



LEGISLATIVE ASSEMBLY

Procedural Digest

Fifty-eighth Parliament, First Session

No. 1/2023: 9 May 2023 – 1 June 2023

This document provides a summary of significant procedural events and precedents in the Legislative Assembly. It is produced at the end of each sitting period. Where applicable the relevant Standing Orders are noted.

May-June 2023

M	T	W	T	F
8	9	10	11	12
15	16	17	18	19
22	23	24	25	26
29	30	31	1	2

Opening of the 58th Parliament

Attendance in the Legislative Council Chamber

Following the NSW State Election on 25 March 2023 the first session of the 58th Parliament of NSW was opened by the Lieutenant-Governor, His Excellency the Honourable Andrew Bell on 9 May 2023.

Members of the Legislative Assembly were requested to attend the Legislative Council Chamber to hear the Commission for the Opening of Parliament, and again, later in the day to hear the Lieutenant-Governor's Opening Speech to both Houses.

Votes and Proceedings: 9/5/2023, pp 3-4, pp 12-17.
Standing Orders 2 and 3.

Procedural Note:

The Governor was absent from the State on Tuesday 9 May 2023; hence the administration of the State was assumed by the Lieutenant-Governor.

The most recent example of a Lieutenant-Governor opening a session of Parliament was in 2006 for the opening of the second session of the 53rd Parliament. See *Votes and Proceedings*, [22 May 2006](#).

Pledge of loyalty or oath or affirmation of allegiance

After having returned from the Legislative Council Chamber to hear the Commission for the Opening of Parliament, the Clerk informed the House that the Governor, Her Excellency the Honourable Margaret Beazley AO KC had commissioned the Premier, the Hon. Chris Minns, the Deputy Premier, the Hon. Prue Car, and the Hon. Ryan Park to administer the pledge of loyalty or oath or affirmation of allegiance to the other Members of the Legislative Assembly.

Votes and Proceedings: 9/5/2023, pp 4-5, pp 12-17.
Standing Order 2.



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Election of the Speaker, Deputy Speaker and Assistant Speaker

Immediately after Members were sworn in, Mr Greg Piper was elected as Speaker of the Legislative Assembly, Ms Sonia Hornery was elected Deputy Speaker, and Mr Jason Li was elected as Assistant Speaker. In each case only one nomination was received for the position and the nominated Member was declared elected without the requirement for a ballot or vote.

Votes and Proceedings: 9/5/2023, pp 6-8.
Standing Orders 10, 10A, 10B, 11, 12, 13 and 14.

Law of Evidence Bill

Following the election of the Speaker, Deputy Speaker and Assistant Speaker, the Premier introduced the Law of Evidence Bill.

On the first sitting day of a new Parliament, before the Governor's speech is reported in the House it is customary for the House to conduct some business of a formal nature without notice, in assertion of its rights. This practice is an expression of the House's independence from the Crown.

Since 1901 the Law of Evidence Bill has been used for this procedure. The Bill is introduced but is not listed on the Business Paper and does not progress through any subsequent stage.

Votes and Proceedings: 9/5/2023, p 6.

Speaker's Statement – Acknowledgement and promotion of Aboriginal culture and heritage

In June 2016, the Legislative Council's General Purpose Standing Committee No.3 inquired into, and reported on, reparations for the Stolen Generations in NSW. The report, *Unfinished Business*, made 35 recommendations that sought to address the enduring effects of past government practices in relation to the Stolen Generations.

One of the inquiry recommendations was that each new Parliament commence with an acknowledgement of the strength and importance of Aboriginal cultures and heritage. The first acknowledgement was given at the Opening of the 57th Parliament in 2019.

On the first day of the new Parliament the newly elected Speaker made a further statement to recognising the events suffered by Aboriginal people in New South Wales. The Speaker also spoke to the work of the Parliament in response to those events and acknowledged the work still to be done in the future.

