



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON ADMINISTRATION AND PROCEDURE
Speaker (Chair), Ms Tara Cheyne MLA, Mr Shane Rattenbury MLA,
Mr Andrew Wall MLA

Submission Cover Sheet

Review of Standing Orders

Submission Number: 9

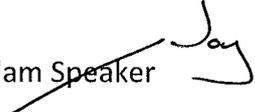
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Andrew Barr MLA
Chief Minister

Mick Gentleman MLA
Manager of Government Business



Ms Joy Burch MLA
Speaker
Attn: Secretary
Standing Committee on Administration and Procedure
ACT Legislative Assembly
GPO Box 1020
CANBERRA ACT 2601

Dear Madam Speaker 

Thank you for your letter of 8 March 2018 inviting submissions to the Legislative Assembly's Standing Committee on Administration and Procedure review of the Standing Orders.

Please find attached the ACT Government's Submission to the Standing Committee on Administration and Procedure's review of the Standing Orders of the ACT Legislative Assembly.

Yours sincerely


Andrew Barr MLA
Chief Minister
25 MAY 2018


Mick Gentleman MLA
Manager of Government Business

25/5/18

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**ACT Government Submission to the
Standing Committee on Administration and Procedure
Review of the Standing Orders of the
ACT Legislative Assembly**

**Andrew Barr MLA
Chief Minister**

**Mick Gentleman MLA
Manager of Government Business**

May 2018

Background

The ACT Government welcomes the opportunity to provide its Submission to the Standing Committee on Administration and Procedures Review of the Standing Orders of the ACT Legislative Assembly.

It is acknowledged that the Review arises from an obligation under Standing Order 16 which requires the Standing Committee on Administration and Procedure in each Parliamentary term to inquire into and report on the operation of the Standing Orders and continuing resolutions of the Assembly to ensure the practices and procedures of the Assembly remain relevant and reflect practices.

Summary

The suggested amendments aim to counter the rigidity of the Standing Orders and provide flexibility in the scheduling of Government Business. The Government Submission is grouped into three themes: consistency, flexibility and streamlining. A rationale for each suggested amendment has been listed below including either a new or revised existing Standing Order to give effect to the amendment. Revisions to existing Standing Orders have been bolded for clarity.

Consistency

1 Out of Session Circulation of Government Responses

Assembly Standing and Select Committees provide an important mechanism in reviewing Government action. Chapter 20 of the Standing Orders (SO) outlines the establishment and operation of such Committees. Chapter 20 of the SO do not have a specific section addressing the tabling of a Government Response. Instead it relies on past practice and convention. Additionally, while the SOs provide for out of session circulation of Government Responses to members, they do not provide an opportunity for the Committee to make the Government Response publically available until such time as the response is physically tabled in the Assembly. This inability to publish or make publically available the Government Response has been problematic for the bureaucracy.

The ACT Government recommends Chapter 20 could be improved for clarity and consistency with other Government Response processes by including a new SO 254B which clarifies the process for tabling a Government Response in the Legislative Assembly and also allows for the Legislative Assembly to publish the Government Response on the ACT Legislative Assembly webpage. A suggested revised SO 254A and new 254B are provided below.

254A. Government Response to Committee Report

If a government response has not been tabled in line with Standing Order 254B within four months of presentation of the report, the Chair of the committee may without notice:

- a) ask the relevant Minister for such an explanation or a statement in relation to the government response to the committee report; and
- b) the Chair may, at the conclusion of the explanation or statement, move without notice "That the Assembly takes note of the explanation".

In the event that the Minister does not provide an explanation or statement to the satisfaction of the Chair, that Chair may, without notice, move a motion with regard to the Minister's failure to provide a government response, or an explanation or a statement.

254B. Tabling of a Government Response to Committee Report

A government response to a Committee report must, within four months of presentation of the report, be:

- c) tabled in the Legislative Assembly if the Legislative Assembly is sitting; or
- d) provided to the Speaker for out of session circulation to members and be tabled on the next available sitting day.

A government response that has been circulated out of session is taken to have been tabled and authorised for publication.

2 Out of Session Circulation of Select and Standing Committee Reports

The ACT Government has previously been advised that the SOs do not allow for out of session circulation of Select or Standing Committee Reports. It is recommended a new SO be added to authorise committees to circulate their reports out of session, similar to s17(5) of the *Auditor-General Act 1996* (ACT). Such a standing order will give Committee's increased flexibility in releasing and distributing their reports to allow for improved and timelier scrutiny of Government action. A suggested new SO is provided below.

255. Out of Session Circulation of Report

If the Legislative Assembly is not sitting when a Select or Standing Committee has finalised the report,

- (a) the Chair of a Committee may provide the report, and a copy for each member of the Legislative Assembly, to the Speaker; and
- (b) the report is taken for all purposes to have been presented to the Legislative Assembly on the day the Chair gives it to the Speaker (the report day); and
- (c) publication of the report is taken to have been ordered by the Legislative Assembly on the report day; and
- (d) the Chair must present the report to the Legislative Assembly on the next sitting day.

