



**THIRTY-NINTH PARLIAMENT**

**REPORT 31**  
**STANDING COMMITTEE ON PROCEDURE AND**  
**PRIVILEGES**

**STANDING ORDER 37(2):**  
**MEMBER'S RIGHT OF SPEECH**

Presented by Hon Barry House MLC (Chair)

May 2014

## STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES

**Date first appointed: 24 May 2001**

### **Terms of Reference:**

The following is an extract from Schedule 1 of the Legislative Council Standing Orders:

#### **“1. Procedure and Privileges Committee**

- 1.1 *A Procedure and Privileges Committee* is established.
- 1.2 The Committee consists of 5 Members, including the President and the Chair of Committees, and any Members co-opted by the Committee whether generally or in relation to a particular matter. The President is the Chair, and the Chair of Committees is the Deputy Chair, of the Committee.
- 1.3 With any necessary modifications, Standing Order 163 applies to a co-opted member.
- 1.4 The Committee is to keep under review the law and custom of Parliament, the rules of procedure of the Council and its Committees, and recommend to the Council such alterations in that law, custom, or rules that, in its opinion, will assist or improve the proper and orderly transaction of the business of the Council or its Committees.”

### **Members as at the time of this inquiry:**

Hon Barry House MLC (Chair)

Hon Adele Farina MLC (Deputy Chair)

Hon Nick Goiran MLC

Hon Colin Holt MLC

Hon Kate Doust MLC

### **Staff as at the time of this inquiry:**

Nigel Pratt (Clerk)

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## REPORT OF THE STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES

### IN RELATION TO STANDING ORDER 37(2): MEMBER'S RIGHT OF SPEECH

#### 1 REFERENCE

- 1.1 On Wednesday 2 April 2014, the *Procedure and Privileges Committee* ("the PPC") considered Standing Order ("SO") 37 and in particular SO 37(2), as a consequence of a matter that arose in the House during the course of debate on a motion on 20 November 2013.

#### 2 BACKGROUND TO THE REFERENCE

- 2.1 SO 37 is as follows –

##### 37. Member's Right of Speech

- (1) Except as provided under (2), a Member may speak once –
  - (a) on any question before the Council;
  - (b) on any amendment thereon; or
  - (c) in reply (if entitled under Standing Order 39).
- (2) When debating a motion on notice under Standing Order 15(2), a Member may speak once –
  - (a) on the motion and any amendment thereon; or
  - (b) in reply.
- (3) A Member may speak more than once –
  - (a) in Committee of the Whole House; or
  - (b) in explanation in accordance with Standing Order 38.

- 2.2 SO 37 was adopted by the House on 30 November 2011, as part of the comprehensive review of the Standing Orders undertaken by the PPC and considered by the House. The PPC's recommended form of SO 37, however, did not include part (2) of the SO adopted by the House.

- 2.3 SO 37(2) was adopted by the House pursuant to an amendment moved by the then Deputy President, Hon. Matt Benson-Lidholm. Whilst SO 37(1) provides that motions and amendments to motions are dealt with by the House in accordance with 'standard meeting practice', with amendments to motions once moved being dealt with separately prior to debate returning to the substantive motion (either in its original or amended form), the House agreed to adopt a varied arrangement for motions on notice moved under SO 15(2). The rationale advanced in support of SO 37(2) was that, given a motion moved under SO 15(2) is subject to a maximum time limit, the arrangements for these items of business should not provide Members with a

capacity to move an amendment to a substantive motion, and for the remaining time allocated to that motion to be spent debating that amendment, rather than the substantive motion.

- 2.4 As a consequence, SO 37(2) provides that a Member (other than the Member moving the motion) may only speak once to a motion moved under SO 15(2), and that this single contribution must cover the motion and any amendment moved prior to the Member speaking. Where an amendment is moved to such a motion, Members who have already spoken on the motion are precluded from speaking to the amendment.

### **3 APPLICATION OF STANDING ORDER 37(2) TO MOTION ON NOTICE UNDER STANDING ORDER 15(2)**

- 3.1 On 20 November 2013, the House was considering a motion moved by Hon. Rick Mazza MLC, to refer an inquiry regarding recreational hunting to the *Environment and Public Affairs Committee*. A number of Members spoke to the substantive motion.

- 3.2 Subsequent to these contributions, the Minister for Mental Health moved an amendment to the motion, the effects of which were to alter the Committee to which the inquiry was proposed to be referred and to extend the proposed time for the Committee to conduct the inquiry.

- 3.3 The Leader of the Opposition rose to speak on the amendment moved by the Minister, and commenced her remarks, but was interrupted by the Chair as a consequence of a point of order raised by another Member in relation to SO 37(2). As the Leader of the Opposition had spoken already on the substantive motion, the Deputy President opined that SO 37(2) precluded the Leader of the Opposition from speaking to the amendment, and that the matter would be referred to the President for his determination. Given the impending question time period, the debate was interrupted at that point.

- 3.4 At the resumption of debate, the President ruled that the view expressed by the Deputy President in relation to SO 37(2) was correct, and upheld the point of order. Further to this, in order that the matter proceed, the President allowed the Leader of the Opposition to continue her comments subject to leave of the House.

### **4 PROPOSED AMENDMENTS TO THE STANDING ORDER**

- 4.1 The PPC acknowledges the rationale underpinning the insertion of SO 37(2), as outlined in paragraph 2.3 above, and accepts that this amendment was well-intentioned. The PPC also acknowledges that, if SO 37(2) was deleted, there arguably would be a capacity for a Member or group of Members to ‘divert’ the debate on a motion away from the substantive matter, by moving an amendment, and then having the House consume limited debate time in dealing with that amendment.

- 4.2 However, the PPC considers that the proceedings of 20 November 2013 highlight the adverse consequences that arise with this procedural arrangement. Further to these unforeseen issues, the varied procedures for one type of business in a particular category also have the obvious capacity to cause confusion in the House.
- 4.3 The PPC would also note that SO 47 – Relevance applies to all proceedings in the House, including debate on amendments, and the firm application by the Chair of this SO in relation to amendments moved under SO 15(2) would significantly mitigate the capacity of any Member to divert the House from debate on a motion by moving an amendment.
- 4.4 Accordingly, the PPC recommends that SO 37 be amended by deleting part (2) and amending part (1) of the Standing Order, as per the recommendation below.

**Recommendation 1: The Committee recommends that Standing Order 37 be amended by deleting part (2) of the Standing Order, and making a consequent clerical amendment to part (1). The amended Standing Order will be as follows –**

**37. Member’s Right of Speech**

- (1) A Member may speak once –
- (a) on any question before the Council;
  - (b) on any amendment thereon; or
  - (c) in reply (if entitled under Standing Order 39).
- (2) A Member may speak more than once –
- (a) in Committee of the Whole House; or
  - (b) in explanation in accordance with Standing Order 38.



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**Hon. Barry House MLC**  
**Chair**  
**15 May 2014**