



LEGISLATIVE ASSEMBLY

# Procedural Digest

## Fifty-eighth Parliament, First Session

No. 7/2024: 15 – 24 October 2024

*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.*

October 2024

M	T	W	T	F
14	15	16	17	18
21	22	23	24	25

## Speaker

### Incorporation of Material into Hansard

On Wednesday 16 October, during his contribution to the second reading debate on the *Equality Legislation Amendment (LGBTIQA+) Bill*, the Member for Wahroonga, Mr Alister Henskens, sought leave to incorporate into Hansard a document comparing proposed amendments to the bill, provided to the Opposition on 12 October 2024, with amendments circulated in the House on 16 October.

Mr Henskens was leading for the Opposition on the bill and as such, under Standing Order 85, was afforded unlimited time for his second reading speech. In his speech Mr Henskens wished to articulate, and have put on the record, the exact differences between the amendments circulated on 12 October to those on 16 October, which he had commenced to do. As it was going to be a lengthy process, Mr Henskens sought leave for the sake of brevity in the debate.

Leave was granted by the Deputy Speaker, who noted that incorporation, where appropriate, may be granted where the material in question cannot be readily explained or put on record.

However, the Speaker was subsequently advised that Hansard were unable to incorporate the document in the desired format, due to the document containing a colour coded reference system which could not be captured in the black and white Hansard. The following day, Thursday 17 October, the Speaker tabled the document under Standing Order 265 and ordered that the document be printed.

*Votes and Proceedings:* 16/10/24 p. 880 and 17/10/24 p. 897

*Hansard (Proof):* 16/10/24 p. 35 and 17/10/24 p. 1

Standing Orders 264 (Tabled papers), 265 (Speaker tables papers) and 271 (incorporation of material into Hansard)



### Procedural note

Standing Order 271 allows a member to seek leave from the Speaker to incorporate material into Hansard.

Guidance on what a Speaker might take into account when deciding whether or not to grant leave to incorporate material in Hansard was articulated in a ruling by Speaker Torbay in 2007. Mr Torbay noted a number of factors needed to be considered, including the cost to Parliament to have the material incorporated and whether the material was already publicly available.

As a rule, leave to incorporate material into Hansard is not granted lightly. When the words to be recorded in Hansard are not spoken in the House there is no opportunity for the other Members in the Chamber to assess what is to be recorded and raise any objections or points of order regarding the content. As a rule incorporation is not considered when the material can be readily explained and this is especially the case in situations where members have set speaking time limits.

Standing Order 265 provides that the Speaker may table papers and direct that they be printed. Papers tabled by Ministers or Chairs of Committees are printed only on the House agreeing to a motion to that effect.

## Business

### Disallowance Motion

On Tuesday 15 October, the Member for Balmain, Ms Kobi Shetty, in the time set aside for members to give notices of motions for Business with Precedence under Standing Order 118, gave notice of a motion to disallow a statutory rule, namely the *Crimes Amendment (Major Facilities) Regulation 2024*. The object of the *Crimes Amendment (Major Facilities) Regulation 2024* is to amend the *Crimes Regulation 2020* to include certain metro stations as prescribed 'major facilities' for the *Crimes Act 1900*, section 214A. Section 214A creates offences in relation to persons damaging or disrupting major facilities.

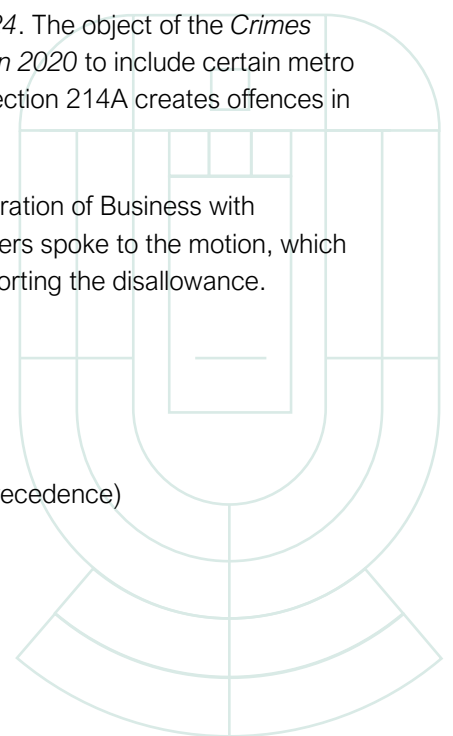
On 16 October 2024, in the time set aside in the Routine of Business for consideration of Business with Precedence, the House considered the motion. The mover and four other members spoke to the motion, which was negatived on a minority division, with only the members of The Greens supporting the disallowance.

