



PROCEDURAL HIGHLIGHTS

Legislative Assembly

FIFTY-FIFTH PARLIAMENT, FIRST SESSION

NO. 2: 24 MAY - 2 JUNE 2011

MAY- JUNE 2011				
M	T	W	T	F
23	24	25	26	27
30	31	1	2	3

This document provides a summary of significant procedures and precedents in the Legislative Assembly. It is produced at the end of each sitting period. Where applicable the relevant standing orders are noted.

BUSINESS

2.1 *Placing or Disposal of Business*

The Leader of the House withdrew Government Notice of Motion no. 1 (Industrial Relations Amendment (Public Sector Conditions of Employment) Bill) on behalf of the Treasurer.

Votes and Proceedings: 25 May 2011, p. 106

Hansard: 25 May 2011, galley p. 40

Standing Order 100

(NB: The notice of motion for this bill was withdrawn because an identical bill had been introduced into the Legislative Council).

2.2 *Disallowance of regulation*

The Minister for Primary Industries and Minister for Small Business, the Hon. Katrina Hodgkinson MP, moved, pursuant to notice, "That this House disallows the Marine Parks (Zoning Plans) Amendment (Solitary Islands and Jervis Bay Marine Parks) Regulation 2011 made under the Marine Parks Act 1997 which was published on the New South Wales Legislation website on 27 January 2011 and tabled in this House on 3 May 2011."

Debate was adjourned and set down as an order of the day for a tomorrow. The following day the debate on the motion to disallow the regulation was resumed. After debate had concluded the question was put and passed on division (Ayes 62, Noes 22)

Votes and Proceedings: 25 May 2011, p. 107 & 26 May 2011, pp. 111-2

Hansard: 25 May 2011, galley pp. 48-61 & 26 May 2011 pp. 25-7

Standing Orders 116 & 118

(NB: While there is nothing in the Standing Orders preventing a Minister for moving a disallowance motion, it is unusual for a Minister to do so. However, this regulation was made prior to the March election and the disallowance procedure was the most effective way of achieving the desired effect).

2.3 *Discussion of petition signed by 10,000 or more persons*

Discussion proceeded on the subject matter of the petition signed by 10,000 or more persons that had been received by the House from certain citizen "opposing the planned sale of land at Royal North Shore Hospital and requesting that the Government preserve the land for future expansion of the campus and as open space for use by patients and the community." In accordance with the sessional order, no question was put at the conclusion of the discussion.

Votes and Proceedings: 1 June 2011, pp. 142-3

Hansard: 1 June 2011, galley pp. 68-72

Standing Order 125A (adopted as a sessional order)

(NB: This is a new procedure adopted as a sessional order for the current Parliament. This is the second occasion the procedure was used).

JOINT SITTING

2.4 *Vacancies in the Legislative Council*

The Speaker reported a message from the Governor convening a joint sitting of the Members of the Legislative Council and the Legislative Assembly for the purpose of the election of two persons to fill two vacancies in the Legislative Council.

When the Order of the Day for the Joint Sitting was read the House proceeded to the Legislative Council Chamber to elect persons to fill the vacant seats. Upon return the Speaker resumed the Chair and reported that Adam Searle and Walther Secord had been elected to fill the vacancies. The Speaker also tabled the "Minutes of the Proceedings of the Joint Sitting of the Houses" and ordered they be printed.

Votes and Proceedings: 24 May 2011, pp. 94 & 100

Hansard: 24 May 2011, galley p. 11 & 47

JUDICIARY

2.5 *Judicial Commission of Inquiry*

The Attorney-General, by leave, tabled a Report of an Inquiry by a Conduct Division of the Judicial Commission of NSW in relation to Magistrate Jennifer Betts, dated 21 April 2011, and the Magistrate's response, dated 12 May 2011. The documents were ordered to be printed.

The Attorney-General, by leave, also made a Ministerial Statement in relation to the inquiry by a Conduct Division of the Judicial Commission into Magistrate Jennifer Betts. The Shadow Attorney-General also spoke in reply.

The following week the Attorney-General again tabled the Magistrate's response (as amended with certain deletions) and ordered that the document be printed.

Votes and Proceedings: 26 May 2011, pp. 110-1 & 30 May 2011, p. 126

Hansard: 26 May 2011, galley p. 13-14 & 30 May 2011, pp. 25-6

Standing Order 103

(NB: Section 29 of the *Judicial Officers Act 1986* requires reports of the Conduct Division of the Judicial Commission and related documents to be tabled in Parliament. Under section 53(2) of the *Constitution Act 1902* the holder of a judicial office can be removed from the office by the Governor, on an address from both Houses of Parliament. However, a judicial office can only be removed following a report of a Conduct Division of the Judicial Commission to the Governor.

While no procedures are contained in either statute in relation to the procedures that the Parliament should follow in relation to removing a judicial officer from office, the practice has been for one House to call the officer in question before it to address Members. A notice was given by the Leader of the Government in the Legislative Council on 1 June 2011 calling for the attendance of Magistrate Betts to attend the Bar of the House on 15 June 2011, the Legislative Council agreed to the resolution on 2 June 2011. *LC Minutes*, p. 186).