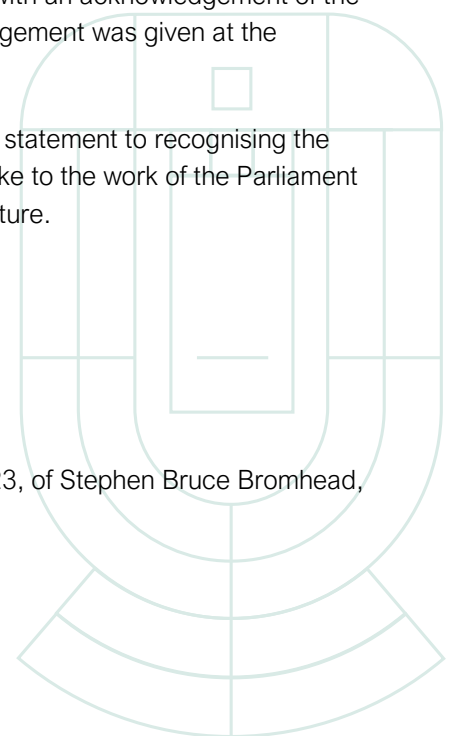
Votes and Proceedings: 9/5/2023, pp 15-16.

Members

Death of former Member

On 9 May 2023, the Speaker informed the House of the death, on 16 March 2023, of Stephen Bruce Bromhead, a former Member of the Legislative Assembly for the electorate of Myall Lakes.

Votes and Proceedings: 9/5/2023, p.17.





Inaugural speeches

The 2023 general election resulted in the election of twenty-five new Members to the Legislative Assembly. Members are permitted to make an inaugural speech under the Standing Orders. To facilitate the timing of inaugural speeches, a procedural motion to set up the routine of business is moved and resolved by the House under Standing Order 63.

On 10 May 2023, the Leader of the House, the Hon. Ron Hoenig, moved pursuant to SO 63, that business of the House be interrupted that day to permit the presentation of inaugural speeches that day by Mrs Sally Quinnell (Camden), Mr Steve Whan (Monaro), Mr Richie Williamson (Clarence) and Mr Michael Regan (Wakehurst); as well as on Thursday 11 May to permit the inaugural speeches by Mr Warren Kirby (Riverstone) and Mrs Donna Davis (Parramatta).

On 23 May 2023, the Hon. Ron Hoenig further moved that business of the House be interrupted on the following days for the presentation of the inaugural speeches as follows:

Tuesday 23 May 2023:	Mr Matt Cross (Davidson)
Wednesday 24 May 2023:	Mr Michael Kemp (Oxley) Mrs Tanya Thompson (Myall Lakes) Ms Maryanne Stuart (Heathcote) Ms Kobi Shetty (Balmain) Ms Stephanie Di Pasqua (Drummoyne)
Thursday 25 May 2023:	Mrs Judy Hannan (Wollondilly) Ms Kellie Sloane (Vaucluse)
Tuesday 30 May 2023:	Ms Liza Butler (South Coast) Ms Kylie Wilkinson (East Hills)
Wednesday 31 May 2023:	Mr Mark Hodges (Castle Hill) Mr Rory Amon (Pittwater) Mr Nathan Hagarty (Leppington) Ms Charishma Kaliyanda (Liverpool)
Thursday 1 June 2023	Mr Jordan Lane (Ryde)
Tuesday 20 June 2023	Mrs Tina Ayyad (Holsworthy) Ms Karen McKeown (Penrith)
Wednesday 21 June 2023	Mr Tri Vo (Cabramatta) Mr David Saliba (Fairfield)

Votes and Proceedings: 10/05/23 p. 46; 10/05/23 p. 50; 11/05/23 p. 56; 23/05/23 pp.66, 71; 24/05/23 pp. 77, 88; 25/05/23 pp. 86, 88; 30/05/23 p. 93; 31/05/23 pp. 109, 113; 01/06/23 p. 118.