This is the first motion to disallow a statutory rule moved in the 58th Parliament.

*Votes and Proceedings*: 15/10/2024, p. 864; 16/10/2024, p 880

*Hansard (Proof)*: 16/10/2024, pp. 22-7

Standing Orders 116 (Disallowance of statutory rules) and 118 (Business with precedence)





### Procedural note

Statutory rules may be published in the Government Gazette but the vast majority, including all regulations, are published on the NSW Legislation website. They are also tabled in both Houses of Parliament. Unlike Acts of Parliament, they are not debated in the House unless a Member moves a motion to disallow part or all of the statutory rule.

Section 41 of the *Interpretation Act 1987* provides that either House of Parliament may pass a resolution disallowing a statutory rule:

- (a) at any time before the rule has been tabled, or
- (b) within 15 sitting days after a statutory rule has been tabled, a notice of motion to disallow either all or part of the rule must be given.

Standing Order 116 sets out the procedure for a motion to disallow a statutory rule. A member must first give notice of a motion to disallow a statutory rule, after which, the motion is set down for consideration for the next sitting day during the time in the Routine of Business allocated for Business with Precedence.

A Statutory Instruments paper is published every sitting day Tuesday and on the first Tuesday of each month when not sitting. It contains the details of current disallowable statutory rules before the Legislative Assembly, including the last date a notice of motion to disallow a rule can be given.

### Alteration to sitting day routine of business

On Wednesday 16 October, the Leader of the House, Mr Ron Hoenig, moved that Standing and Sessional orders be suspended to provide for an altered routine of business on Tuesday 22 October and Wednesday 23 October. The reason for the proposed change to the routine on Tuesday was to allow interested Members to attend an event related to the royal tour of His Majesty King Charles III and Her Majesty Queen Camilla.

The suspension provided that the House would meet at 3.00 pm on the Tuesday. Notably the proposed routine did not include Question Time and its associated routine of business. The Leader of Opposition Business, Mr Alister Henskens, sought to, by way of an amendment to the suspension motion, include Question Time, however the amendment was defeated on division 37:49.

The suspension motion also provided that on the Wednesday the House would follow the standard routine of business for sitting Tuesdays as provided in Standing Order 97. The reason for the 12.00 pm start of the Wednesday was to provide time for the various party room and independent briefing meetings that normally occur at the start of a sitting week.

Following the defeat of the proposed amendment moved by the Leader of Opposition Business, the motion as moved by the Leader of the House was agreed to on the voices.

A consequence of the suspension being agreed to was that no time was now allocated in the second October sitting week to Committee Reports Take Note Debates. The two reports waiting for debate on the business paper were held over until the next time allocated for Committee Reports Take Note Debates on Friday 15 November 2024.



## LEGISLATIVE ASSEMBLY

*Votes and Proceedings*: 16/10/2024, pp. 878-9; 22/10/2024, pp. 911-15; and 23/10/2024, pp. 917-26

*Hansard (Proof)*: 16/10/2024, pp. 19-22

Standing Order: 97 (Routine of Business)

### **Deferred divisions for remainder of 2024 sittings and reinstatement of Reserve Week**

On the last day of the October sitting period, Thursday 24 October, the Leader of the House, Mr Ron Hoenig, moved that Standing and Sessional Orders be suspended to provide that, for the remainder of the 2024 sittings:

- After 7.30 pm on Tuesday, Wednesday and Thursday sittings any divisions called during Government business be deferred until 10.30 am the following sitting day and all remaining proceedings on the item of business be considered.
- During consideration of all remaining business, the following motions may not be moved:
  - (i) Member be not further heard;
  - (ii) Member be now heard; and
  - (iii) The question be now put.
- That the third sitting week in November (26, 27, 28 November) be rescheduled as a reserve week.

Following debate, the motion was agreed to on the voices.

The suspension provides that if a division is called during an item of Government Business, then the division *and* all remaining proceedings on the item will be considered from 10.30 am the next sitting day. Therefore, in the case of a division being called on the question on the second reading of a Government Bill, when the House conducts the division on the next sitting day it would then, if members have so requested by circulating amendments, proceed to consideration in detail of the bill and following that the question on the third reading of the bill.

