



LEGISLATIVE ASSEMBLY

Procedural Digest

Fifty-eighth Parliament, First Session

No. 2/2024: 12 – 21 March 2024

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.

March 2024

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Business

Condolence motion for the Hon. Brian Langton

On Tuesday 19 March the Leader of the House, Mr Ron Hoenig, moved a suspension of Standing and Sessional Orders to alter the Routine of Business on Wednesday 20 March to provide for the moving of a condolence motion at 2.30 pm and for the motion to be interrupted by and conclude after the Public Interest Debate, if required. The motion was passed on the voices.

The following day, Wednesday 20 March, the Premier, Mr Chris Minns, moved the motion of condolence for the Hon. Brian Joseph Langton, the former Member for Kogarah, Minister for Transport, Minister for Tourism, Minister for Fair Trading, and Minister for Emergency Services. The Premier extended his deepest sympathies to the friends and family of Mr Langton, who passed away on 17 October 2023. Eleven other Members spoke to the motion, recognising his service and contribution to the State of New South Wales.

The question was put and carried unanimously with Members and officers of the House standing as a mark of respect.

Votes and Proceedings: 19/03/2024, pp. 548-9, 20/03/2024, p. 567

Hansard (Proof): 20/03/2024, pp. 29-42

Standing Orders 118(2) (Business with Precedence) and 365 (Suspension of Standing Orders)

Procedural note

SO 118(2) provides that a condolence motion may be moved without notice by a member at any time. In practice the decision on the time and date for a condolence motion is determined by negotiation between the Leader of the House and relevant parties beforehand. It has also become practice for the Leader of the House to move a suspension of Standing and Sessional Orders setting out the change in the Routine of Business so that Members are fully aware of when a condolence motion will start and recommence if interrupted.



Suspension of Standing and Sessional Orders to allow for consideration of the Conversion Practices Ban Bill 2024

At 6.30 pm on Wednesday 20 March during the second reading debate on the *Conversion Practices Ban Bill 2024*, the Leader of the House, Mr Ron Hoenig, moved that Standing and Sessional Orders be suspended to provide that:

- any division called during Government Business for the remainder of the day would be deferred until 10.30am the following day
- for the remainder of the day the following motions may not be moved – Member be not further heard; Member be now heard; and Question be now put
- at the conclusion of Government Business the House to adjourn
- on Thursday 21 March that Community Recognition Statements be permitted for up to 60 minutes and additional Private Members' Statements be permitted.

The suspension was sought to permit debate on the Government's *Conversion Practices Ban Bill 2024*, which had been progressing for some time, to continue without interruption and ensure all Members could contribute. The intent of the motion was for the progression of the bill to the Legislative Council to occur as swiftly as possible and, anticipating that debate may go late into the evening, postponed Private Members' and Community Recognition Statements until the following day.

The Manager of Opposition Business, Mr Alister Henskens, spoke to the motion and Mr Greg Piper (in his capacity as a private member, not being the Speaker in the Chair at the time) and Ms Jenny Leong, by leave, also spoke to the motion. The motion passed on the voices after eleven minutes of debate. As it was, there were no divisions and the second reading debate concluded earlier than anticipated, shortly after 11.00 pm. The bill was then forwarded to the Legislative Council for concurrence.

Given the earlier than anticipated conclusion of debate, on the motion of the Attorney General, Mr Michael Daley, leave was granted, in accordance with Standing Orders 108 (3) and 108A (9), for up to eight Members to give Private Members' Statements and up to eight Members to give Community Recognition Statements.

Ultimately, the bill was returned by the Legislative Council in the am of 22 March 2024 after an all-night sitting in that House.

Votes and Proceedings: 20/03/2024, p. 570

Hansard (Proof): 20/03/2024, pp. 64 -5

Standing Orders 187 (restrictions on divisions) and 365 (suspension of Standing Orders)

Public Interest Debate – seeking leave to contribute

Each sitting Tuesday and Wednesday a Public Interest Debate is conducted as outlined in Standing Order 109. The motion for the Public Interest Debate is submitted by the Government on Tuesdays, the Opposition on the first and second sitting day Wednesdays, and the Crossbench on third sitting day Wednesdays. Including the mover, seven Members may speak in the debate, and at least one of these Members must be from the crossbench.

