



LEGISLATIVE ASSEMBLY

Procedural Digest

Fifty-seventh Parliament, First Session

No. 5/2022: 9 – 11 August 2022

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.

August 2022

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Members

Ministerial changes

On 9 August 2022, the Leader of the House on behalf of the Premier, informed the House of Ministerial changes that had occurred since the last sitting period. These included the withdrawal of Stuart Ayers MP and Eleni Petinos MP as Ministers and the appointment of the Hon. Victor Dominello MP as Minister for Small Business and Minister for Fair Trading, the Hon Alister Henskens SC MP as Minister for Enterprise, Investment and Trade; and Minister for Sport, the Hon. Benjamin Franklin MLC as Minister for Tourism, and the Hon. David Elliott MP as Minister for Western Sydney.

The Leader of the House also informed the House of the election on 9 August 2022 of Matthew John Kean MP as Deputy Leader of the Liberal Party.

Votes and Proceedings: 09/08/2022, p. 1802-1803.

Suspension of the Member for Drummoyne

On 9 August 2022, the House agreed on the voices to suspend Standing and Sessional Orders to permit the moving of a motion forthwith, without formal notice being given, to suspend the Member for Drummoyne, Mr John Sidoti MP, from the service of the House. Importantly, the House also agreed that the motion itself would record that the House's decision to bring on such a significant motion without prior notice should not be taken as precedent.

Immediately afterwards, the Leader of the House moved that the House:

- 1) Notes that, in its report following its investigation into the conduct of the local Member for Drummoyne dated July 2022, the Independent Commission Against Corruption made findings that the Member for Drummoyne had engaged in serious corrupt conduct;
- 2) Suspends the Member for Drummoyne from the service of the House (with the consequences set out in SO 253) until Friday 25 November 2022 or until it is further ordered; in order to protect and uphold the dignity of the House.

Following a relatively short debate, in which only the Leader of the House, the Leader of Opposition Business and Mr Sidoti spoke, the motion was agreed to on the voices.



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Votes and Proceedings: 9/8/2022, pp. 1801-2.

Hansard (Proof): 9/8/2022, pp. 1–6.

Standing Orders: 253 (Consequences of suspension) and 365 (Suspension of Standing Orders).

Speaker

Speaker's Statement on the Broderick Review

On 9 August 2022, the Speaker made a short statement noting the expected release date of the independent review into bullying, harassment and sexual misconduct in NSW Parliament workplaces by Elizabeth Broderick & Co. The review had been commissioned by the Parliamentary Executive Group (the Presiding Officers, Clerks and Chief Executive of DPS) in July 2021 'following longstanding discussions on the value of improving safety and inclusion in Parliamentary workplaces'.¹

On 12 August 2022, the review was published on the Parliament's website, as was a statement on the review by the Parliamentary Executive Group.

Votes and Proceedings: 9/8/2022, p. 1802

Hansard (Proof): 9/8/2022, p. 10

Business

Disallowance motions

On 9 August, the Member for Murray, Mrs Helen Dalton MP gave notice of two motions to disallow a statutory rule, the first to disallow the Water Management (General) Amendment (Floodplain Harvesting Access Licences) Regulation 2022 and the second to disallow Items 1, 2 and 7 in Schedule 1 of the Water Management (General) Amendment Regulation (No 2) 2022.

On 10 August 2022, in the time set aside in the routine of business for consideration of business with precedence, Mrs Helen Dalton MP was granted leave to have the two motions considered together.

The motion was negatived on division (36:43). *Votes and Proceedings: 10/09/2022, p. 1825-1826.*

Standing Order 116 (Disallowance of statutory rules)

Procedural note

Statutory instruments, such as rules, regulations and by-laws, are published in the government Gazette or on the NSW Legislative website. A notice providing details of the instrument is tabled in the House.