When the House on 19 October 2023 agreed to the 2024 sitting calendar, November 26, 27 and 28 was listed as a Reserve Week. Subsequently on 16 May 2024 when the House agreed to amend its previous resolution setting out the 2024 sitting calendar to include six additional sitting days (all Fridays) it also resolved that the House would definitely sit on the 26, 27 and 28 November. These dates have now been relisted as a Reserve Week. Whether the House does sit on any of the reserve days will be a decision for the House.

*Votes and Proceedings*: 24/10/2024, p. 934

*Hansard (Proof)*: 24/10/2024, p. 49

Standing Order: 365 (Suspension of Standing and Sessional Orders)

## **Bills**

### **Equality Legislation Amendment (LGBTIQA+) Bill**

The *Equality Legislation Amendment (LGBTIQA+) Bill* is a private member's bill, introduced by the Member for Sydney, Mr Alex Greenwich, on 24 August 2023. In previous issues of the Digest we have discussed the splitting of this bill from its cognates ([Digest 6/23](#)), the extension of its lapsing date and referral to committee for inquiry and report ([Digest 2/24](#)), and a further extension of its lapsing date ([Digest 5/24](#)).

The bill was due to lapse on 31 October 2024. On Wednesday 16 October the Leader of the House, Mr Ron Hoenig, moved that Standing and Sessional Orders be suspended to permit all stages of the bill to be considered



## LEGISLATIVE ASSEMBLY

during the time set aside for Government Business. The suspension also allowed Mr Greenwich to speak for an unlimited number of times not exceeding 15-minute periods during the bill's consideration in detail.

The suspension motion was debated by Opposition Whip, Mr Adam Crouch, the Member for Newtown, Ms Jenny Leong (by leave), and Mr Greenwich (by leave), with the latter attempting to close the debate by moving "that the question be now put." However, this was disallowed under Standing Order 365, which prohibits a member closing debate on a motion to suspend Standing and Sessional orders. The Leader of the Opposition, Mr Mark Speakman, also sought to contribute to the debate but was denied leave of the House. When the question was subsequently put, a division was called and deferred to 10.30 am, as required by Standing Order 187. The division was resolved in the affirmative 52:30 with only members of the Opposition voting against the suspension.

Resumption of the adjourned debate on the second reading of the bill resumed immediately after the suspension was agreed to. The debate was interrupted by Question Time and later on by the PID. Debate on the second reading concluded at around 6.45 pm after contributions from 21 members, including the Speaker in his capacity as a private member. The question on the second reading was agreed to on the voices.

Mr Greenwich requested that the bill be considered in detail and was granted leave to move his 66 circulated amendments in globo. The question was put on the amendments and a division was called by the Greens. As there were fewer than five names in the negative, the names of the three members of the Greens were recorded in the Votes and Proceedings (Standing Order 181).

The House divided on the question of the third reading of the bill. The question was resolved in the affirmative 50:30, with members of the Opposition and three independents voting against the third reading. Notably the Member for North Shore voted with the ayes. In her second reading speech Ms Felicity Wilson noted her appreciation of her right as a member of the Liberal Party to vote against the party line on the bill.

The bill was sent to the Legislative Council for concurrence and was returned by the Council on Thursday 17 October without amendment. The bill was assented to on Wednesday 23 October.

*Votes and Proceedings:* 16/10/2024, pp. 876-7, 880, 884-94; 17/10/2024, p. 897, 18/10/2024, p. 905

*Hansard (Proof):* 16/10/2024, pp. 1-7, 35, 70, 86-7; 18/10/2024, p. 1

Standing Orders: 86 (Motion "That the question be put"), 96 (Leave), 97 (Routine of business), 180 (Procedure for division), 187 (Restrictions on divisions), 203 (Proceedings after the second reading), 365 (Suspension of Standing and Sessional Orders)

### **Ministers taking carriage of Assembly private members' bills in the Legislative Council**

On 26 September 2024, two private member's bills - the *Regional Communities (Consultation Standards) Bill* introduced by the Member for Barwon, Mr Roy Butler, and the *Water Management Amendment (Water Access Licence Register Reform) Bill* introduced by the Member for Murray, Mrs Helen Dalton, passed the Assembly and were forwarded to the Legislative Council for concurrence.

Notably, in each case when the bill was reported in the Council a Minister took carriage of the bill and moved its first reading. The Minister for Agriculture, Regional NSW and Western NSW, Ms Tara Moriarty, took carriage of the *Regional Communities (Consultation Standards) Bill* while the Minister for Water, Housing, Homelessness, Mental Health, Youth and the North Coast, Ms Rose Jackson, took carriage of the *Water Management Amendment (Water Access Licence Register Reform) Bill*.