On Wednesday 20 March the Public Interest Debate topic was 'Regional Crime' and was moved by Mr Paul Toole. By leave, Ms Steph Cooke spoke to the motion as the eighth speaker in the debate.



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However, subsequent requests for leave to speak were denied. Leave was sought by, but not granted to, Mr Michael Kemp, Mr Richie Williamson, Mr Kevin Anderson and Mr Gurmeh Singh. At this point the Temporary Speaker, Mr Dave Layzell, stated that the will of the House was clear and that he could not accept further requests for leave to contribute to the debate. Two additional Members, Mr Geoff Provest and Mr Anthony Roberts, sought leave despite the decision of the Chair. Their names were not recorded in the Votes and Proceedings due to the Chair's ruling. The Temporary Speaker then reiterated no further requests for leave would be made and called for the mover of the motion to speak in reply.

Votes and Proceedings: 20/03/2024, pp. 567-9

Hansard (Proof): 20/03/2024, pp. 50-8

Standing Orders 96 (leave) and 109 (public interest debates)

Procedural note

Standing Order 96 provides that when the leave of the House is required it must be granted without dissent. A request for leave shall not be debated. This means that support for leave must be unanimous as only one dissenting voice is required to deny leave.

When multiple identical requests for leave have been denied by the House it is within the role of the Chair, in ensuring the orderly conduct of business, to observe that the will of the House on a matter appears to be clear and to advise other members to refrain from seeking leave.

However, it must also be noted that the denial of leave to one Member does not necessarily mean it will be denied to another. For example, during the Public Interest Debate on 13 September 2023 after one Government Member and one Opposition Member were granted leave, five Members of the Opposition were denied leave to speak. Following these requests, Independent Member Dr Joe McGirr was granted leave to speak on the motion as the tenth speaker. After his contribution, two additional Opposition Members sought leave and both were denied before the mover was called to speak in reply.

Suspension of Standing and Sessional Orders – consideration of messages from the Legislative Council

On Thursday 21 March, it became apparent that the Legislative Council would not return two Government bills before the Assembly concluded its Routine of Business for the day.

The Leader of the House, Mr Ron Hoenig, moved that Standing and Sessional Orders be suspended to permit the House to continue to sit after the conclusion of Private Members Statements to consider any messages from the Legislative Council. The suspension included the option for the Speaker to leave and resume on the ringing of one long bell.

The Temporary Speaker, Mr Clayton Barr, left the Chair at 9.11pm following the conclusion of the giving of Private Members Statements. The House did not resume until the ringing of one long bell at 6.48 am on Friday 22 March to report the returning of the *Bail and Crimes Amendment Bill 2024* and the *Conversion Practices Ban Bill 2024*, both without amendment.



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Votes and Proceedings: 21/3/2024, p. 575, p. 579

Hansard (Proof): 21/3/2024, p. 22; pp. 98-99

Standing Orders 34, 35 and 356

Procedural note

Suspending proceedings to continue a sitting beyond the completion of the Routine of Business allows the House to resume sitting at a later time without the requirement to observe a new Routine of Business.

A sitting day concludes on the adjournment of the House. While the Chair was vacated on Thursday 21 March and then resumed until Friday 22 March, the proceedings on 22 March were a continuation of the 21 March sitting day. Consequently, the proceedings are recorded in Hansard and the Votes & Proceedings as part of the one sitting day.

Committees

Referral of two Private Member's Bills to Committees for inquiry and report

The House agreed to refer two bills to committees for inquiry and report during the March sitting period, the *Equality Legislation Amendment (LGBTIQA+) Bill 2023* and the *Prevention of Cruelty to Animals Amendment (Virtual Stock Fencing) Bill 2023*. These are the third and fourth bills to be referred to committees this Parliament.

