



THIRTY-NINTH PARLIAMENT

REPORT 43

**STANDING COMMITTEE ON PROCEDURE AND
PRIVILEGES**

**STANDING ORDER 5: DAYS AND TIMES OF
MEETING; AND OTHER MISCELLANEOUS
MATTERS**

Presented by Hon Barry House MLC (Chair)

October 2016

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, SO 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 Martin Aldridge MLC

Hon Kate Doust MLC

Hon Nick Goiran MLC

Staff as at the time of this inquiry:

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REPORT OF THE STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES

IN RELATION TO STANDING ORDER 5: DAYS AND TIMES OF MEETING; AND OTHER MISCELLANEOUS MATTERS

1 REFERENCE AND PROCEDURE

- 1.1 On 21 June 2016 the Members of the Legislative Council were surveyed regarding the operation of the Temporary Orders since their adoption by the resolution of the House on 26 November 2014. The survey asked Members to provide a response indicating whether they supported the adoption of the Temporary Orders as permanent Standing Orders of the Legislative Council.
- 1.2 On Wednesday, 12 October 2015 the *Procedure and Privileges Committee* (“the PPC”) considered the results arising from the returned surveys and other related matters. This report canvasses the PPC’s deliberations and recommendations in relation to the *Adoption of Temporary Orders — Standing Order 5: Days and Times of Meeting; and other miscellaneous matters*.

2 BACKGROUND TO THE REFERENCE

- 2.1 The primary purpose of the Temporary Orders was to trial an alteration to the Order of Business to achieve an earlier adjournment time on Wednesday evenings without reducing the time available for particular items of business or the total weekly sitting time provided for under the Standing Orders. The alteration to the Order of Business in fact resulted in an additional five minutes of Government Business time during Orders of the Day.
- 2.2 The Temporary Orders were adopted by resolution of the House on 26 November 2014 to commence the trial of the earlier adjournment time on Wednesday evenings for the 2015 parliamentary sittings. Initially, the trial was set down for the first six month period for 2015 and was to expire on 3 July 2015. Prior to the expiration of this period, the Temporary Orders were further extended by resolution of the House on 18 June 2015, and again on 3 December 2015 with the orders to apply until and including 31 December 2016.

3 TEMPORARY ORDERS SURVEY

- 3.1 The PPC proposed the trial of the Temporary Orders for the purpose of providing a suitable method to review and evaluate the success or otherwise of the Temporary Orders and for the House to determine whether they should become a permanent feature of the Council’s operation. The survey of the Members of the Legislative Council allowed the PPC to gauge their individual responses.

Survey

- 3.2 Between 21 and 30 June 2016, a total of 25 surveys (69%) were completed and returned by Members. Of the 25 surveys returned, 20 surveys (80%) indicated that Members agreed that the Temporary Orders should be adopted as permanent Standing Orders of the Legislative Council.
- 3.3 Five of the returned surveys (20%) had checked “no” in response to the question, however, follow-up conversations with these Members revealed that two of the five “no” responses did support the adoption of the Temporary Orders as Standing Orders, though a “no” response was provided due to other reasons. Other comments provided by Members who indicated “no” included:
- the Member wished to reassess the Temporary Orders in 2017;
 - the Member supported the adoption of the Temporary Orders as Standing Orders but indicated “no” as the Member would prefer to incorporate an afternoon tea break on Tuesdays;
 - the Member supported the adoption of the Temporary Orders as Standing Orders but indicated “no” due to the speaking time-limits currently imposed on Consideration of Committee Reports; and
 - not enough time is provided on Wednesdays for Consideration of Committee Reports and Orders of the Day.
- 3.4 With regard to the speaking time-limits currently imposed on Consideration of Committee Reports, the PPC draws to the attention of the House that this concern will be addressed if Recommendation 2 in PPC Report No. 37 is agreed to.
- 3.5 In a previous analysis of the operation of the Temporary Orders, the PPC concluded that the temporary adjustments to the Order of Business successfully achieved an earlier adjournment time on Wednesday evenings without diminishing the total business time available to the House.¹ These adjustments to the Order of Business were achieved by Temporary Order 2 which gave effect to the alterations to paragraphs (1) to (3) of Standing Order 5: Days and Times of Meeting.
- 3.6 Having considered the survey results and the feedback from Members, the PPC is satisfied that the majority of Members support, at the very least, the alterations to the Order of Business that achieve the earlier Wednesday adjournment time at 7.00pm (Temporary Order 2).