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Hansard: 10/05/23 p. 13; 10/05/23 pp. 24-34; 11/05/23 pp. 18-26; 23/05/23 pp. 48-52, 24/05/23 pp. 25-32, 53-65; 25/05/23 pp. 27-32, 41-45; 30/05/23 pp. 12-18; 31/05/23 pp. 26-30, 37-41, 65-72; 01/06/23 pp. 20-27. Standing Order 63.

Procedural Note:

A Member's inaugural speech is the first speech they make in the Legislative Assembly as a newly elected Member regardless of prior parliamentary experience in another House of Parliament. The practice of making inaugural speeches in the Legislative Assembly dates back to the 1860s.

On this occasion, it is notable that on 10 May 2023, Mr Steve Whan gave his second inaugural speech in the Assembly, after a long history with the Parliament. Mr Whan had made his first inaugural speech on 29 April 2003 in the House where he served as the Member for Monaro from March 2003 to March 2011. He was then also a Member of the Legislative Council from June 2011 to March 2015.

It is the custom of the Assembly that Members giving their inaugural speech are extended additional courtesies by other Members of the House in that they will refrain from making interjections and interrupting in other ways for the duration of the speech.

It should be noted that prior to giving an inaugural speech Members are not prevented from participating in parliamentary business, for example, giving notices of motions, making Private Members' Statements and asking questions.

Standing Order 63 provides that the time limit for inaugural speeches or valedictory speeches is 20 minutes, however, in practice, as part of the traditional courtesies extended by the House, attention is not called to the expiration of time if a Member needs to speak beyond the time limit to conclude their speech.

Vacancies in the Legislative Council

On 10 May 2023, Members of the Legislative Assembly attended the Legislative Council Chamber for a joint sitting to elect persons to fill the seats in the Legislative Council vacated by the Hon. Mark Latham MLC and the Hon Natasha Maclaren-Jones MLC.

At the conclusion of the elections the Legislative Assembly Members returned to the Legislative Assembly Chamber and the Speaker reported that Ms Tania Mihailuk and Mr Scott Farlow been elected to fill the respective vacancies in the Legislative Council.

Votes and Proceedings: 10/5/2023, p. 48.

Procedural Note:

In the NSW Parliament casual vacancies in the Legislative Council are filled by a person elected at a joint sitting of both Houses called by the Governor. If the casual vacancy was previously filled by a member of a political party, only another member of that party may be elected to fill the vacancy. This is specified by section 22D of the [Constitution Act 1902](#).

Vacancy in the Senate of the Commonwealth of Australia



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On 9 May 2023, the Speaker reported a message from the Governor advising of the vacancy that had occurred in the representation of the State of New South Wales in the Senate of the Commonwealth of Australia through the death of Senator Andrew James (Jim) Molan AO DSC. In accordance with practice the House sent a message to the Legislative Council requesting the Council set a time and place for a joint sitting to choose a person to fill the vacancy.

On 30 May 2023, the Assembly received a message from the Council advising that the joint meeting would occur on Wednesday 31 May 2023 at 3.30 pm. When Members returned from the joint meeting on Wednesday, the Assistant Speaker reported that Ms Maria Kovacic had been chosen to fill the vacancy.

Votes and Proceedings: 9/5/2023, p. 18; 30/5/2023, p. 93; 31/5/2023, p110.

Procedural Note:

Section 15 of the [Commonwealth of Australia Constitution Act 1900](#) provides that casual vacancies in the Senate are filled by an election conducted during a joint sitting of the Houses of Parliament of the State that the outgoing Senator represented. Senators elected to fill casual vacancies must be from the same political party as the outgoing Senator. For more information on casual vacancies in the Senate, see Chapter 1 of [Odgers' Australian Senate Practice \(13th ed.\)](#).