3 Editorial Update to Index

The index on page 118 lists disallowance motions with a reference to Standing Order 77(i). Standing Order 77(i) refers to papers related to Committees. The index reference should be to Standing Order 77(j) which categorises motions of disallowance or disapproval as Assembly Business. The ACT Government recommend this editorial mistake be corrected for clarity.

4 Timeframes for the lodgement of Questions on Notice following Committee Hearings

The current SOs make no mention of questions on notice (QONs) and questions taken on notice (QTONs) during the course of Select and Standing Committee inquiries. In the past, Standing Committees have set varying deadlines for the receipt of QONs; and response timeframes to QONs and QTONs. These inconsistencies create confusion across the service and in Ministerial Offices particularly during the Budget Estimates and Annual Report Hearing processes.

The ACT Government suggest the propose a new SO be incorporated to state supplementary questions on notice to a Committee hearing must be lodged with the relevant Committee within five business days of the hearing, and responses be due within five working days from receipt of the question.

The ACT Government further suggest responses to questions taken on notice during hearings be due within five working days from the responsible Minister's Office receipt of the uncorrected proof transcript, a similar timeframe to what has been set by Committee's

previously. The above revisions would assist both Committees and the Government through the hearing and inquiry process. A suggested new SO is provided below.

256. Questions Arising from Committee Hearings

- (a) A member must lodge a question on notice with the Committee within 5 working days following the conclusion of a Committee hearing. A response is due to the member within 5 business of the member's receipt of the question.
- (b) A member must respond to a question taken on notice in the course of a Committee hearing within 5 working days of the receipt of the uncorrected proof Hansard.

Flexibility

5 Flexibility to introduce Bills on a Tuesday without needing to seek leave

Currently, Standing Order 168 restricts Bills to being introduced on a Thursday, as advance notice of presentation must be delivered to the Clerk, in the Chamber during a sitting day (on a Tuesday or Wednesday).

Similar to the process for Private Members Business and Executive and Assembly Business motions, the ACT Government suggest that SO168, Notices of Presentation include a provision to allow notice to be given to the Clerk by 12 noon on the Monday of the sitting week of which the Bill is proposed to be introduced (for Tuesday introduction); or to the Clerk in the Chamber (for Thursday introduction).

This will allow Government to evenly spread the introduction of Bills across two days instead of one. A suggested revised SO 168 is provided below.

Notice of presentation

- 168.
- (a) Notice of intention to present a bill shall be given by a Member by delivering a copy of its terms to the Clerk's Office ~~in the Chamber during a sitting~~ either:
 - (i) by 12noon on a Monday of the sitting week of which a Bill is proposed to be introduced; or
 - (ii) in the Chamber during a sitting
 - (b) a notice of intention to present a bill shall specify the long title of the bill, and shall be signed by the Member and, if a co-sponsored bill, by another Member whose name is on the bill; (*Amended 6 March 2008 and 10 March 2016*)
 - (c) ...

6 Accessibility for Members with a disability or infirmity of the Legislative Assembly (MLA)

The ACT Government suggest the accessibility provisions of the Standing Orders be updated to provide for MLAs with a disability, or those who may be unable to physically stand to speak. The revisions to Standing Order 43 provide for an MLA by way of correspondence or motion in the Assembly, to arrange with the Speaker for authorisation to speak whilst sitting. Suggested amendments to Standing Orders 42 and 44 below reflect these suggestions.

The ACT Government also suggest that the Standing Committee give consideration to the accessibility of the Chamber for people with physical and sight disabilities.

Manner and right of speech

Members rise to address Speaker

42. Every Member desiring to speak shall rise and address the Speaker with the exception of Standing Order 43.

Indulgence to Members unable to stand

43. **In the event that a Member is unable to stand due to disability, illness or injury, the Speaker will determine with that Member an alternative way for the Member to seek the call and will advise the Assembly of the agreed arrangement.**

Speaker calls on Members to speak

44. When two or more Members are deemed to have risen to speak the Speaker shall call on the Member who, in the Speaker's opinion, deemed to have risen first. *(Amended 6 March 2008)*