Unlike primary legislation (Acts of Parliament), which must be passed by both Houses of Parliament to be enacted as a law, statutory instruments are not debated in the House unless a Member moves a motion to disallow part or all of the instrument. Standing Order 116 sets out the procedure for disallowance, in which a notice of motion to disallow a statutory instrument is considered as Business with Precedence on the next sitting day.

¹ Elizabeth Broderick and Co, Leading for Change: Independent Review of Bullying, Sexual Harassment and Sexual Misconduct in NSW Parliamentary Workplaces 2022, p. 4.



Re-ordering of General Business orders of the day (for Bills)

On 10 August 2022, two members each moved a motion to re-order General Business orders of the day (for Bills) so that their bill would have precedence on Thursday, 11 August 2022.

First, the Leader of the Opposition, Mr Chris Minns MP, moved that the Government Grants Administration Bill 2021 have precedence. The question was put and negatived on division with the noes received 43 votes and the ayes receiving 36.

Once Mr Minns' motion was negatived, Ms Jenny Leong MP moved that the Residential Tenancies Amendment (Tenant Protections and Flood Response) Bill 2022 have precedence on the next sitting day. After debate, the question was put, the voices given and a division called for. The Speaker declared the question to be negatived as there were only five Members (Mrs Helen Dalton MP, Mr Alex Greenwich MP, Ms Jenny Leong MP, Dr Joe McGirr MP and Ms Tamara Smith MP) in the minority who challenged his decision.

Votes and Proceedings: 10/08/2022, pp. 1824-1825.

Hansard (Proof): 10/08/2022, pp. 45-47.

Standing Orders 97 (Routine of Business), 106 (Re-Ordering of General Business), 173 (Call for Division), 174 (Procedure for Division) and 181 (Five Members or fewer, names recorded).

Procedural note

As per the Routine of Business (SO 97), General Business is considered during the morning on sitting Thursdays. While items of General Business are usually considered according to the order in which they appear on the Business Paper, there is scope for private Members to move that a General Business order of the day for a bill be given precedence over other such items.

SO 106 sets out the procedure for re-ordering of General Business orders of the day (for Bills). Up to two private Members are able to move to re-order to give precedence to their Bill for the following sitting day. However, if the first Member's motion is carried by the House, this prevents a second Member from moving their motion. On 10 August, Ms Leong was permitted to move her motion to re-order only after Mr Minns' motion was negatived by the House.

Chapter 15 of the Standing and Sessional Orders sets out the procedure for divisions. In cases where a division has been called but there are five or fewer Members on one side, the Speaker is to declare the question resolved for the majority without completing the division, and the number and names of the Members in the minority are recorded in the Votes and Proceedings (SO 181).

Bills

Casino Legislation Amendment Bill

The Casino Legislation Amendment Bill was a Government Bill introduced in the Legislative Assembly by the Minister for Hospitality and Racing, the Hon. Kevin Anderson MP on 9 August 2022.



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Early in the day on 9 August, the House had passed a motion to suspend Standing and Sessional Orders to permit the Bill to proceed through all stages that day. Usually, once a bill has been introduced in the House and the Member with carriage has finished their second reading speech, the debate on the second reading is adjourned for a future day 'which shall be at least five clear days ahead' (SO 188). In this case, in accordance with the House's earlier resolution, the House immediately proceeded through the second reading debate, consideration in detail and third reading. During the consideration in detail stage, the House agreed to a number of amendments moved by independent MP Alex Greenwich. A Greens amendment was also considered but not agreed to.

While the bill passed the Legislative Assembly on the Tuesday, it was not set down for debate in the Legislative Council until Thursday 11 August. The Assembly's routine of business provides for 30 minutes of Government early in the morning on Thursdays. In anticipation of the bill not being returned from the Council until the afternoon or evening, the Leader of House, the Hon. Alister Henskens MP, moved to suspend Standing and Sessional Orders to permit:

- (1) The interruption of any business before the House after 4.30 pm for the consideration of any messages from the Legislative Council regarding Government Business.
- (2) The House to continue to sit after the conclusion of private members' statements to consider any such messages, including the option for the Speaker to leave and resume the Chair on the ringing of one long bell.