Equality Legislation Amendment (LGBTIQA+) Bill 2023

As we reported in [Digest 6/23](#), the last day on which the *Equality Legislation Amendment (LGBTIQA+) Bill 2023* could be considered by the House was 14 March 2024 as its lapsing date was 15 March 2024.

However, on Wednesday 13 March, the Member with carriage of the bill, Mr Alex Greenwich, moved a suspension of Standing and Sessional Orders to extend the lapsing date to 16 August 2024 and refer the bill to the Legislative Assembly Committee on Community Services for consideration and report. The motion was carried on the voices.

The Committee is due to report on the bill by 3 June 2024. On the Committee tabling its report, the resumption of the debate on the second reading of the bill shall be restored to its current relative position on the Business Paper.

Prevention of Cruelty to Animals Amendment (Virtual Stock Fencing) Bill 2023

The *Prevention of Cruelty to Animals Amendment (Virtual Stock Fencing) Bill 2023* is a private Member's bill introduced in the Legislative Assembly by the Member for Orange, Mr Philip Donato, on 8 February 2024. The bill seeks to amend the *Prevention of Cruelty to Animals Act 1979* to permit the use of virtual stock fencing devices for the purposes of confining, tracking and monitoring stock animals .

On Thursday 21 March, during the second reading debate, the Leader of the House, Mr Ron Hoenig, moved an amendment to refer the bill to the Legislative Assembly Committee on Investment, Industry and Regional Development for inquiry and report. The amendment to the motion was carried on the voices, with Mr Donato indicating he did not oppose the motion.



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The Committee is due to report on the bill by 22 October 2024, which incidentally falls after the bill is due to lapse on 18 April 2024. To counter this Mr Hoenig indicated, when speaking to his amendment motion, that he would ask the House to reinstate the bill if the Government were not in a position to respond 'appropriately' to the report of the Committee.

Votes and Proceedings: 13/3/2024, p. 521; 21/3/2024, pp. 575-576

Hansard (Proof): 13/3/2024, p. 21; 21/3/2024, pp. 31-2.

Standing Orders 198 (Amendment – referral to committee), 365 (Suspension of Standing Orders), 105 (Precedence and lapsing of General Business)

Procedural note

Standing Order 198 provides that a Member can refer a bill to a committee for consideration by moving a motion to amend the question on 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)'.

Standing Order 105(3) indicates for General Business Notices of Motions (for bills) and Orders of the Day (for bills), if not commenced or completed within 6 months from the date given, shall lapse.

New Joint Statutory Committee on Ageing and Disability

The *Ageing and Disability Commissioner Amendment Bill 2023* was introduced by the Minister for Families and Communities and Minister for Disability Inclusion, Ms Kate Washington, in November 2023. The bill amended the *Ageing and Disability Commissioner Act 2019* to implement a number of recommendations arising from an [independent statutory review](#) of the Act.

The bill passed the Legislative Assembly without amendment on 12 March and was sent to the Legislative Council for concurrence. The Legislative Council proposed amendments to the bill to establish a joint parliamentary committee on Ageing and Disability. These amendments implemented recommendation eleven of the statutory review, a recommendation that was not implemented in Minister Washington's original bill.

The Council amendments were considered and agreed to by the Assembly on 19 March and the bill was assented to on 3 April 2024.

The new joint committee is constituted under section 28A of the *Ageing and Disability Commissioner Act 2019* and will be administered by the Legislative Assembly. The committee will monitor and review the exercise of the roles and functions of the Ageing and Disability Commissioner, examine annual and any other relevant reports of the Ageing and Disability Commission, examine trends and changes in services and issues affecting adults with disability and older adults, and inquire into any question relating to the Commissioner's functions referred to it by both Houses of Parliament.

Votes and Proceedings: 19/03/2022, p. 542

Hansard (Proof): 19/03/2024, p. 21

Standing Orders 223 (Consideration of Council amendments) and 224 (Forms of question on Council amendments)



Procedural note

Committees may be established jointly or separately by the Legislative Assembly and the Legislative Council and operate in accordance with the relevant House's standing orders and establishing resolution. Unlike committees established by the Houses, a committee established under an Act of Parliament will operate in accordance with the provisions set out in its establishing statute which can include reference to the standing orders of a House and that such a committee be established each Parliament.

