



**LEGISLATIVE ASSEMBLY OF VICTORIA  
STANDING ORDERS COMMITTEE**

**Report on the Inquiry into Petitions, the Opening of  
Parliament, and the Passage of Legislation**

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Ordered to be printed

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VICTORIAN GOVERNMENT  
PRINTER

December 2009

No 266 Session 2006–09

Legislative Assembly of Victoria  
Standing Orders Committee

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## **STANDING ORDERS COMMITTEE**

### **Members**

Hon Jenny Lindell, MP, Speaker of the Legislative Assembly (Chair)

Ms Ann Barker, MP, Deputy Speaker of the Legislative Assembly

Mr Nicholas Kotsiras, MP

Mr Craig Langdon, MP

Mr Andrew McIntosh, MP

Mr Don Nardella, MP

Mrs Jeanette Powell, MP

### **Committee staff**

Mr Ray Purdey, Clerk of the Legislative Assembly (Principal Adviser to the Committee)

Mrs Liz Choat, Deputy Clerk

Ms Bridget Noonan, Assistant Clerk Committees (Secretary)

## **APPOINTMENT OF THE STANDING ORDERS COMMITTEE**

### **Extract from the Votes and Proceedings of the Legislative Assembly**

**Thursday 15 March 2007**

#### **7 STANDING ORDERS COMMITTEE AND PRIVILEGES COMMITTEE**

...

- (2) A select committee be appointed to consider and report upon the standing orders of the House; such Committee to consist of the Speaker, Ms Barker, Mr Kotsiras, Mr Langdon, Mr McIntosh, Mr Nardella and Mrs Powell and that four be the quorum.

# CONTENTS

Members and staff of the Standing Orders Committee .....	iii
Appointment of the Committee .....	iv
Terms of reference .....	vi
Chair’s introduction .....	vii
Recommendations .....	viii

<b>Report.....</b>	<b>1</b>
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## **Appendices — proposed amended standing orders**

Appendix 1	Standing Order 2 .....	9
Appendix 1	Standing Order 5 .....	10
Appendix 2	Standing Order 33 .....	10
Appendix 3	Standing Order 52 .....	11
Appendix 4	Standing Order 165 .....	11

### **Matter referred to the Standing Orders Committee**

Motion made, by leave, and question — That the Standing Orders Committee:

- (1) Be required to undertake a review of the standing orders to consider and make recommendations for new and/or amended standing orders regarding the passage of legislation, the opening of Parliament and petitions;
- (2) Present its report on the review to the House, six months\* from the date of this resolution; and
- (3) Have the power to confer with the Standing Orders Committee of the Legislative Council regarding a review of the joint standing orders and to report jointly to the House.

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\* Amended to 4 December 2009, VP (2006–09) pp 610–11

## **CHAIR'S INTRODUCTION**

The Inquiry into Petitions, the Opening of Parliament, and the Passage of Legislation gave members of the Standing Orders Committee the opportunity to consider matters involving the day-to-day operations of the Chamber, as well as the arrangements for the first sitting day of a new Parliament. The Committee also took the opportunity in the report to address some other procedural issues that the Committee identified as being of relevance to the House, such as a response mechanism for the adjournment debate, and arrangements for party votes where members have childcare responsibilities.

I would like to thank all members of the Committee — Ms Barker, Mr Kotsiras, Mr Langdon, Mr McIntosh, Mr Nardella and Mrs Powell — for the positive way in which they approached the issues and the contributions they made. The Committee worked productively with the Legislative Council Standing Orders Committee to consider matters affecting both Houses, and I thank the President and members of the Council Standing Orders Committee for their input.

Finally, on behalf of the Committee I thank the Clerks for their assistance, and I commend the report to the House.

Hon Jenny Lindell MP  
Speaker  
December 2009

## RECOMMENDATIONS

The Committee recommends:

### Recommendation 1

That in relation to the opening of the 57<sup>th</sup> Parliament:

- the Commissioner appointed to swear in members proceed directly to the Assembly Chamber, rather than to the Council Chamber;
- the Clerk of the Legislative Assembly read the Commission from the Governor to Assembly members;
- Standing Order 2 be amended so far as is necessary.

### Recommendation 2

That in relation to the opening of the 57<sup>th</sup> Parliament:

- Lower galleries and designated part of upper galleries in the Council Chamber be reserved for Assembly members.

### Recommendation 3

That in relation to the opening of the 57<sup>th</sup> Parliament:

- An indigenous smoking ceremony be held on the front steps upon the arrival of the Governor;
- An indigenous Welcome to Country ceremony be conducted in the Council Chamber immediately prior to the Governor's Speech.

### Recommendation 4

That:

- The requirement for a privilege bill to be introduced on the opening day of a new Parliament or session is no longer required, but the House should still assert its right to conduct its own business through conducting formal business before the Governor's speech is reported.
- Standing Orders be amended to that effect.