## LEGISLATIVE ASSEMBLY

As Ministers took carriage, the bills were considered items of Government Business in the Legislative Council. In each case, after the bills were introduced, the second readings were set down as orders of the day for a later time. Each bill was listed on the Legislative Council's Notice Paper for 15 October (the next sitting day following 26 September) as Government Business Orders of the Day. Being considered items of Government Business significantly increased the likelihood of the two bills being considered in a timely fashion.

Both the bills were considered by the Legislative Council on 15 October. The *Water Management Amendment Bill* was passed by the Council and returned without amendment while the *Regional Communities (Consultation Standards) Bill* was passed and returned with an amendment. The messages from the Council returning the bills were reported in the Assembly on 16 October. While the bills were considered Government Business in the Legislative Council, Mrs Dalton and Mr Butler remained the members with carriage of the bills in the Assembly.

Assembly Standing Order 222 provides that when an Assembly bill is returned from the Council with amendments, on its reporting the Speaker shall fix a later time for consideration of the amendments, or the amendments may be considered in detail forthwith. For the *Regional Communities Bill*, the Speaker ordered that the Legislative Council amendment be considered forthwith. Mr Butler moved, and the House agreed, that the amendment be agreed to. If the Speaker had fixed a later time for consideration of the Council amendment, it would have been set down as a General Business Order of the Day for Bills. It would have been placed at the end of that list and only able to be considered in the time set aside on sitting Thursdays.

*Votes and Proceedings*: 16/10/2024, p. 875, 882-883.

*Hansard (Proof)*: 16/10/2024, p. 1, 66.

Standing Orders 105 (Precedence and lapsing of General Business), 222 (Return of bill with proposed amendments) and 229 (Procedure in the Assembly for Council bills)

### Procedural note

Private members' bill in the Assembly will lapse six months after the notice of motion to introduce the bill is given if proceedings have not concluded (SO 105(3)). Conversely, bills introduced by private members in the Legislative Council do not lapse after a set period of time if proceedings have not been earlier concluded.

The lapsing period in the Assembly also applies to private members bills received from the Legislative Council which are placed in the carriage of a private member of the Assembly (see SO 229 (2)). For example, the *Road Rules Amendment (Mobile Phones as Navigation Aids for Provisional Licence Holders) Bill* introduced by the Hon John Ruddick passed the Legislative Council on 25 September 2024. The message from the Legislative Council forwarding the bill for concurrence was reported in the Assembly on 15 October. When reporting the message, the Speaker advised that Mrs Helen Dalton would have carriage of the bill. The bill will lapse if proceedings on the bill in the Assembly do not conclude before 16 April 2025.

### Legislative Council private member's bill forwarded to the Assembly for concurrence

On 15 October, the Speaker reported a message from the Legislative Council transmitting the [Road Rules Amendment \(Mobile Phones as Navigation Aids for Provisional Licence Holders\) Bill 2024](#) to the Legislative Assembly for concurrence.



## LEGISLATIVE ASSEMBLY

The bill was introduced in the Legislative Council as a private Member's bill by the Hon. John Ruddick MLC on 19 June 2024, and it passed that House on 25 September. The object of the bill is to amend the *Road Rules 2014* to allow provisional P1 and P2 drivers to use mobile phone devices for navigational purposes.

The Speaker also advised the House that he had received written authority from Mr Ruddick advising that Mrs Dalton, the member for Murray, would have carriage of the bill in the Assembly. The second reading of the bill was set down as an Order of the Day for a later time.

*Votes and Proceedings*: 15/10/2024, p. 864 and 23/6/2022, p. 1806 and 1807

*Hansard (Proof)*: 15/10/2024 p. 2 and 23/6/2022, p.9051, 9054 and 9067

Standing Orders 105(Precedence and lapsing of General Business) and 229(2) (Procedure in the Assembly for Council bills)

### Procedural note

In accordance with Standing Order 229(2), private Members' bills transmitted from the Legislative Council are not reported in the Legislative Assembly until the Speaker is advised which Member of the Assembly will have carriage of the bill.

As with other Council bills transmitted for concurrence, once reported, a private Members' bill from the Council is considered to have been introduced and debate on the bill can proceed. In the case of private Members' bills transmitted from the Council, debate occurs during the time in the routine of business set aside for General Business Orders of the Day (for Bills).

In addition, in accordance with Standing Order 105(3), as the bill is a private Member's bill, a lapsing date six months from the date the bill is reported in the Assembly is applied to the bill.