Bills

First Private Members' bill to pass both Houses in the 58th Parliament

The *Animal Research Amendment (Prohibition of Forced Swim Tests and Forced Smoke Inhalation Experiments) Bill 2023* was introduced in the Legislative Council by Ms Emma Hurst in May 2023. The bill prohibits the carrying out of forced swim tests and animal research in which an animal is forced to inhale smoke. The bill passed the Council on 7 February 2024 and was sent to the Legislative Assembly for concurrence. The Member for Sydney, Mr Alex Greenwich, took carriage of the bill in the Assembly and gave the second reading speech on 14 March. The second reading debate took place the same day and the bill passed the Assembly without amendment. The bill was assented to on 25 March 2024.

The bill is the first private Member's bill to pass both Houses in the 58th Parliament. The second private Member's bill to pass both Houses, the Assembly's *Human Tissue Amendment (Ante-mortem Interventions) Bill 2023* passed later that same day and was also assented to on 25 March 2024.

Votes and Proceedings: 14/03/2024, pp. 532 and 534

Hansard (Proof): 14/03/2024, pp. 5 – 8 and 22 - 31

Standing Order 229 (Procedure in the Assembly for Council Bills)

Human Tissue Amendment (Ante-mortem Interventions) Bill

As we noted in Digests [3/23](#) and [1/24](#) the *Human Tissue Amendment (Ante-mortem Interventions) Bill 2023* is a private Member's bill introduced in the Legislative Assembly by the Speaker and Member for Lake Macquarie, Mr Greg Piper, on Thursday 23 November 2023. The bill provides for ante-mortem procedures to be carried out on persons to facilitate post-mortem tissue donation.

The bill was due to lapse six months after notice was given, on 24 February 2024. However, on Thursday 8 February 2024 the House agreed to a new lapsing date of 31 May 2024.

On Wednesday 13 March, the Leader of the House, Mr Ron Hoenig, moved an amendment to a previous resolution of the House to suspend Standing and Sessional Orders to debate the *Human Tissue Amendment (Ante-mortem Interventions) Bill* in place of the *Environment and Planning Minerals Legislation Amendment (Offshore Drilling and Associated Infrastructure Prohibition) Bill* at 2.30 pm on Wednesday 13 March – a time usually set aside for consideration of Government business. Following the second reading debate, the bill passed the Assembly later that day and was sent to the Legislative Council for concurrence.

The Minister for Finance, Minister for Domestic Manufacturing and Government Procurement, and Minister for Natural Resources, Ms Courtney Houssos, took carriage of the bill in the Council. This is notable as it is unusual



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that an Assembly private Member's bill is taken carriage of by the Government in the Council. The bill passed the Council the following day, 14 March and was assented to on 25 March 2024.

Votes and Proceedings: 8/02/2024, p. 497 and 13/03/2024, p. 522

Hansard (Proof): 8/02/2024, p. 1 and 13/03/2024, p. 22

Standing Orders: 105 (Precedence and lapsing of general business), 191 (Private Member may introduce public bill) and 365 (Suspension of standing orders)

Re-introduction of Private Members Bills

On 14 March, three private Members bills were introduced in the Legislative Assembly. Mr Gareth Ward introduced the *Electoral Amendment (Voter ID and Electronic Mark Off) Bill 2024* and the *Independent Commission Against Corruption Amendment (Ministerial Diary Disclosure) Bill 2024*. Mr Adam Marshall introduced the *Rural Fires Amendment (Red Fleet) Bill 2024*. Bills with identical titles were previously introduced by Mr Ward and Mr Marshall in 2023 and had lapsed in accordance with Standing Order 105(3). This Standing Order provides that private Members' bills which are not completed lapse six months after notice has been given.

