No 87, 20 February 2019, p 1268.

- 10.84. In 2013, a notice of motion to disallow a variation to the Territory Plan having been called on and moved, an amendment was moved to omit all words after ‘That’ and substitute other words noting various facts about the plan and calling on the government to take certain action in relation to the variation. A point of order was raised as to whether the amendment adequately dealt with the motion of disallowance and the Speaker ruled the amendment out of order.<sup>153</sup>
- 10.85. Members may not introduce by way of amendment a motion that, under the standing orders, must be brought forward as a substantive motion (after notice or by leave),<sup>154</sup> nor is it permissible to introduce a matter that relates to, or may relate to, the behaviour or physical or mental capacity of a judicial officer.<sup>155</sup>
- 10.86. Standing orders impose certain restrictions on amendments to the question ‘That this bill be agreed to in principle’,<sup>156</sup> amendments to bills<sup>157</sup> and amendments to money proposals.<sup>158</sup> In addition, an amendment may not anticipate a matter on the *Notice Paper*.<sup>159</sup> An amendment would be out of order were it to be substantially the same as a motion that had been negatived or agreed to in that calendar year<sup>160</sup> or if it were inconsistent with a previous decision on the question.<sup>161</sup>

## Progress in the Assembly

- 10.87. As an amendment is strictly dependent on the main question, it cannot be moved until the chair has proposed the main question. The member may read out the terms of the amendment when moving it, but the usual practice is to move the amendment by using the words ‘in the terms as circulated in the chamber’ or words to similar effect.

---

153 MoP, No 18, 8 May 2013, pp 171-172; Assembly Debates, 8 May 2013, pp 1679-1685. Section 80 of the Planning and Development Act contains very specific provisions relating to rejection notices, and the Speaker further reported to the Assembly on the matter and presented advice from the Acting Government Solicitor on the matter. MoP, No 23, 4 June 2013, p 211; Assembly Debates, 4 June 103, pp 2189-2190. Although see MoP, No 86, 18 November 2010, pp 1040-1042.

154 *Redlich* Vol II, p 230.

155 See Chapter 7: The courts.

156 Standing order 173. See Chapter 12: Legislation, under the heading ‘Consideration of bills by the Assembly’.

157 Standing order 181. See Chapter 12: Legislation, under the heading ‘Consideration of bills by the Assembly’.

158 Standing orders 201 and 201A. See Chapter 12: Legislation, under the heading ‘Consideration of bills by the Assembly’.

159 Standing order 130.

160 Standing order 136. And see Assembly Debates, 17 August 2005, p 2837 and *May*, p 435. The Speaker has a discretion in the application of the same question rule, for good reason. For example, it would be a nonsense to strictly apply the same question rule to amendments to the provisions of a bill that were substantively the same as an earlier amendment that had already been agreed to.

161 Standing order 141.



- 10.88. Standing orders 139 and 178A place particular requirements on members to provide signed copies of proposed amendments in a timely manner for circulation to members.
- 10.89. Once an amendment has been moved in the Assembly, the chair proposes the question ‘That Ms X’s amendment [No ...] be agreed to’.<sup>162</sup> The question on the amendment thus temporarily supersedes the question on the original motion.
- 10.90. Debate may then ensue on the amendment and it is Assembly practice that a member speaking to an amendment, who is yet to speak to the main question, is taken to be also speaking to the main question.
- 10.91. There may, of course, be more than one amendment proposed to the main question. There are, therefore, certain key provisions which ensure that the business of the Assembly progresses in an orderly and logical manner and does not end in confusion with nonsensical and unintelligible proposals.
- 10.92. Firstly, and most importantly, any amendment proposed must be disposed of before another amendment to the original question may be moved.<sup>163</sup>
- 10.93. Should several amendments be proposed to the same motion, they must be taken in the order in which the words of the original motion affected by them appear in that motion to ensure that the Assembly moves logically through the consideration of a question. Members are required to circulate proposed amendments and the chair will usually try to ensure that the call is allocated in a manner that will enable amendments to be moved in order.<sup>164</sup>
- 10.94. An amendment may not be moved to any part of a question after a later part has been amended, or after a question has been proposed on an amendment to a later part.<sup>165</sup>
- 10.95. Another key point is that an amendment may not be proposed which is inconsistent with a previous decision on a question.<sup>166</sup> Should the Assembly have, for example, agreed to substitute, insert or add words to a question, it would be out of order to propose an amendment to those words unless it were to add words.

---

162 This has been Assembly practice. The practice that has been utilised in the House of Representatives has not been adopted in the Assembly (though standing orders would not preclude it). See *House of Representatives Practice*, p 313, and, in particular, see *House of Representatives Practice* (Sixth edition), pp 314-316.

