Inquiry into Ministerial Statements

Standing Committee on Administration and Procedure

JUNE 2015

Report 5

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Resolution of appointment

In 1995 the Legislative Assembly for the Australian Capital Territory (‘the Assembly’) amended Standing Order 16, which established the Standing Committee on Administration and Procedure (‘the Committee’).

Standing Order 16 authorises the Committee to inquire into and report on, among other things, the practices and procedure of the Assembly.

Terms of reference

On 12 February 2015 Mr Barr (Chief Minister) moved that the following motion, proposed by Ms Burch (Manager of Government Business) be referred to the Standing Committee on Administration and Procedure for inquiry and report.

“—That the following amendments to standing orders be made:

(1) Standing order 74

 *Omit and substitute*

74. The Assembly shall proceed each day with its ordinary business in the following routine:

 Prayer or reflection

 Presentation of petitions

 Notices and orders of the day

 Questions without notice

 Presentation of papers

 Matter of public importance

 Notices and orders of the day:

provided that at 2.30 pm on each day the Speaker shall interrupt the business before the Assembly in order that questions without notice shall be called on, and

(a) if a vote is in progress at the time fixed for interruption, that vote, and any vote consequent upon that vote, shall be completed and the result announced; and

(b) the Speaker shall fix a later hour for the resumption of the debate on any business under discussion and not disposed of at the time of interruption.

(2) Insert a new standing order 75A

**Ministerial statements**

75A. Ministers may, at any time between items of business, make a ministerial statement, provided that copies have been provided to the Speaker for circulation to all Members at least 2 hours prior to the statement being made.

(3) Standing order 212A (e)

 *Omit and substitute*

(e) papers presented by Ministers.”.

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# Recommendations

**Recommendation 1**

**The Committee recommends that, in relation to the authorisation for publication of documents, standing order 212(A) be amended to include all papers tabled by Ministers in the terms below:**

Standing order 212A (e)

 ***Omit and substitute***

**“(e) papers presented by Ministers.”.**

**Recommendation 2**

The Committee recommends that Option 2 – Allocate a specific time for ministerial statements in the morning and in the afternoon (as currently exists) – be adopted.

**Recommendation 3**

The Committee recommends that the following amendments be made to standing orders:

*Omit and substitute*

“74. The Assembly shall proceed each day with its ordinary business in the following routine:

Prayer or reflection

Presentation of petitions

Ministerial Statements

Notices and orders of the day

Questions without notice

 Presentation of papers

 Ministerial statements

 Matter of public importance

 Notices and orders of the day:

provided that at 2.30 pm on each day the Speaker shall interrupt the business before the Assembly in order that questions without notice shall be called on

(a) if a vote is in progress at the time fixed for interruption, that vote, and any vote consequent upon that vote, shall be completed and the result announced; and

(b) the Speaker shall fix a later hour for the resumption of the debate on any business under discussion and not disposed of at the time of interruption.

provided further that, in relation to ministerial statements, copies shall be provided to the Speaker for circulation to all Members two hours prior to the time at which the statement is proposed to be made; and that Ministers shall table a copy of the statement and move that the paper be noted.”

# Background

On 12 February 2015 a motion proposed by the Manager of Government Business, Ms Burch, was referred by the Assembly to the Standing Committee on Administration and Procedure for inquiry and report.

The motion proposed changes to the time and manner in which ministerial statements are dealt with.

Currently, Ministers may seek leave of the Assembly to make statements concerning matters of administration or policy for which they are responsible.

Ministerial statements are included in the routine of business (SO 74) following the presentation of papers and before the matter of public importance.

Standing order 74 also specifies that:

“provided further that, in relation to ministerial statements, copies shall be provided to the Speaker for circulation to all Members by 12 noon on the sitting at which the statement is proposed to be made or, when statements are proposed to be made at a different time to that specified in the routine of business, at least 2 hours prior to the statement being made. *(Adopted 27 November 2012)”*.

Once the statement has been made the Minister may then present a copy of the statement and then move “That the Assembly take note of the paper” in accordance with SO 214, or if the motion is not moved any other Member may seek leave to make a statement in relation to the paper.

Under the current standing orders, if the Minister tables a copy of the statement, it is not automatically authorised for publication, and so requests from non-Members for copies must be approved by the Speaker.

# Current practice

It has become the practice in the 8th Assembly for ministerial statements to be programmed in the mornings of sitting days. It has also been the practice for the Ministerial Statement to be listed on the Daily Program to give Members and the general public advance notice of the possibility of a statement being made and an indication of the topic.

Ministers are required to seek leave to make statements. Recent changes to standing orders which require the distribution of copies of statements 2 hours prior to the making of the statement reflects this practice and, so, statements have been circulated in the morning to meet the requirements of the standing orders.

# Distribution of statements to members

Up until November 2012, there had been a general, informal agreement that ministerial statements would be forwarded to opposition members prior to the statements being made so as to allow the opposition spokesperson the opportunity to formulate a response.

