



PROCEDURAL DIGEST

Legislative Assembly

FIFTY-SEVENTH PARLIAMENT, FIRST SESSION
NO. 1/2021: 9 – 18 FEBRUARY 2021

February 2021				
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15	16	17	18	19

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.

CHAMBER

Social distancing

The House met for the first sitting period of the year on 9 February 2021. Social distancing measures, introduced in response to the COVID-19 pandemic, remained in place. Members continued to sit in the Chamber, the Speaker's Gallery, the Cooper Gallery and the Northern Gallery.

SPEAKER

Speaker's statement – National Apology to the Stolen Generations anniversary

On Tuesday 16 February the Speaker made a statement in relation to the 13th anniversary of the National Apology to the Stolen Generations, a historic acknowledgment of the systemic wrongs that were done to the Stolen Generations. The Speaker also acknowledged the presence of Uncle Michael Welsh in the Advisors' Gallery. Mr Welsh is a Stolen Generations survivor from the Kinchela Boys Home Aboriginal Corporation.

Votes and Proceedings: 16/2/2021, p. 1073.

Hansard (Proof): 16/02/2021, p. 1.

Procedural note:

On occasion the Speaker will inform the House of a variety of matters, both procedural and for the information of Members, by way of a statement to the House.

BUSINESS

New Sessional Orders

On Tuesday 9 February the Leader of the House, the Hon. Mark Speakman MP, moved by leave, that three Sessional Orders be amended to allow the House to continue certain COVID-safe practices adopted in 2020. The motion was agreed to on the voices.

The amended Sessional Orders are:

1. Community Recognition Statements. Sessional Order 108A was amended to permit Members to continue to submit two written Community Recognition Statements each sitting day (rather than one).
2. Removal of a Member on grounds other than disorder. Sessional Order 249B was amended to continue to allow the Speaker to direct a Member to leave the Chamber if they exhibit COVID-19 symptoms or cannot demonstrate they have cleared temperature screening, until the end of 2021.
3. The procedure for establishing quorums (Standing Order 41) would continue to ensure social distancing measures are observed while a quorum is counted.

Votes and Proceedings: 9/2/2021, pp. 1035-6.
Standing Orders 41, 108A and 249B.

Tabling of annual reports

On Tuesday 9 February the Speaker and the Clerk announced receipt of annual reports from NSW government agencies and statutory bodies. The annual reports had been received after the House rose in November 2020, and included the annual report of the Department of the Legislative Assembly, which was tabled on 23 December 2020.

Votes and Proceedings: 9/2/2021, pp. 1041-9.

Procedural note:

Under the [Annual Reports \(Departments\) Act 1985](#) and [Annual Reports \(Statutory Bodies\) Act 1984](#), all statutory bodies and government agencies in NSW are required to present an annual report to Parliament containing an overview of their activities and financial information for the previous financial year. The annual report is a key accountability mechanism for agencies to the Parliament, Government and public. While the Parliamentary departments in NSW are not required to table an annual report under annual reporting legislation, they choose to do so as a way of providing information to the public about their activities and performance.

Annual reports of government agencies and statutory bodies are usually submitted to their Minister no later than four months from the end of the financial year (by 31 October). The Minister is then required to table the report in Parliament within one month. However, in 2020 the period for agencies and departments to prepare 2019-20 annual reports was extended to provide agencies more time for report preparation, as a result of the impacts of the COVID-19 pandemic. The extension was facilitated by the enactment of the *COVID-19 Legislation Amendment (Emergency Measures-Treasurer) Act 2020*, which we reported on in [Procedural Digest 4](#) of 2020.

BILLS

Strata Schemes Management Amendment (Sustainability Infrastructure) Bill 2020

On 25 August 2020 the [Strata Schemes Management Amendment \(Sustainability Infrastructure\) Bill 2020](#) was returned from the Legislative Council with a request that the Assembly agree to an amendment proposed by the Council.

The Bill had been introduced by the Minister for Better Regulation and Innovation, the Hon. Kevin Anderson MP, on 16 June 2020 and had passed the Assembly without amendment.

On Tuesday 9 February 2021 the Assembly considered the Legislative Council amendment to the Bill. Mr Anderson moved that the Legislative Council amendment be disagreed to, upon which Mr Alex Greenwich MP moved three further amendments to the bill. The motions to disagree with the Council amendment and to agree to three further amendments were passed on the voices. The Assembly further agreed to a motion that a message be sent to the Council informing it that the Assembly disagreed with the Council amendment, and proposing three further amendments.

On Wednesday 17 February 2021 the Council sent a message informing the Assembly that it did not insist on its amendment and that it agreed to the Legislative Assembly's further amendments.

*Votes and Proceedings: 9/2/2021, pp. 1036-9, 16/2/2021, p. 1079.
Standing Orders 222 – 224, 226 and 227.*

Procedural note:

Standing Order 224 provides the Legislative Assembly with a number of options for dealing with Legislative Council amendments to Assembly bills, including by disagreeing to the Council amendments.

Standing Order 224 Clause (3) provides that if the Assembly disagrees to Council amendments it must send a message to the Council giving reasons for the disagreement, with the Member in charge of the bill responsible for 'drawing up' the reasons. The Assembly did this on 16 February, sending a message to the Council advising that it disagreed to the proposed Council amendment to the Strata Schemes Management Amendment (Sustainability Infrastructure) Bill, and providing reasons for its disagreement.

The Council did not insist on its amendment, but if it had insisted on its amendment, Standing Order 226 provides options for how the Assembly could have responded. The Assembly could have:

- Agreed to the amendment to which it had previously disagreed;
- Insisted on its disagreement to the amendment and laid the bill aside; or
- Requested a conference.

A conference may be convened with 'managers' appointed by each House. If an agreement cannot be reached at a conference, the Governor may then convene a joint sitting of both Houses to deliberate upon the bill and upon any amendments made by the Council with which the Assembly does not agree.

Section 5B of the Constitution Act provides that if there is no agreement reached following the joint sitting, the Assembly may direct that the bill, with or without the amendments made by the Council, be submitted to the electors of the state by way of a referendum.

The last time a referendum of this kind was held in NSW was 1961 when a bill was before the Parliament which proposed to abolish the Legislative Council. The referendum was unsuccessful.

COVID-19 Legislation Amendment (Stronger Communities and Health) Bill 2021

On Thursday 18 February the Attorney General, the Hon. Mark Speakman MP, introduced the [COVID-19 Legislation Amendment \(Stronger Communities and Health\) Bill 2021](#). The Bill amends a number of Acts and Regulations to extend the operation of temporary provisions introduced because of the COVID-19 pandemic until 26 September 2021, with the option of further extension to 26 March 2022 if necessary.

In his second reading speech, the Attorney General noted that the Bill would not extend provisions for the extraordinary regulation-making powers, colloquially known as King Henry VIII clauses, introduced as part of the COVID-19 emergency response. These clauses had allowed the Executive Government to make regulations altering some legislative provisions if needed urgently due to COVID-19 (for example, if the Parliament was not sitting). At the conclusion of the second reading speech, debate on the Bill was adjourned to a future date.

Votes and Proceedings: 18/2/2021, pp. 1087-8.

Hansard (Proof): 18/2/2021, pp. 1- 6.

Standing Order 188.

Procedural note:

A King Henry VIII clause allows subordinate legislation, such as a Regulation, to amend an Act.

Further commentary on King Henry VIII clauses can be found on the Parliament's webpage in the Legislation Review Committee's [compilations](#) of its reports on emergency COVID-19 legislation introduced in 2020.