Temporary Speakers

On 9 May 2023, the Speaker nominated Mr Alex Greenwich, Mr David Layzell and Mr Clayton Barr to act as Temporary Speakers in the absence of the Deputy Speaker and the Assistant Speaker during the current Parliament.

On 23 and 24 May 2023, the Speaker nominated Ms Donna Davis and Ms Stephanie Di Pasqua respectively to also act as Temporary Speakers. These two nominations saw the appointment of the full complement of five Temporary Speakers as provided for under Standing Order 19.

Votes and Proceedings: 9/5/2023, p. 17; 23/5/2023, p63; 24/5/2023, p74.
Standing Order 19

Business

Order for Papers

On 25 May 2023, the House, on the motion of the Member for Sydney, Mr Alex Greenwich, resolved to order the production of State papers relating to investigations into money laundering in clubs and pubs. The resolution called for documents created between 1 October 2021 and 30 June 2022 in the possession, custody or control of Liquor and Gaming NSW, the Independent Liquor and Gaming Authority and the Minister for Gaming and Racing.

Mr Greenwich was granted leave to move that standing and sessional orders be suspended to allow the moving of the motion, of which notice had not been given, forthwith. The suspension and the substantive motion were agreed to on the voices, with the Leader of the House, Mr Ron Hoenig, the Manager of Opposition Business, Mr Alister Henskens and two cross bench Members Ms Kobi Shetty and Mrs Helen Dalton all speaking in favour of the substantive motion.



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The motion stipulates that the documents are to be provided on Friday 23 June by 10.00 am and that they are to be lodged with the Clerk at which time they will be deemed to have been laid before the House. The motion further provided that, until such further time as ordered by the House, the inspection of the documents provided shall be restricted to Members of the Legislative Assembly only and that no copies or extracts of the documents will be allowed.

Prior to this occasion, the last time the House agreed to an Order for Papers was in 1998.

Votes and Proceedings: 25/5/2023, pp82-83.

Hansard: 25/5/2023, pp2-6.

Standing Order 269

Procedural Note:

Standing Order 269 provides: *The House may order Ministers to table papers. The order shall be communicated in writing to the Premier by the Clerk. The House may, by resolution, authorise the Speaker to make arrangements for the return of such papers.*

The power to order the production of State papers is an inherent, important and necessary power that assists a House of Parliament to exercise its function of scrutinising the Executive Government and holding it to account.

Standing Order 267 provides that a Minister when tabling a paper(s) may move forthwith "That inspection of the paper(s) be restricted to Members only and that no copies or extracts thereof be permitted". Such question shall be put forthwith and decided without amendment or debate.

The order for papers resolution agreed to by the House on 25 May provides that the papers will be lodged with the Clerk rather than tabled by a Minister in the House and that inspection will be restricted to Members.

Standing and Sessional orders

On 9 May 2023, the Legislative Assembly resolved to adopt new Sessional Orders. The Sessional Orders had a number of similar terms as those that were in operation at the end of the previous Parliament, with some substantive amendments.

A number of these orders, for example amendments to SO 35: Bells and SO 97: Routine of Business, implement the new sitting schedule and routine of business for this Parliament. The House will sit from 12 noon on Tuesday, and 10 am on Wednesday and Thursday, and the routine of business on each sitting day has changed.

Other amendments confirm the existing practises of the House into the Sessional Orders. This includes SO 46 (Adjournment without motion) which now states 'that a Minister may at any time move without notice a motion for the adjournment of the House'. SO 118A, which was first passed in the 57th Parliament, has again been adopted, requiring Members to respond to matters raised by the Legislation Review Committee in the second reading debate if it is reasonably practicable to do so, or otherwise by correspondence.

It should also be noted that there are changed times for lodging papers, including in regard to SO 101 (Establishing program for General Business Days), which now provides that Members must advise the Clerk in writing by 2.00pm of business that is to be postponed, to account for changes in the routine of business. Similarly, SO 119 (Lodgement of paper petitions) now requires that they be lodged with the Clerk by 10.00am on the day it is to be reported to the House.