¹ Legislative Council Standing Committee on Procedure and Privileges, Western Australia, *Report No. 37: Temporary Orders — 2016* (2015) 1.

- 3.7 Accordingly, the PPC recommends that the Legislative Council adopt Temporary Order 2 as a permanent Standing Order of the House. The adoption of this recommendation will result in the changes to the Order of Business represented and appended to this report in Appendix 1.

Recommendation 1A:

That **Standing Order 5** be amended as follows —

To delete paragraphs (1) to (3) and insert —

- (1) Unless otherwise ordered and subject to Standing Order 6, the Council shall meet for business on the days and at the times as follows —

Tuesday 2.00 pm

Wednesday 1.00 pm

Thursday 10.00 am

- (2) Unless otherwise ordered by the President, the proceedings of the Council shall be suspended on the days and at the times as follows —

Tuesday 6.00 pm to 7.30 pm

Wednesday 4.15 pm to 4.30 pm

Thursday 1.00 pm to 2.00 pm
4.15 pm to 4.30 pm

- (3) Unless sooner adjourned or following business taken under (5), the Council stands adjourned at the following —

Tuesday 10.25 pm

Wednesday 7.00 pm

Thursday 6.00 pm

- 3.8 If the House was minded to accommodate the feedback by the Member in the survey relating to an afternoon tea break on Tuesdays, the PPC recommends the following alternative to Recommendation 1A:

Alternative Recommendation 1B:

That **Standing Order 5** be amended as follows —

To delete paragraphs (1) to (3) and insert —

- (1) Unless otherwise ordered and subject to Standing Order 6, the Council shall meet for business on the days and at the times as follows —

Tuesday 2.00 pm

Wednesday 1.00 pm

Thursday 10.00 am

- (2) Unless otherwise ordered by the President, the proceedings of the Council shall be suspended on the days and at the times as follows —

Tuesday 4.15 pm to 4.30pm
6.00 pm to 7.30 pm

Wednesday 4.15 pm to 4.30 pm

Thursday 1.00 pm to 2.00 pm
4.15 pm to 4.30 pm

- (3) Unless sooner adjourned or following business taken under (5), the Council stands adjourned at the following —

Tuesday 10.25 pm

Wednesday 7.00 pm

Thursday 6.00 pm

3.9 The adoption of this recommendation will result in the changes to the Order of Business represented and appended in Appendix 2.

Temporary Orders 3, 4 and 5

3.10 During the review of the survey results the PPC considered whether the Members of the Legislative Council who indicated support for the adoption of the Temporary Orders as permanent Standing Orders of the House also supported the varied

arrangements set out by Temporary Orders 3, 4 and 5 regarding the consideration of committee reports.

3.11 Temporary Orders 3, 4 and 5 arose out of correspondence received by the President in October 2014 that raised concerns regarding the time limits imposed by Standing Order 21 for the consideration of committee reports.

3.12 While the support for these arrangements was not clear to the PPC from the results of the survey, the PPC is of the view that the current remaining temporary orders regime should continue in operation until and including Friday, 1 September 2017 to provide certainty to the House.

3.13 Accordingly, the PPC makes the following recommendation:

Recommendation 2:

That, subject to Recommendation 3, the operation of **Temporary Orders 3: Time Limits on Speeches; and 4: Maximum Time Limits for Certain Business; and 5: Consideration of Committee Reports**, be extended to apply until (and including) 1 September 2017.