In some instances, Ministers indicated that they preferred to make a “statement, by leave” so as to not have to provide an advance copy. The distinction between a “Ministerial Statement” and a “Statement, by leave, by a Minister” was not clear and opposition spokespersons were inclined to deny leave for the latter if copies had not been provided.

# Options

The committee considered the following options in relation to the timing of ministerial statements.

**OPTION 1**

**Allow ministerial statements to be made at any time**

Issues

There would be a difficulty with programming ministerial statements on the *Daily Program* to give Members and the general public an indication of when statements would be made. This would also impact on the ability of a minister’s office to predict when a statement would be made and therefore to comply with the 2 hour distribution rule. It should be noted that if copies have not been distributed in accordance with standing order 75A leave would be required (and could consequently be denied). However, if this was not considered to be a problem, the following new standing order could be adopted to give effect to this option.

Insert a new standing order 75A:

**“Ministerial statements**

75A. Ministers may, at any time between items of business, make a ministerial statement, provided that copies have been provided to the Speaker for circulation to all Members at least 2 hours prior to the statement being made. Ministers shall table a copy of the statement and move that the paper be noted.”

**OPTION 2**

 **Allocate a specific time for ministerial statements in the morning and the afternoon**

Recent practice has been for ministerial statements to be made in the morning of sitting Tuesdays and Thursdays. Thus you could simply have SO 74 amended as follows:

“74. The Assembly shall proceed each day with its ordinary business in the following routine:

 Prayer or reflection

 Presentation of petitions

 ***Ministerial statements***

 Notices and orders of the day

 Questions without notice

 Presentation of papers

 Ministerial statements

 Matter of public importance

 Notices and orders of the day:

 provided that at 2.30 pm on each day the Speaker shall interrupt the business before the Assembly in order that questions without notice shall be called on, and

(a) if a vote is in progress at the time fixed for interruption, that vote, and any vote consequent upon that vote, shall be completed and the result announced; and

(b) the Speaker shall fix a later hour for the resumption of the debate on any business under discussion and not disposed of at the time of interruption.

provided further that, in relation to ministerial statements, copies shall be provided to the Speaker for circulation to all Members two hours prior to the time at which the statement is proposed to be made; **and that Ministers shall table a copy of the statement and move that the paper be noted**.”.

**OPTION 3**

 **Leave ministerial statements at the usual time in the ordinary routine of business**

No issues other than prolonging an afternoon session if there had been insufficient business to complete a full morning session. In the majority of sitting Tuesdays and Thursdays in 2015 the lunch suspension would have occurred well before 12:30 pm if the ministerial statements had been, in accordance with standing orders, given at the regular time after the presentation of papers and the adjournment much later.

# Ministerial Statements – Authorisation for publication

The present standing order relating to the automatic publication of documents (SO 212A) does not cover ministerial statements. It is proposed that the standing order be amended to include ministerial statements.

The proposed amendment below covers all papers presented by Ministers at any time and the standing order has the proviso that the Assembly has the capacity to otherwise order the non-publication.

Standing order 212A (e)

 *Omit and substitute*

“(e) papers presented by Ministers.”.

Recommendation 1

**The Committee recommends that, in relation to the authorisation for publication of documents, standing order 212(A) be amended to include all papers tabled by Ministers in the terms below:**

Standing order 212A (e)

 ***Omit and substitute***

**“(e) papers presented by Ministers.”.**

# Conclusion

The Committee discussed the three options proposed and agreed that Option 2 – Allocate a specific time for ministerial statements in the morning and the afternoon – be adopted.

This would give allow non-executive Members sufficient time prior to the commencement of the sitting day to consider the statement and formulate a response.

It would also provide certainty for the general public as to when a statement in which they are interested would be made.

It is envisaged that a Minister will not require leave to make a statement (provided it has been circulated 2 hours before) and that, at the conclusion of making the statement, the Minister will table the statement and move that the Assembly take note of the paper. This will allow other Members to debate the content of the statement in accordance with standing order 69(i).

**Recommendation 2**

The Committee recommends that Option 2 – Allocate a specific time for ministerial statements in the morning and the afternoon (as currently exists) – be adopted.

**Recommendation 3**

The Committee recommends that the following amendments be made to standing orders:

*Omit and substitute*

“74. The Assembly shall proceed each day with its ordinary business in the following routine:

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 Notices and orders of the day:

provided that at 2.30 pm on each day the Speaker shall interrupt the business before the Assembly in order that questions without notice shall be called on

(a) if a vote is in progress at the time fixed for interruption, that vote, and any vote consequent upon that vote, shall be completed and the result announced; and

(b) the Speaker shall fix a later hour for the resumption of the debate on any business under discussion and not disposed of at the time of interruption.

provided further that, in relation to ministerial statements, copies shall be provided to the Speaker for circulation to all Members 2 hours prior to the time at which the statement is proposed to be made; and that Ministers shall table a copy of the statement and move that the paper be noted.”

Vicki Dunne MLA
Chair

 June 2015