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SO 131(Question Time) now provides that Crossbench Members are permitted at least two questions per Question Time, at question number 5 and number 13.

Lastly, a number of standing orders in relation to divisions have been amended by sessional order in line with previous practice to reflect the use of electronic tablets and to provide for sit down divisions.

The Consolidated Standing and Sessional Orders can be accessed on the Parliament's website [here](#).

Votes and Proceeding: 9/5/2023, pp. 27-36.

Standing Order 364.

Procedural Note:

Standing Order 364 allows the House to adopt Sessional Orders which have the force of, and may temporarily replace or modify, Standing Orders. Sessional Orders are made by a resolution of the House and do not require approval by the Governor, as Standing Orders do. Sessional Orders only have effect for the duration of a parliamentary session and therefore need to be re-adopted at the commencement of every new session.

Bills

First Home Buyer Legislation Amendment Bill 2023

The First Home Buyer Legislation Amendment Bill 2023 was introduced in the Legislative Assembly by the Minister for Planning and Public Spaces, the Hon. Paul Scully, on 23 May. The Bill amends the First Home Buyer Choice Scheme by raising the threshold for payment of stamp duty on the purchase of a property from \$650,000 to \$800,000 and creating concessions for payment of stamp duty on properties purchased for between \$800,000 to \$1,000,000. The Bill also removes the Scheme's existing option for first home buyers to pay land tax rather than stamp duty.

Legislation establishing the First Home Buyer Choice Scheme was introduced by the previous Government in November 2022 and commenced in January 2023. The First Home Buyer Legislation Amendment Bill 2023 was one of the first pieces of legislation introduced by the new Government as part of their fulfilment of election commitments.

On 30 May 2023, Opposition Member and former Treasurer Mr Matt Kean moved 15 amendments to the Bill in the consideration in detail stage. At that point the Member for Sydney, Mr Alex Greenwich, took a point of order that the proposed amendments were in breach of Standing Order 243. Standing Order 243 restricts the power to introduce any bill or amendment which proposes financial measures to a Minister or a Member who has received a certificate from the Governor. Standing Order 243 states:

The House shall not pass any vote, resolution or bill for the appropriation of any part of the Consolidated Fund, or for any other tax or impost to any purpose which has not been first recommended by message of the Governor during the session in which such vote, resolution or bill shall be passed. This provision does not apply to a bill introduced by a Minister or to a vote or resolution proposed by a Minister.

The Speaker ruled that Mr Kean's proposed amendments 2 – 14 were in breach of Standing Order 243, as they related to financial measures, however, amendments 1 and 15 were in order as they did not relate to financial measures.



Mr Kean proceeded to move amendments 1 and 15, which were subsequently negated on division. The Bill later passed the House and sent to the Legislative Council for consideration and passed the Parliament without amendment on 1 June 2023.

Votes and Proceedings: 23/05/2023, p. 68, 30/05/2023, pp.101-5.

Hansard (Proof): 30/05/2023, p. 92.

Standing Order 243.

s(46) *Constitution Act 1902*.

Procedural Note:

Standing Order 243 is one of a number of Assembly Standing Orders which relate to the special role of the Assembly in originating, passing and amending bills which contain financial measures (money bills).

These Standing Orders, together with s(5) and s(46) of the *Constitution Act 1902*, provide that all money bills must originate in the Legislative Assembly and that it is lawful only for Legislative Assembly Ministers to introduce bills for appropriation or taxation. Private members cannot introduce bills (or amendments to bills) containing financial measures unless supported by a message from the Governor.

The Standing Orders and *Constitution Act* reflect the long-standing Westminster convention that the Government is responsible for all legislation that imposes appropriation and taxation to fund the Government's activities. Private members, not being members of the Government, do not have the power to introduce bills or amendments to bills that impose financial measures.