163 Standing order 143.

164 However, prior circulation of an amendment could not be taken to confer on any member the right to the call and any member receiving the call must have the right to move an amendment (subject to its prior circulation). *House of Representatives Practice*, p 308. When more than one member seeks to move an amendment to the same part of a motion, it is expected that the chair would call the member who, in the Speaker’s opinion, was first. See standing order 44.

165 Standing order 142.

166 Standing order 141.

- 10.96. During a debate on an amendment a proposed amendment may, by leave, be withdrawn<sup>167</sup> and amendments may be moved to proposed amendments.
- 10.97. At the conclusion of the debate on the question ‘That the amendment be agreed to’ the chair puts the question. If the question on an amendment is resolved in the affirmative, the original question is superseded and the question is then proposed ‘That the motion, as amended, be agreed to’ (thus becoming the principal question). If the question is negated, the question is proposed as originally proposed.<sup>168</sup> Both questions are open to debate.

## Amendments moved to amendments

- 10.98. An amendment may be moved to a proposed amendment. It would be dealt with in the same procedural sequence as an amendment to a motion—that is, the question on the original proposed amendment is temporarily suspended by the question on the subsequent proposed amendment.<sup>169</sup> The chair would require the Assembly to deal with the amendment to the original amendment before dealing with the amended (or unamended) amendment, and then the amended (or unamended) motion. This is by no means unusual in the Assembly. The Assembly has considered an amendment to an amendment to an amendment.<sup>170</sup>
- 10.99. In the case of serial amendments, the chair works back to the original motion, the question on each amendment being resolved by way of separate questions being put to the Assembly.

## Orders and resolutions of the Assembly

- 10.100. Once agreed to, a motion becomes an order or a resolution of the Assembly. *Redlich* states:

The result of ascertaining the will of the House ... may be an expression of either command or wish, an order or a resolution. There is no third form of parliamentary action. The essential difference between the two is that resolutions are directed to the outer world, and orders to the internal affairs of the House.<sup>171</sup>

- 10.101. By its orders, a House directs its committees, its members, its staff, the order of its own proceedings and the acts of all persons whom they concern. By its resolutions, a House declares its own opinions and purposes.<sup>172</sup> However, as

---

167 Standing order 144.

168 Standing orders 146 and 147.

169 Standing order 145.

170 MoP, No 117, 25 August 2004, p 1685; MoP, No 51, 21 March 2018, pp 735-737; MoP, No 124, 12 February 2020, p 1855.

171 *Redlich*, Vol II, p 222.

172 *May*, p 418.

*House of Representatives Practice* points out, in practice the terms are often used synonymously, with (in that House) ‘resolution’ being the term most generally used.<sup>173</sup>

- 10.102. The Assembly makes many orders on a day-to-day basis, almost exclusively as directions in the conduct of its proceedings. Over the course of an Assembly a myriad of such orders would be made; it is how the Assembly conducts its business. The term ‘order’ is also used to describe an abstract formulation of a rule as to the business of the Assembly and certain of its orders clearly have an ongoing effect or are recognised as having ongoing validity (see Chapter 9: Conduct of the business of the Assembly).
- 10.103. In a limited way the Assembly’s orders can have a bearing outside the Assembly. The Assembly’s power to send for ‘persons, papers and records’ underpins its power to conduct inquiries and the Assembly has power to punish breaches of privilege or contempts (see Chapter 2: Parliamentary Privilege—The powers and immunities of the Assembly).
- 10.104. It is by no means unusual for the Assembly to order the production of papers or records,<sup>174</sup> even ordering the executive to commission an independent audit to determine the assets and the public debt associated with those assets<sup>175</sup> and to order that documents be tabled by a certain time.<sup>176</sup> The Assembly’s practices in relation to production orders were considerably altered with the adoption, on 12 February 2009, of temporary order 213A, which established a process by which claims of public interest immunity, made by the executive in the face of a production order, could be arbitrated by an independent third party. More information

---

173 *House of Representatives Practice*, p 314.

174 See, for example MoP, No 133, 20 November 1991, p 575 (order requiring the Minister for Health to provide the monthly budgetary figures, in approximately the same form as provided to the estimates committee, within 48 hours of receiving them from the Board of Health); MoP, No 18, 20 September 1995, p 138 (order requiring the government, among other things, to provide a list of products purchased by them which were manufactured by French companies or were a product of France); and see MoP, No 25, 26 October 1995, p 182 and MoP, No 62, 3 September 1996, p 433 (‘terminating’ an earlier order of the Assembly that ‘an indefinite ban be implemented against the purchase [by the Government] of products which are manufactured or supplied by French manufacturers or suppliers or are produced in France’); MoP, No 49, 5 May 1999, pp 403-405 (order of the Assembly regarding the presentation of documents in relation to the Bruce Stadium redevelopment); and MoP, No 92, 4 March 2004, p 1162 (Speaker tables letter reporting to the Assembly on action taken regarding community services accommodation in response to a resolution of the Assembly (MoP, No 85, 10 December 2003, pp 1069-1070).