After a brief debate in which the Manager of Opposition Business, Mr Ron Hoenig MP spoke, the suspension motion was passed on the voices.

At approximately 6.30pm, the House received a message from the Council returning the Bill with amendments which had been proposed by the Greens, the Opposition, and by independent Member Mr Justin Field MLC. In accordance with the resolution of the House, Private Members' Statements were interrupted to consider the amendments forthwith.

The House agreed to all of the Council amendments on the voices, with Minister Anderson specifically thanking Mr Greenwich, the Opposition, Mr Field and the Greens for their amendments and collaborative approach in both the Assembly and Council.

Votes and Proceedings: 9/8/2022, pp. 1809 and 1813 -1817; 11/8/2022 pp. 1842 -1845
Standing Orders 188 (Introduction of Bills) and 365 (Suspension of Standing Orders)

Climate Change (Emissions Targets) Bill 2021 (No 2)

The Climate Change (Emissions Targets) Bill 2021 (No 2), introduced into the Legislative Council by the Hon. Penny Sharpe MLC on Tuesday 16 November 2021, passed the Council on Wednesday 24 November 2021 and was reported in the Legislative Assembly for concurrence on 15 February 2022. Being a private Members' Bill, it was set to lapse and be removed from the Business Paper on 16 August 2022.

By Thursday 11 August 2022, the Bill was listed as item no. 2 under General Business Orders of the Day (for Bills). However, when the order of the day for item no. 1 (the Fiscal Responsibility Amendment (Privatisation Restrictions) Bill) was read, Mr Anoulack Chanthivong MP, on behalf of Chris Minns MP, postponed its second



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reading debate. This allowed time for the second reading debate on the Climate Change (Emissions Targets) Bill to proceed.

During the debate, Mr Jihad Dibb MP delivered the second reading speech and Mr Dave Layzell MP, Ms Julia Finn MP, Mrs Melinda Pavey MP, and Dr Marjorie O'Neill MP also spoke. Ms Anna Watson MP then sought the call and immediately moved a closure motion pursuant to SO 86 "That the question be now put". Under SO 86(2), such a motion shall be put forthwith and decided without amendment or debate. Accordingly, the question was put and it was negatived on division.

As the closure motion was not carried, the second reading debate on the Bill continued until it was interrupted for General Business notices of motions (general notices) in accordance with the Routine of Business. Given the Bill's lapsing date of 16 August 2022, this was the last opportunity for the House to debate it before it was removed from the Business Paper.

Votes and Proceedings: 15/02/2022, pp. 1537-1538; and 11/08/2022, pp. 1839-1840.

Hansard (Proof): 11/08/2022, pp. 8-21.

Standing Orders 86 (Closure); 87 (Closure – Right of Reply); 89 (Closure – consequential divisions); 97 (Routine of Business); 101 (Program for General Business); and 105 (General Business)

Procedural note

SO 86 provides for the ending, or closure, of debate on the question before the House. A Member who has not previously spoken on the debate may move for closure by moving 'that the question be now put'.

There are certain times when a closure motion cannot be moved, including: before 10.00am on days when the House sits earlier, during a motion to suspend Standing and Sessional Orders, during a motion of no confidence in a Minister, or during a censure motion on a Member (unless at least four Members have spoken in the debate).

Once moved, the closure motion must be put immediately and decided without amendment or debate. If there is a division, the closure motion must be carried by at least 30 Members in the affirmative for it to be successful.

If the House agrees to the closure motion, debate is brought to an end and the question before the House is put immediately, although the mover of the original motion, if entitled to a reply, is permitted to speak for up to 30 minutes or a lesser time if specified (SO 87). If the House does not agree to the closure motion, the Member who moved the motion is not permitted to speak again in the debate.