Referral of Government Bill to a committee for inquiry and report

On 23 May 2023, the House resumed debate on the Residential Tenancies Amendment (Rental Fairness) Bill 2023, which had been introduced the sitting week prior by the Minister for Better Regulation, the Hon. Anoulack Chanthivong. The Bill amends the Residential Tenancies Act 2010, Property and Stock Agents Regulation 2022 and Residential Tenancies Regulation 2019, with the object of prohibiting the solicitation or advertisement of amounts of rent for residential properties that are higher than the advertised amount, otherwise known as "rent bidding" practices, and for the establishment of a portable bond scheme.

At the commencement of the resumed second reading debate, the Leader of the House, the Hon. Ron Hoenig, moved that the question on the second reading be amended to enable a Select Committee on the bill to be established and for it to report specifically on:

- (a) Whether clause 22B of the Bill will provide sufficient transparency for applicants to enable them to make informed decisions if bids higher than the advertised rental price are received during the application process to secure a residential tenancy.
- (b) The impact of clause 22B on improving disclosure and transparency requirements compared to the current rental application process.
- (c) How clause 22B might be expected to influence applicants' transactional behaviour.
- (d) Whether there are any additional measures to improve transparency for applicants during the rental application process or better protect applicants without formalising an auction process for rental properties.



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The Manager of Opposition Business, Mr Alister Henskens, Member for Newtown, Ms Jenny Leong, and Member for Sydney, Mr Alex Greenwich all spoke in support of the proposed amendment. Following which, Mr Ron Hoenig, moved that standing and sessional orders be suspended to provide that:

- (1) The question on the amendment to the motion that this bill be read a second time be put forthwith.
- (2) The resumption of the debate on the second reading of the bill be restored to the Business Paper on the tabling of the report of the select committee.

The motion to suspend standing orders was agreed to, resulting in the question on the amendment to the motion for the second reading being put forthwith, which was also agreed to on the voices.

Procedural Note:

A select committee may be appointed by the House to investigate and report on a particular subject. Once the committee has completed its investigation by tabling a final report with its findings and recommendations, the committee ceases to exist.

Standing Order 198 provides that a member can refer a bill to a committee for consideration by moving a motion to amend the question for the second reading. The member may move to amend the question 'That this bill be now read a second time' to leave out all words after 'That' and insert instead 'to refer the bill to a committee (as specified)'.

Once the report from the committee is tabled, the second reading debate will resume from the point it had reached prior to the House agreeing to refer the bill to the committee.

The last occurrence of a bill being referred to a committee was in 2019, for the *Professional Engineers Registration Bill 2019*, referred to the Legislative Assembly Standing Committee on Environment and Planning ([VP 21/11/2019 p. 499](#)). It is worth noting that the Professional Engineers Registration Bill was a Private Member's Bill and in fact had lapsed from the Business Paper by the time the report from the committee was tabled. The last occurrence of a Government Bill being referred to a committee occurred in 1992, and in this case the Constitution (Fixed Term Parliaments) Amendment Bill was referred to a joint select committee.

Further details of the [Bill](#) can be found on the Parliament of NSW website.

Votes and Proceedings: 23/5/2023, p. 70.

Hansard: 23/5/2023, p. 47.

Standing Order 198

Committees

Standing Committee on Parliamentary Privilege and Ethics

On 10 May 2023, the House resolved to establish a Standing Committee on Parliamentary Privilege and Ethics, and to appoint Members of the Legislative Assembly to that committee.

Votes and proceedings: 10/5/2019, pp. 48-49.



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Standing Order 315

Select Committee on Remote, Rural and Regional Health

On 11 May 2023, the House resolved to establish a Select Committee on Remote, Rural and Regional Health, and to appoint Members of the Legislative Assembly to that committee.

Votes and proceedings: 11/5/2023, pp. 57-58.

Standing Order 319.