2.6 *Judicial Commission of Inquiry*

The Attorney-General, by leave, tabled a Report of an Inquiry by a Conduct Division of the Judicial Commission of NSW in relation to His Honour Magistrate Brian Maloney, dated 6 May 2011, a copy of the Judgement of Justice Clifton Hoeben of the Supreme Court in the case of *Maloney v The Honourable Michael Campbell QC and others*, dated 24 May 2011, and the Magistrate's response, dated 25 May 2011. The documents were ordered to be printed.

The Attorney-General, by leave, also made a Ministerial Statement in relation to the inquiry by a Conduct Division of the Judicial Commission into Magistrate Brian Maloney. The Shadow Attorney-General also spoke in reply.

Votes and Proceedings: 2 June 2011, pp. 146-7

Hansard: 2 June 2011, galley pp. 13-5

Standing Order 103

(NB: Section 29 of the *Judicial Officers Act 1986* requires reports of the Conduct Division of the Judicial Commission and related documents to be tabled in Parliament).

MEMBERS

2.7 *Commission to administer Pledge of Loyalty*

The Speaker reported that the Governor had issued Commissions authorising the Speaker, Deputy Speaker and Assistant Speaker as persons before whom the Pledge of Loyalty, required by law to be taken by every Member of the Legislative Assembly before that Member shall be permitted to sit or vote in the Legislative Assembly, may be taken.

Votes and Proceedings: 24 May 2011, pp. 94-5

Hansard: 24 May 2011, galley pp. 11-2

Standing Order 23

2.8 *Removal of members*

The Speaker ordered the removal of the Member for Kogarah for disorderly behaviour after having been called to order three times.

Votes and Proceedings: 25 May 2011, p. 106

Hansard: 25 May 2011, galley p. 31

Standing Order 249

2.9 *Removal of members*

The Speaker made the following statement clarifying Standing Order 249:

"I wish to make a statement in relation to Standing Order 249. Yesterday during Question Time I ordered the removal of the Member for Kogarah from the Chamber after she had been repeatedly called to order. There appeared to be some confusion as to the implications of the Member's removal from the Chamber.

Standing Order 249 makes it clear that when a member is removed from the House, they are excluded from the entire Parliamentary precincts and cannot take part in any proceeding of the House or its committees.

Accordingly, when a member is ordered to be removed from the Chamber in accordance with Standing Order 249 they are excluded from the Parliamentary precincts until the adjournment of the House. It is the established practice that the member excluded has 30 minutes to leave the precincts."

Votes and Proceedings: 26 May 2011, p. 112

Hansard: 26 May 2011, galley p. 27

Standing Order 249

2.10 *Absence of Members*

The Leader of the House made a statement in relation to the absence of members from the House. He noted that there is a "longstanding practice" whereby members can seek a leave of absence when they are unable to attend at Parliament. The Leader of the House also advised members to ensure that the Whips are aware if members cannot attend Parliament due to personal reasons.

Hansard: 1 June 2011, pp.43-4

Standing Order 28

QUESTION TIME

2.11 *Request for additional information*

At the expiration of the 5 minutes provided to answer a question, the Premier sought an extension of time. The Speaker advised the Premier that there was no provision for an extension. The Member who had asked the original question then requested additional information from the Premier, which was provided.

Votes and Proceedings: 25 May 2011, p. 106

Hansard: 25 May 2011, galley p. 29

Standing Order 131(3)

(NB: This was the first time the procedure, which was adopted in November 2010, was used).

2.12 *Request for additional information*

The Speaker made the following statement clarifying the procedure when asking for additional information:

"I wish to make a statement in relation to proceedings during Question Time yesterday where there was some confusion about requesting additional information in answer to a question.

I draw members' attention to Standing Order 131(3) which provides that at the conclusion of the Minister's answer to a question, the member who asked the question may, at the discretion of the Speaker seek additional information from the Minister.

Accordingly, the onus is on the Member who asked the original question to make clear they are making a request under Standing Order 131 by asking "Can the Minister provide additional information?" It is then at my discretion whether to allow the additional information to be provided for up to 2 minutes.

Any request for additional information made in accordance with Standing Order 131(3) does not constitute a supplementary question. One member asking for "additional information" does not prevent any other member seeking additional information in response to another answer nor indeed asking a supplementary question."

Votes and Proceedings: 26 May 2011, p. 112

Hansard: 26 May 2011, galley pp. 27-8

Standing Order 131(3)

2.13 Request for additional information

A Member in accordance with Standing Order 131(3) requested additional information from the Minister for Resources and Energy, Special Minister of State and Minister for the Central Coast after the 5 minutes for answering the original question had expired. The Speaker permitted additional information to be provided.

Votes and Proceedings: 26 May 2011, p. 113

Hansard: 26 May 2011, p. 33

Standing Order 131(3)