



THIRTY-NINTH PARLIAMENT

REPORT 37
STANDING COMMITTEE ON PROCEDURE AND
PRIVILEGES
TEMPORARY ORDERS — 2016

Presented by Hon Barry House MLC (Chair)

November 2015

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 Nick Goiran MLC

Hon Kate Doust MLC

Hon Martin Aldridge MLC

Staff as at the time of this inquiry:

Nigel Pratt (Clerk of the Legislative Council) Paul Grant (Deputy Clerk)

Grant Hitchcock (Usher of the Black Rod)

Address:

Parliament House, Perth WA 6000, Telephone (08) 9222 7222

lcco@parliament.wa.gov.au

Website: <http://www.parliament.wa.gov.au>

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REPORT OF THE STANDING COMMITTEE ON PROCEDURE AND PRIVILEGES

IN RELATION TO TEMPORARY ORDERS — 2016

1 REFERENCE AND PROCEDURE

- 1.1 On 24 November 2015 the *Procedure and Privileges Committee* (“the PPC”) met to review the operation of the 2015 Temporary Orders, and to discuss a number of other matters relating to the rules and the procedures of the House that were referred to the PPC by the President or drawn to the PPC’s attention during the debates in the House.
- 1.2 This report canvasses the PPC’s deliberations and recommendations in relation to Temporary Orders — 2016 and Standing Order 190: Motions Following Tabling of Report.

2 TEMPORARY ORDERS — 2016

Background

- 2.1 On Wednesday, 26 November 2014 the Legislative Council resolved to adopt Temporary Orders for 2015 that were to apply up to and including 3 July 2015. The House adopted Temporary Orders pursuant to the recommendation of the PPC contained in Report No. 33.¹
- 2.2 On 18 June 2015 the House extended the Temporary Orders by resolution to 31 December 2015.
- 2.3 The PPC commenced a review of the Temporary Orders arrangements to evaluate the success or otherwise of the alterations to the sitting and adjournment times of the House and the procedures relating to the Consideration of Committee Reports.

Days and Times of Meeting

- 2.4 The primary purpose of the Temporary Orders, as outlined in PPC Report No. 33, was to revise the sitting hours to achieve an earlier adjournment time on Wednesday evenings but not to diminish the total business time available to the House. Following an analysis of the operation of the Temporary Orders, the PPC is satisfied that the temporary adjustments to the Order of Business have successfully achieved this outcome.

¹ Legislative Council Standing Committee on Procedure and Privileges, Western Australia, *Report No. 33 — Temporary Orders — 2015* (2014).

- 2.5 The PPC's intention is to survey Members prior to the Winter recess to seek their views on whether the Temporary Orders should be adopted permanently as Standing Orders of the House.
- 2.6 The PPC recommends that the Legislative Council continue the Temporary Orders trial and further extend the Temporary Orders beyond 31 December 2015 so that they will apply for the 2016 sitting year.

Recommendation 1:

That the operation of the Temporary Orders of the Legislative Council be extended to apply until (and including) 31 December 2016.

Consideration of Committee Reports

- 2.7 The PPC proposes to extend the opportunity for Members to speak when the Committee of the Whole House is considering a committee report. The intent of this alteration is to allow Members to speak for unlimited periods of 10 minutes per report, consistent with the previous practice of the House.
- 2.8 The PPC was initially cautious in recommending a change to the speaking times for the consideration of committee reports. An undesirable result would be a return to a situation that arose under the old Standing Orders which saw some reports not being considered in a timely fashion or indeed at all.
- 2.9 In reviewing the operation of Temporary Order 5, the PPC noted that the rotational mechanism for the consideration of committee reports offered a successful and effective solution to ensure that one committee report did not monopolise the debate time at the expense of other reports listed on the Notice Paper.
- 2.10 The PPC therefore recommends a trial of unlimited periods of 10 minutes speaking time per report but retaining the 60 minute time for debate per report after which other committee reports would take precedence. This can be achieved through a minor alteration to Temporary Order 3 as follows:

Recommendation 2:

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

3 STANDING ORDER 190: MOTIONS FOLLOWING TABLING OF REPORT
Background

- 3.1 On two occasions in 2015 Standing Order 190(2) has created a procedural obstacle and/or caused some confusion in the House when a corollary motion that would not ordinarily require any substantive debate has been moved following the tabling of a committee report.
- 3.2 SO 190(2) was adopted by the House on 27 November 2013 as part of the further review of the Standing Orders undertaken by the PPC in 2012.² In this review the PPC stated at paragraphs 4.11.15 to 4.11.17:

[A] corollary motion in relation to a Committee report may be moved pursuant to SO 190 after a report has been tabled and the Chair has made a statement to the Council providing an overview of the report. Some corollary motions often can be dispensed with immediately, such as a motion to extend the time for a Committee to report a Bill to the Council. Other corollary motions are moved with the specific intent that a debate ensue on the matter, such as a motion that consideration of the report be made an order of the day.

The PPC is mindful that these corollary motions are moved during the course of formal business in the Council, that the duration of formal business is not prescribed under the Standing Orders, and that the House cannot proceed with other business until formal business has concluded. Given this, the PPC proposes that, when a corollary motion is moved and the motion requires debate, that the matter be adjourned automatically and set down as an order of the day. This provision will allow the House to continue with other business, and for the corollary motion to be further debated at a later time.

The PPC proposes that the debate be adjourned “until a later stage of the sitting” in order that the matter may be resumed later on the same sitting day, if the Leader of the House moves a subsequent motion to resume the debate. If the debate was adjourned until the next sitting of the Council and the Leader of the House formed the view that the matter needed to be finalised prior to the House rising that day, a subsequent suspension of Standing Orders would be required.

² Legislative Council Standing Committee on Procedure and Privileges, Western Australia, *Report No. 24 — Further Review of the Standing Orders* (2012). See also: Legislative Council Standing Committee on Procedure and Privileges, Western Australia, *Report No. 28 — Further Review of the Standing Orders (No. 2)* (2013).

- 3.3 The recommended form for SO 190(2) was adopted by the House in an amended form from that proposed by the PPC.

Corollary Motions — Procedure

- 3.4 The effect of SO 190(2) is that any corollary motion moved at the time of tabling a committee report is adjourned and becomes an Order of the Day for a later stage of that day's sitting. In order for the House to deal with that motion, the Leader of the House is required to move an order of business motion without notice later that day so that debate can proceed on the corollary motion, or place the order of the day relating to that business on the Business Program for a subsequent sitting day.
- 3.5 As a consequence, SO 190(2) as it is currently worded precludes an agreed procedural motion, such as an extension of a committee's reporting time from being immediately put and determined by the House without debate.
- 3.6 The PPC notes the rationale of the current Standing Order to automatically adjourn corollary motions is to provide the Members with an opportunity to consider the motion and determine whether or not to support it. However, where there is general agreement to a proposition an automatic adjournment interrupts the flow of business and causes inconvenience when the matter could have otherwise been dealt with during the period of formal business.
- 3.7 The PPC considers that in circumstances such as a motion for an extension of committee reporting time where a Chair's tabling statement has provided the Council with sufficient information regarding the motion's purpose and intent, and when no member intends to speak because there is agreement, the Council should be competent to dispense with the motion immediately.

Recommendation

- 3.8 The PPC therefore recommends the trial of a temporary amendment to Standing Order 190 as follows:

Recommendation 3:

That new **Temporary Order 6**, as outlined below, be adopted by the Council to apply until (and including) 31 December 2016 —

Standing Order 190(2) is suspended and replaced by the following Temporary Order —

- (2) When a motion is moved under (1), before putting the question the President shall ask whether any Member wishes to speak to the motion and —
 - (a) if no Member indicates that they wish to speak to the motion, the President shall put the question immediately;
 - (b) if any Member indicates that they wish to speak to the motion, then no debate shall ensue at that time and the debate shall be adjourned until a later stage of the sitting;
 - (c) an adjournment under (b) does not affect the movers right to speak to the motion.



Hon. Barry House MLC
Chair
25 November 2015