It is possible, however, for a private Member to re-introduce a bill that has lapsed. A bill that is the same in substance as a bill that has lapsed may be considered provided that it has not been voted on by the House.

Votes and Proceedings: 14/03/2024, p. 531

Hansard (Proof): 14/03/2024, p. 1

Standing Orders 105 (Precedence and lapsing of General Business), 188 (Introduction of bills) and 154 (Same question not to be put)

Procedural note

Standing Order 154 provides that the Speaker may disallow consideration of a motion or amendment that is the same in substance as a question that has already been voted on by the House in the same session. Also referred to as 'the same question' rule, Standing Order 154 reflects the principle that the House should not be asked to again consider a motion upon which it has already reached a decision. On this occasion while debate on the private Members bill had commenced, it had not concluded as the question on the second rading had not been put, therefore SO154 did not apply.

Independent Commission Against Corruption Amendment Bill 2024

The *Independent Commission Against Corruption Amendment Bill 2024* was introduced by the Minister for Transport, Ms Jo Haylen, on 7 February 2024. The bill implements recommendation eight of the ICAC's report on Operation Keppel, which requested the Government amend s111E of the [Independent Commission Against Corruption Act 1988](#) (the ICAC Act).

S111E of the ICAC Act requires 'public authorities' to respond to corruption prevention recommendations made by the ICAC in writing within three months, provide action plans for responding to recommendations, if required, and yearly updates on implementation of the action plan. Currently, Ministers and Presiding Officers are not considered public authorities however, the *Independent Commission Against Corruption Amendment Bill 2024* would now include them in a new category 'relevant public authority or official'.



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At the conclusion of the second reading debate on Wednesday 13 March the Leader of the House, Mr Ron Hoenig, moved two Government amendments. The amendments sought to remove the Presiding Officers from the definition of 'relevant public authority or official' and instead require the Presiding Officers to inform the relevant House, as soon as practicable after receiving the recommendation, that a recommendation from the Commission had been received.

The Presiding Officers would also be required to inform the relevant House of their response to the recommendation. However, unlike other 'relevant public authorities or officials', the Presiding Officers do not have to notify the ICAC within three months of any action plan in response to a corruption recommendation. Similarly, the Presiding Officers are exempt from the requirement to provide yearly updates on the implementation progress of any action action plans in response to a corruption recommendation.

The Speaker, Mr Greg Piper, touched on the importance of maintaining a clear separation between the Executive (and their agencies) and the Parliament, noting that the Bill in its first form did not reflect the supremacy of Parliament:

The bill was a clear impingement on the authority of Parliament, and it was very concerning not just to the Speaker but to the President of the Legislative Council and the respective Clerks who examined its impact.

The Parliament and the relationship between the Presiding Officers are prescribed by the Constitution. The Executive Government is a creature of the Parliament and the party that has the majority there. They then establish agencies, and those agencies report to the Executive Government. Obviously, they also report to the Parliament. It is not appropriate for the Parliament to have an agency as a master to whom we, as a Parliament, report back. There is no intention to not do the absolute utmost to continue to shine a light on corruption, but the proposed mechanism was inappropriate.

[...] I believe the bill as proposed to be amended sets the right tone while keeping the notion of the primacy of Parliament intact, which is very important.[...] We should not whittle down, bit by bit, the authority of this decision-making body that has been elected by the people of New South Wales.¹

The House agreed to the bill as amended, on the voices.

On Tuesday 19 March, the second reading debate on the bill began in the Legislative Council. Speakers for the Opposition noted their support for the Government's amendments. The bill passed the Legislative Council on 19 March and was assented to on 3 April 2024.

Votes and Proceedings: 07/02/2024, p. 488; 13/03/2024, pp. 528-529.

Hansard (Proof) LA: 07/02/2024, pp. 29 – 31; 13/03/2024 pp. 74-77; 78-80.

Hansard (Proof) LC: 19/03/2024, pp. 22; 24-27.

¹ Legislative Assembly, *Hansard (Proof)*, Wednesday 13 March 2024, p. 79.