4 OUTSTANDING MATTERS FROM THE PROCEDURE AND PRIVILEGES COMMITTEE

4.1 The PPC draws to the attention of the House other matters which remain outstanding from this committee that are currently awaiting debate on the Legislative Council Notice Paper. These include the following reports of the PPC:

- Report No. 37 — Temporary Orders — 2016 (*tabled 25 November 2015*);
- Report No. 39 — Reference from the House on 25 February 2015; Standing Order 97: Strangers in the Council; and Standing Order 181: Witnesses' Entitlements (*tabled 28 June 2016*);
- Report No. 40 — E-Petitions (*tabled 28 June 2016*); and
- Report No. 41 — Recall of the Legislative Council (*tabled 13 September 2016*).

4.2 Each of the reports listed above contain recommendations from the PPC that are yet to be resolved by the House.

Report No. 37 — Temporary Orders — 2016

4.3 On 3 December 2015 the House resolved, on motion moved by the Leader of the House, to extend the operation of the 2015 Temporary Orders to apply until

31 December 2016. While the motion moved by the Leader of the House was consistent with, though independent from, Recommendation No. 1 contained in the PPC Report No. 37, the effect of the motion is that it left the two remaining recommendations from this report unresolved.

- 4.4 The two further recommendations contained in Report No. 37 proposed the trial of a change to the Temporary Orders relating to the speaking time-limits currently imposed on Consideration of Committee Reports, and the trial of a temporary amendment to Standing Order 190 to overcome a procedural obstacle which has caused confusion in the House when a related corollary motion that would not ordinarily require any substantive debate has been moved following the tabling of a committee report.
- 4.5 The PPC is keen to progress a trial of the speaking times on Consideration of Committee Reports being increased to unlimited periods of 10 minutes per Member, subject to a report losing its priority in the list (the rotational mechanism provided for by Temporary Order 5) after every 60 minutes of debate. This was an issue also raised in the Members’ survey as a suggestion.
- 4.6 Accordingly the PPC repeats its Recommendation No. 2 in Report No. 37 as follows:

Recommendation 3:

That **Temporary Order 3** be amended as follows [insertion of new text in **red**] –

Consideration of Committee Reports

All Members unlimited periods of 10 minutes per report

- 4.7 The PPC recommended² that these changes be trialled during the remainder of the 2016 sittings in order that the PPC and the House gauge their effectiveness in assisting these processes. It is disappointing that the trial of these recommendations have remained unresolved at this late stage in the 39th Parliament.
- 4.8 The PPC notes that if Recommendation 2 is adopted, this trial will continue to 1 September 2017.

² See Standing Committee on Procedure and Privileges — Report No. 37 — Temporary Orders — 2016.

Report No. 39 — Reference from the House on 25 February 2015; Standing Order 97: Strangers in the Council; and Standing Order 181: Witnesses' Entitlements

- 4.9 PPC Report No. 39 deals with the referral from the House on 25 February 2015, and proposed amendments to Standing Orders 97 and 181.
- 4.10 The referral from the House on 25 February 2015 arose out of PPC Report No. 29 — *Review of the Select Committee into the Appropriateness of Powers and Penalties for Breaches of Parliamentary Privilege and Contempts of Parliament*. The PPC's recommendation in relation to the referral from the House is intended to bring this matter to a close.
- 4.11 In relation to the proposed amendments to Standing Orders 97 and 181, the PPC notes that they are minor in nature, however, their adoption will assist or improve the orderly and proper transaction of business in the Council and its Committees.

Report No. 40 — E-Petitions

- 4.12 PPC Report No. 40 proposes that the House adopt a further temporary order for the trial of an innovative procedure providing a modern avenue for the petitioning of the Parliament.
- 4.13 This report contains a recommendation from the PPC that the Legislative Council adopt a Temporary Order for an E-Petitions trial during 2017.

