

## Chapter 28 Standing and Sessional Orders

Section 15 of the *Constitution Act 1902* allows the Legislative Assembly to prepare and adopt standing rules and orders regulating its conduct, procedures and mode of communication with the Legislative Council. Such standing rules and orders are approved by the Governor and, once approved, become binding and of force.

The Governor does not act with the advice of the Executive Council when approving the standing orders of either House. The Crown Solicitor has argued:

*Given that standing orders are concerned with the internal management of the Houses and that each is the best judge as to the standing orders that are necessary, I think s.15 [of the Constitution Act 1902] gives rise to an implication that the Governor is not to act with the advice of the Executive Council in relation to whether approval should be given to standing orders.<sup>1</sup>*

The standing orders are the main rules by which the House operates. There are 368 standing orders that may be supplemented by sessional orders. Sessional orders are temporary rules that vary the existing rules or introduce new procedures. Sessional orders are resolutions of the House and do not require the Governor's approval. However, sessional orders are only valid for the session of Parliament in which they have been adopted (S.O. 364).

### **28.1 Suspension of standing and sessional orders**

In order to implement a procedure not provided for in the standing orders or to do something contrary to the standing orders (e.g. to move a motion without notice) it is necessary for the relevant standing orders to be suspended to allow for the procedure.

Ministers are able to suspend standing and sessional orders at any time without leave. All other members must seek the leave of the House to move a motion for the suspension of standing and sessional orders (S.O. 365).

The procedure under standing order 365 for suspension by leave is as follows:

- at any time in the proceedings a member may seek leave to move a motion to suspend standing or sessional orders;
- if leave (no dissenting voice) is granted, the mover, one other member (usually a member opposed to the suspension) and the mover in reply may speak for up to five minutes each to the question of suspension;
- if the suspension motion is agreed to, the member then moves the substantive motion.

It may be that there is no substantive motion and the objective of the member is achieved by the fact that the standing order is suspended (e.g. to not take private members' statements at a particular sitting).

Standing and sessional orders can be suspended at any time when there is no question before the Chair, including when a bill or other matter is being considered in detail. Under the former committee of the whole procedure no provision was made

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<sup>1</sup> Advice received from the Crown Solicitor re: Whether the Governor must act with the advice of the Executive Council when approving standing orders, dated 1 May 2007.

for standing and sessional orders to be suspended during proceedings in committee as only the House is able to agree to a motion for suspension. However, proceedings in committee could be altered by the House agreeing to a motion to suspend standing and sessional orders in relation to proceedings that were to take place later in committee, e.g. to allow for Legislative Council amendments to a number of bills to be considered together in one committee of the whole.<sup>2</sup>

The closure cannot be moved on the debate to suspend standing orders.<sup>3</sup>

## **28.2 Amendments to the standing orders**

The standing orders of the House may be amended or rescinded. Although motions to amend (this includes the adoption of new and the rescission of existing orders) usually flow from reports and recommendations of the Standing Orders and Procedure Committee, such a course is not mandatory and the House may proceed with such motions at any time.<sup>4</sup>

The motion: "That this House agrees to and adopts the amendments etc. as follow: ..." has been used when it is not proposed to consider proposals in detail;<sup>5</sup> while, "That this House do now consider the proposed amendments in detail" has been used in the alternative.<sup>6</sup>

Amendments to standing orders, the adoption of new standing orders and repeal of standing orders may be taken *in globo*. However, any member may request that they be considered separately (i.e. *seriatim*).

The method of proposing amendments to standing orders differs from the style used for amending clauses or motions, in that several amendments to a standing order may be taken as one amendment. For instance, should it be desired to leave out a word or a phrase which occurs more than once in a standing order, it is sufficient to move "That (the words) *wherever occurring* be left out."

When proposals are considered in detail it has been ruled that only the amendments upon the actual proposals to amend a standing order are open to debate and amendment.<sup>7</sup>

## **28.3 Sessional orders**

Standing order 364 allows the House to adopt sessional orders which have the force of, and may replace or modify, standing orders.<sup>8</sup>

Sessional orders only have effect for the duration of the session. Sessional orders are made by a resolution of the House and do not require approval by the Governor. Proposed changes to the standing orders are often trialled as sessional orders.

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<sup>2</sup> VP 26/11/1997, p. 410 (8/12/1997, a.m.)

<sup>3</sup> PD 20/11/1996, p. 6312; See also PD 25/05/2000, pp. 5680-1.

<sup>4</sup> VP 08/05/1934, p. 24.

<sup>5</sup> VP 08/05/1934, p. 24.

<sup>6</sup> VP 25/10/1928, p. 85.

<sup>7</sup> VP 20/07/1922, p. 251.

<sup>8</sup> No confidence, VP 16/06/1998, pp. 725 and 727; division bells, VP 15/09/1998, p. 840; hours of meeting, VP 08/04/1997, pp. 737-40; divisions, VP 06/05/1997, p. 835; no confidence, VP 06/05/1997, p. 837; miscellaneous, VP 16/09/1997, p. 28; urgent motions & miscellaneous, VP 16/04/1996, pp. 25-6; sitting times, VP 30/05/1996, p. 215; miscellaneous VP 17/09/1996, pp. 385-6; urgent motions VP 25/09/1996, p. 440; suspension of standing orders, VP 30/10/1996, pp. 548-51; miscellaneous, VP 01/06/1995, pp. 113-7, VP 13/12/1995, pp. 561-2.