Streamlining

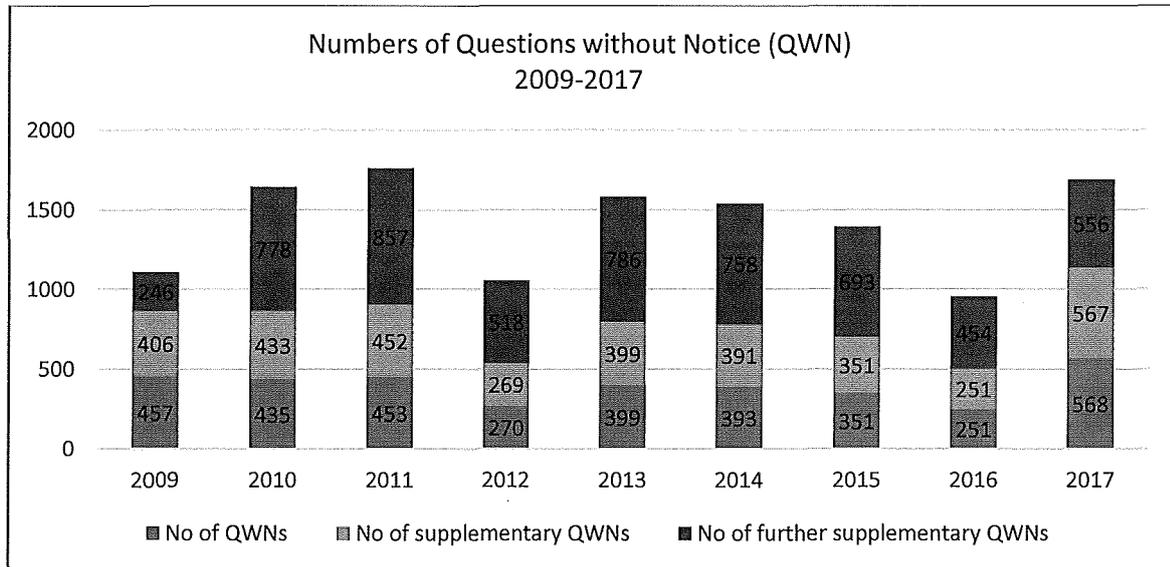
7 Streamlining the operation of question time

Currently Standing Order 113A states questions without notice shall not conclude until all non-Executive Members have asked at least one question, with provision for supplementary questions. To better utilise the time allocated to Question Time, the ACT Government suggest revising the related Standing Order provisions to a hybrid with that of the Australian Senate Standing Orders (72(3)). Particularly:

- limiting the duration of a question asked by each member to one minute;
- allowing for a single supplementary question limited to 30 seconds each; and
- shorten the duration of answers to supplementary questions to one minute each.

The Numbers of Questions without Notice (QWN) 2009-2017 table below, prepared from data provided by Chamber Support show the number of Questions without Notice, supplementary

questions and further supplementary questions. The table highlights that whilst the Standing Orders were amended on 13 December 2016 to limit members to one supplementary question, data from 2017 shows the increase in supplementary questions and further supplementary questions even with the standing order limitation.



The ACT Government suggests the Standing Orders should be updated to maintain efficiency in the use of the Assembly's time. A redistribution of timing will ensure Question Time remains focused and succinct allowing time for the continuation of other business in the Legislative Assembly. Suggested revised SOs are provided below.

Questions without notice and questions on notice

113. (a) A Member may ask a question in writing to be placed on the *Questions on Notice Paper* for written reply.
- (b) During question time, a Member may ask a question without notice **which does not exceed one minute in duration** for immediate answer (*Amended 6 March 2008, 13 December 2016*).

Questions without notice – number of questions

- 113A. Questions without notice shall not be concluded until all non-Executive Members rising have asked at least one question. (*Adopted 15 September 1994*)

Supplementary questions

113B. Immediately following the answer to a question, one supplementary **question with a duration no longer than 30 seconds may be asked by the Member who asked the original question**: provided that the supplementary question is relevant to the original question or arises out of the answer given, contains no preamble, introduces no new matter and is put in precise and direct terms. ~~The Speaker may allow one further supplementary question from other non-Executive Members, provided that the questions are relevant to the original question or the answers given.~~ *(Inserted 6 March 2008. Amended 27 August 2009, 13 December 2016)*

Answers to questions without notice

118. The answer to a question without notice:

- (a) shall be concise and directly relevant to the subject matter of the question *(Temporary order 9 December 2008. Adopted 22 March 2012)*; and
- (b) shall not debate the subject to which the question refers; and
- (c) shall, in the case of the original question, be not longer than two minutes in length, and in the case of any supplementary question asked, not longer than ~~two minutes~~ **one minute in length**. The Speaker may, at his/her discretion, order the clock to be stopped. *(Adopted 18 November 2003. Amended 27 August 2009, 13 December 2016)*

And the Speaker may direct a Member to terminate an answer if of the opinion that these provisions are being contravened or that the Member has had a sufficient opportunity to answer the question. *(Amended 6 March 2008)*.

8 Streamlining the Process for the Matter of Public Importance (MPI) – Duration

Currently 50 minutes is set aside for debate of the MPI with each member having a maximum of 10 minutes. Where members use their allocated 10 minutes, this limits participation in debate to 5 members only. The timing for the MPI was increased from 40 minutes to 50 minutes by recommendation of the Standing Committee on Administration and Procedures Review of Standing Orders for the 9th Assembly to accommodate the increased size of the Assembly.

The Government suggests the duration for debate of the MPI remain the same, however the maximum time available for each member be reduced to 5 minutes. A reduction in time for each member will allow for a more robust debate with 10 members able to participate as opposed to 5. A proposed revised SO 69 is suggest below.

Time limits for debates and speeches (Temporary order 9 December 2008. Adopted 22 March 2012)

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. The Speaker may at his/her discretion direct the clock to be stopped. *(Amended 6 March 2008)*

(g) Matter of public importance (under standing order 79)

Whole discussion.....	50 minutes
Each Member.....	10 minutes
	5 Minutes

(Amended 27 November 2012, 13 December 2016)