Report No. 41 — Recall of the Legislative Council

- 4.14 In September 2016 the PPC considered a referral from the President in relation to the provisions for the recall of the Legislative Council. This referral arose as a result of the manner in which the Executive sought to circumvent the adjournment of the House and compel the Legislative Council to abridge its existing adjournment for the purpose of recalling the parliament to hold a joint sitting of the Council and Assembly to choose a person to hold the place of a Senator whose place had become vacant under section 15 of the *Commonwealth of Australia Constitution Act*.
- 4.15 This report contains a recommendation from the PPC that amends Standing Order 6 to provide an equivalent power to the President as that currently possessed by the Speaker of the Legislative Assembly that will eliminate any doubts regarding the privileges of the Legislative Council and alleviate these difficulties if similar circumstances arise in the future.

5 SUMMARY

- 5.1 The PPC notes that there remains a limited number of weeks scheduled for the Legislative Council to sit during the 39th Parliament.
- 5.2 Given the four sitting weeks remaining for the 2016 calendar year and the approaching prorogation in anticipation of the State General Election in March 2017, the PPC is of the view that the House should decide these matters before the House adjourns at the end of the scheduled 2016 sittings in November.



Hon. Barry House MLC
Chair
13 October 2016

APPENDIX 1

1 ORDER OF BUSINESS ON A SITTING DAY (WITHOUT AFTERNOON TEA ON TUESDAY)

| TIMES | TUESDAY | WEDNESDAY | THURSDAY | TIMES |
|--------------------|----------------------------------|---|---|--------------------|
| 10.00am 10.15am | | | HOUSE MEETS FORMAL BUSINESS * | 10.00am 10.15am |
| 10.15am 11.35am | | | NON-GOVERNMENT BUSINESS (80 minutes) | 10.15am 11.35am |
| 11.35am 12:35pm | | | PRIVATE MEMBERS' BUSINESS (60 minutes) | 11.35am 12.35pm |
| 12.35pm 1.00pm | | | ORDERS OF THE DAY | 12.35pm 1.00pm |
| 1.00pm 1.15pm | | HOUSE MEETS FORMAL BUSINESS * | LUNCH | 1.00pm 1.15pm |
| 1.15pm 2.00pm | | | | 1.15pm 2.00pm |
| 2.00pm 2.15pm | HOUSE MEETS FORMAL BUSINESS * | MOTIONS ON NOTICE (120 minutes) | ORDERS OF THE DAY | 2.00pm 2.15pm |
| 2.15pm 3.15pm | ORDERS OF THE DAY | CONSIDERATION OF COMMITTEE REPORTS (60 minutes) ‡ | | 2.15pm 3.15pm |
| 3.15pm 4.15pm | | | | 3.15pm 4.15pm |
| 4.15pm 4.30pm | | AFTERNOON TEA | AFTERNOON TEA | 4.15pm 4.30pm |
| 4.30pm 5.00pm | QUESTIONS WITHOUT NOTICE | QUESTIONS WITHOUT NOTICE | QUESTIONS WITHOUT NOTICE | 4.30pm 5.00pm |
| 5.00pm 5.20pm | ORDERS OF THE DAY | ORDERS OF THE DAY † | ORDERS OF THE DAY † | 5.00pm 5.20pm |
| 5.20pm 6.00pm | | | MEMBERS' STATEMENTS Δ | 5.20pm 6.00pm |
| 6.00pm 6.20pm | DINNER | | | |
| 6.20pm 7.00pm | | MEMBERS' STATEMENTS Δ | | 6.20pm 7.00pm |
| 7.00pm 7.30pm | | | | 7.00pm 7.30pm |
| 7.30pm 9.45pm | ORDERS OF THE DAY † | | | 7.30pm 9.45pm |
| 9.45pm 10.25pm | MEMBERS' STATEMENTS Δ | | | 9.45pm 10.25pm |

Note: Time periods above are not to scale, and many times are estimates only [see below].

* **Formal Business** is: prayers, condolence motions, reporting of Governor's messages, presentation of petitions, statements by Ministers and Parliamentary Secretaries, presentation of papers for tabling, giving notices of questions, giving notices of motions to introduce Bills, giving notices of motions to disallow statutory instruments, giving notices of motions, and motions without notice (see SO 14).
No maximum time is set for Formal Business - the House proceeds to other business after Formal Business has concluded.