175 MoP, No 21, 27 September 1989, p 85; Assembly Debates, 27 September 1989, pp 1565-1568. MoP, No 22, 28 September 1989, p 88; Assembly Debates, 28 September 1989, pp 1597-1599.

176 See, for example, MoP, No 34, 14 December 1995, p 243 (order requiring the Chief Minister, by the end of the sitting, to table all details of certain expenses incurred regarding the appointment of the chief executive officer of her department); MoP, No 36, 21 February 1996, p 259 (order directing minister to table certain records by close of business that day); MoP, No 38, 27 February 1996, p 269 (order requiring Chief Minister to respond to a question on notice by the adjournment of the Assembly that day (and see MoP, No 38, 27 February 1996, p 270); MoP, No 40, 29 February 1996, pp 279 and 281 (order requiring the Chief Minister to table a report before the Assembly rose that day).

on the arbitration of public interest immunity claims is provided in Chapter 2: Parliamentary Privilege—The powers and immunities of the Assembly, under the heading ‘Production orders and public interest immunity’. The temporary order was adopted as a standing order on 22 March 2012.

- 10.105. The Assembly has both expressed support for, and dissociated itself from, actions of the executive.<sup>177</sup> By way of resolution, it has purported to order or direct the executive to take certain action<sup>178</sup> (and the executive has complied).<sup>179</sup> Petitions have been received which have requested the Assembly to demand that a minister reverse a decision<sup>180</sup> and requesting the Assembly to direct that a minister undertake certain action.<sup>181</sup>
- 10.106. At times concerns have been expressed that the Assembly has encroached upon the role of the executive (see Chapter 6: The ACT Executive, under the heading ‘Respective roles of the Assembly and the executive’), but as a rule such resolutions cannot be said to have legal efficacy on the outside world. The Assembly is able to bring its power of direction into play only in the form of an Act of parliament.<sup>182</sup> Though it is common for the Assembly to legislate to ensure that its resolutions

177 MoP, No 78, 1 March 2000, pp 753-754 (resolution condemning and dissociating the Assembly from an ACT Government submission to a Senate committee inquiry).

178 See, for example, MoP, No 22, 28 September 1989, p 88; MoP, No 108, 18 May 1994, p 610 and MoP, No 111, 15 June 1994, p 625 (resolution instructing minister to facilitate distribution of personal identification cards); MoP, No 18, 20 September 1995, p 138 (resolution requiring government to provide a list of French products purchased by the government and implement a ban thereon, and see MoP, No 62, 3 September 1996, p 433-434—order terminated); MoP, No 97, 26 June 1997, p 725 (resolution requiring government to refrain from certain administrative action regarding the implementation of surveillance cameras that was not in accordance with an Assembly committee report); MoP, No 104, 18 October 2000, pp 1024-1025 (resolution calling on government to appoint a board of inquiry into disability services, and see MoP, No 106, 29 November 2000, pp 1052-1053); MoP, No 118, 7 March 2001, pp 1303-1304 (resolution directing that there be no involuntary redundancies among a nominated group of forestry workers without the approval of the Australian Industrial Relations Commission); MoP, No 121, 28 March 2001, pp 1322-1323 (resolution directing the government to set a nominated rate as a maximum rate as workers’ compensation premium payable by certain companies and the operation of the rate be limited to a certain period); MoP, No 73, 24 September 2003, pp 935-938 (resolution directing, among other things, the Chief Minister to write to the premier of New South Wales and a minister in his government advising them of the Assembly’s views on the Canberra-Sydney rail link); and MoP, No 101, 13 May 2004, pp 1332-1333 (resolution calling on the government to implement certain policies regarding youth music in the Territory and report back to the Assembly within a certain time—and see ministerial statement made in response MoP, No 112, 5 August 2004, p 1596). For resolutions ordering the executive to table specified documents and associated matters, see also MoP, No 39, 20 November 2002, p 414; MoP, No 47, 20 February 2003, p 562; MoP, No 64, 25 June 2003, p 789; MoP, No 65, 26 June 2003, pp 791, 798-799 and 800; MoP, No 70, 27 August 2003, pp 907-909. No such motions were moved during the Sixth Assembly, which had a majority government.

179 See, for example, MoP, No 26, 20 August 2002, p 244, where the Speaker presented responses to resolutions of the Assembly regarding, variously, the East Timorese Parliament, the optional protocol to the Convention on the elimination of All Forms of Discrimination Against Women, elder abuse in the ACT and property matters in de facto relationships.

180 MoP, No 13, 25 June 1998, p 99.

181 MoP, No 14, 25 August 1998, p 109.

182 *House of Representatives Practice*, p 313.

do have legal effect,<sup>183</sup> even without legislative power the Assembly does have considerable persuasive power—the fact is that the Assembly has paramount power in guiding the executive and may even withdraw its confidence in the executive. This should not be overlooked. Ministers have been censured for failing to take action in accordance with the Assembly’s wishes as expressed in resolutions<sup>184</sup> and for failing to take certain action as directed by the Assembly.<sup>185</sup> A member has also been censured for failing to comply with an order to present a document.<sup>186</sup>

- 10.107. The standing orders and continuing resolutions of the Assembly, particularly the latter, give specific recognition to certain motions (and resolutions) of the Assembly, including motions of no confidence in the Chief Minister and votes of thanks or condolence.<sup>187</sup>

## Resolution or vote rescinded

- 10.108. A resolution or vote may be rescinded. Standing order 137 makes specific provision for a resolution or vote of the Assembly to be read and rescinded. A rescission of the same resolution or vote may not take place within the same calendar year unless three days notice is given. There is a proviso: to correct irregularities or mistakes, one day’s notice suffices or the corrections may be made at once by leave of the Assembly.
- 10.109. As in the House of Representatives, the practice is rarely invoked in the Assembly.<sup>188</sup> It is almost exclusively utilised, following the suspension of standing orders, to facilitate the reconsideration of bills (and parts thereof or questions decided thereon).<sup>189</sup> In addition (again, following the suspension of standing orders), the procedure has been used to rescind an order fixing a future day for the

---

183 See, for example, *Commissioner for Sustainability and the Environment Act 1993*, s 9 (Suspension and removal of commissioner); *Judicial Commissions Act*, s 5 (Removal of judicial officer) and s 18 (Resolution by Legislative Assembly); *Legislation Act*, s 65 (Disallowance by resolution of Assembly) and s 68 (Amendment by resolution of Assembly); *Planning and Development Act*, s 15 (Assembly may recommend directions to authority) and s 80 (Assembly may reject plan variations completely or partly) and *Territory-owned Corporations Act 1990*, ss 13(8) and (9) (directions re the transfer on trust for the Territory) and see MoP, No 83, 27 November 2003, p 1045 (Assembly approval of the disposal of undertakings of Totalcare Industries Limited in accordance with s 16(4) of the *Territory-owned Corporations Act 1990*).

184 MoP, No 30, 6 December 1995, pp 216-217.

185 MoP, No 72, 23 September 2003, p 925.

186 MoP, No 16, 25 June 1992, p 86.

187 Standing orders 81 and 126. For examples of votes of thanks, see MoP, No 106, 25 September 1997, p 816; MoP, No 29, 24 November 1998, p 233; MoP, No 59, 8 May 2003, p 725 (moved by leave).

188 See *House of Representatives Practice*, p 314 for comment on the rarity of such motions.

189 See, for example, MoP, No 40, 10 March 1999, p 336; MoP, No 86, 9 May 2000, p 832; MoP, No 95, 10 July 2000, p 937; MoP, No 114, 18 August 2004, p 1646; MoP, No 66, 29 June 2010, p 755 (rescission of a vote on a motion to take note of a paper); MoP, No 67, 30 June 2010, p 758 (suspension of standing and temporary orders to enable a vote on a clause of a bill to be taken again).

consideration of an order of the day,<sup>190</sup> to rescind particular orders and to rescind a vote concerning the appointment of a select committee.<sup>191</sup>

- 10.110. It is not uncommon for the Assembly to alter orders or resolutions by amending them, the practice usually being confined to the alteration of its own orders regarding the conduct of its proceedings or the appointment of its committees.<sup>192</sup> In addition, the Assembly from time to time puts aside the operation of its own standing orders by making a concrete order prescribing a course of procedure ‘notwithstanding the provisions of’ a particular order or particular orders (see Chapter 9: Conduct of the business of the Assembly, under the heading ‘Standing orders’).

---

190 MoP, No 10, 7 March 2002, pp 97-98.

191 MoP, No 91, 25 and 26 May 2000, pp 889-890.

192 See, for example, MoP, No 101, 13 May 2004, p 1331.