‡ When the 60 minutes allocated for Consideration of Committee Reports concludes prior to 4.15pm (afternoon tea), Orders of the Day will commence at that time.

† When in Committee of the Whole House immediately prior to the time for Members' Statements to commence, debate will be interrupted shortly prior to the assigned time to allow for reporting to the Council.

Δ Members' Statements may be extended by an additional 10 minutes, and Assembly Messages may be taken after Members' Statements, pursuant to Standing Order 5(5).

APPENDIX 2

1 ORDER OF BUSINESS ON A SITTING DAY (WITH AFTERNOON TEA ON TUESDAY)

| TIMES | TUESDAY | WEDNESDAY | THURSDAY | TIMES |
|--------------------|----------------------------------|---|---|--------------------|
| 10.00am 10.15am | | | HOUSE MEETS FORMAL BUSINESS * | 10.00am 10.15am |
| 10.15am 11.35am | | | NON-GOVERNMENT BUSINESS (80 minutes) | 10.15am 11.35am |
| 11.35am 12:35pm | | | PRIVATE MEMBERS' BUSINESS (60 minutes) | 11.35am 12.35pm |
| 12.35pm 1.00pm | | | ORDERS OF THE DAY | 12.35pm 1.00pm |
| 1.00pm 1.15pm | | HOUSE MEETS FORMAL BUSINESS * | LUNCH | 1.00pm 1.15pm |
| 1.15pm 2.00pm | | | | 2.00pm |
| 2.00pm 2.15pm | HOUSE MEETS FORMAL BUSINESS * | MOTIONS ON NOTICE (120 minutes) | ORDERS OF THE DAY | 2.00pm 2.15pm |
| 2.15pm 3.15pm | ORDERS OF THE DAY | | | 2.15pm 3.15pm |
| 3.15pm 4.15pm | | CONSIDERATION OF COMMITTEE REPORTS (60 minutes) ‡ | | 3.15pm 4.15pm |
| 4.15pm 4.30pm | AFTERNOON TEA | AFTERNOON TEA | AFTERNOON TEA | 4.15pm 4.30pm |
| 4.30pm 5.00pm | QUESTIONS WITHOUT NOTICE | QUESTIONS WITHOUT NOTICE | QUESTIONS WITHOUT NOTICE | 4.30pm 5.00pm |
| 5.00pm 5.20pm | ORDERS OF THE DAY | ORDERS OF THE DAY † | ORDERS OF THE DAY † | 5.00pm 5.20pm |
| 5.20pm 6.00pm | | | MEMBERS' STATEMENTS Δ | 5.20pm 6.00pm |
| 6.00pm 6.20pm | DINNER | | | 6.00pm 6.20pm |
| 6.20pm 7.00pm | | MEMBERS' STATEMENTS Δ | | 6.20pm 7.00pm |
| 7.00pm 7.30pm | | | | 7.00pm 7.30pm |
| 7.30pm 9.45pm | ORDERS OF THE DAY † | | | 7.30pm 9.45pm |
| 9.45pm 10.25pm | MEMBERS' STATEMENTS Δ | | | 9.45pm 10.25pm |

Note: Time periods above are not to scale, and many times are estimates only [see below].

* **Formal Business** is: prayers, condolence motions, reporting of Governor's messages, presentation of petitions, statements by Ministers and Parliamentary Secretaries, presentation of papers for tabling, giving notices of questions, giving notices of motions to introduce Bills, giving notices of motions to disallow statutory instruments, giving notices of motions, and motions without notice (see SO 14).

No maximum time is set for Formal Business - the House proceeds to other business after Formal Business has concluded.

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† When in Committee of the Whole House immediately prior to the time for Members' Statements to commence, debate will be interrupted shortly prior to the assigned time to allow for reporting to the Council.

Δ Members' Statements may be extended by an additional 10 minutes, and Assembly Messages may be taken after Members' Statements, pursuant to Standing Order 5(5).