#### **Recommendation 5**

**That:**

- **Within 90 days of a petition being tabled, the relevant minister will provide a response in writing to the member who tabled the petition and the Clerk;**
- **In the event of an petitions process being adopted by the House, the ministerial response to an epetition lodged with the Clerk will be published online;**
- **Standing Orders be amended to that effect.**

#### **Recommendation 6**

**That:**

- **Where a matter raised on the adjournment debate is not addressed in the House by the minister at the time of being raised, the minister must provide a written response to member who raised the matter within 30 days;**
- **Standing Orders be amended to that effect.**

#### **Recommendation 7**

**That:**

- **A member with childcare responsibilities be able to sit in the Speaker's gallery with a child and cast a vote for the purposes of SO 165;**
- **Standing Orders be amended to that effect.**



## REPORT

The Committee has the honour to report as follows:

### Background to the report

- 1 On 4 December 2008 the House agreed to a resolution requiring the Standing Orders Committee to undertake a review of standing orders to consider and make recommendations for new and/or amended standing orders regarding the passage of legislation, the opening of Parliament and petitions.
- 2 The House empowered the Committee to confer with the Standing Orders Committee of the Legislative Council regarding the matters that impacted on the joint standing orders of the Houses. The Committee met with the Standing Orders Committee of the Legislative Council and formed a subcommittee to examine matters affecting both Houses, being the legislative process, and the opening of Parliament. The subcommittee reported back to the full committees at a joint meeting, where the subcommittee's proposals were endorsed. Accordingly, those proposals form part of this report.
- 3 As part of its Interim Response<sup>1</sup> to the Public Accounts and Estimates Committee's (PAEC) Report on the inquiry into strengthening government and parliamentary accountability in Victoria, tabled in July 2009, the Committee foreshadowed that it was deferring comment on the issues raised by PAEC that would be specifically addressed in the inquiry referred to it in December 2008.
- 4 In its Interim Response, the Committee pointed out at paragraph 5:

As part of its analysis of the issues identified for its consideration in the PAEC report, the Committee looked at modernising the legislative process, dealing with petitions, and the opening of Parliament. The Committee does not specifically address those issues in this report, as a more detailed investigation of those matters will be reported to the House as part of the Committee's report on the inquiry referred to it in December 2008.

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<sup>1</sup> *Standing Orders Committee: Recommendations from the Public Accounts and Estimates Committee's Report on the Inquiry into Strengthening Government and Parliamentary Accountability in Victoria — Interim Response*, PP 222, Session 2006–09, tabled in the Assembly on 30 July 2009.

**Issues not addressed in this report**

Notices of motion

- 5 The Committee is aware that the arrangements for giving notices of motion, and the content of some notices, are considered unsatisfactory by many members and the Speaker. The Speaker has commented in the House that the matter should be resolved by the Standing Orders Committee.<sup>2</sup>
- 6 The Committee recognises that notices of motion are a powerful tool, even if not debated, and that members must have the right to bring matters to the House's attention. However, there appear to be varying views amongst members of the House regarding the purposes of notices, which needs further exploration by the Committee.
- 7 The Committee has reviewed the practices of other jurisdictions to determine whether there are any practical changes to be made to advantage Assembly members in giving notices of motion, and promote the smooth running of formal business. Further, the Speaker and the Clerk investigated the practices of the House of Commons and the Scottish Parliament during a study tour in September and October 2009. The Committee intends to analyse the comparative information and report to the House regarding any possible changes next year.

**Opening of Parliament**

- 8 The opening of Parliament is an important event on the parliamentary calendar. It is exciting for new members who are sworn in for the first time; it is a significant occasion for the Victorian public who, through the Governor's speech, learn of the Government's policy agenda for the next term; and the ceremonial elements of the day provide the Victorian Parliament with a tangible link to its Westminster heritage. In considering improvements to the opening day arrangements, the Committee is keen to retain the traditional aspects that are of value to members and the public, while modernising other components to ensure the day is conducted in a relevant and effective manner.
- 9 As the opening of Parliament is a day shared with colleagues from the Legislative Council, the Committee met with the Standing Orders Committee of that House to ensure that any recommendations impacting on both Houses were reached jointly. The Committees formed a subcommittee which was charged with the responsibility of analysing the issues and reporting options back to the full Committees.
- 10 The subcommittee met in private in September and October, and reported its recommendations back to a joint meeting of both Committees in November. The joint meeting endorsed the recommendations of the subcommittee.

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<sup>2</sup> *Hansard*, 12 August 2009, p 2606

Change in arrangements for Commissioners attending Chambers

- 11 On opening day, it is usual for Assembly members to attend the Council to hear the reading of the Commission from the Governor, authorising the Commissioners to swear in members. The Assembly members then walk back to the Assembly Chamber for their swearing in by the Commissioner. There is no procedural requirement for the Assembly members to attend the Council Chamber to hear the Commission read; it is simply a custom. The Committee shares the view expressed by the Clerk of the Legislative Assembly in his submission to PAEC's Inquiry into Strengthening Government and Parliamentary Accountability in Victoria that the process is unnecessary.<sup>3</sup>
- 12 The Committee considers that it is a more effective use of members' and officers' time for the Commissioner appointed to swear in members of the Assembly to proceed directly to the Assembly Chamber and have the Commission from the Governor read to members by the Clerk. The Commissioner could then swear in Assembly members, while the same process is underway in the Council.

**Recommendation 1**

**That in relation to the opening of the 57<sup>th</sup> Parliament:**

- **the Commissioner appointed to swear in members proceed directly to the Assembly Chamber, rather than to the Council Chamber;**
- **the Clerk of the Legislative Assembly read the Commission from the Governor to Assembly members;**
- **Standing Order 2 be amended so far as is necessary.**

Accommodation of Assembly members in Council Chamber

- 13 In deliberations with members of the Legislative Council Standing Orders Committee, the Committee observed that in recent years, most members of the Legislative Assembly have not been accommodated in the Council Chamber to hear the Governor's speech as there is an absence of designated seating for the majority of Assembly members. Both Committees consider it important that Assembly members are present in the Council Chamber to hear the Governor set out the Government's agenda for the forthcoming Parliament and that, therefore, assigned seating should be made available in the lower galleries and designated part of upper galleries for Assembly members.

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<sup>3</sup> PAEC: Inquiry into Strengthening Government and Parliamentary Accountability in Victoria, Submission No 24: Ray Purdey, Clerk of the Legislative Assembly and Clerk of the Parliaments

**Recommendation 2**

**That in relation to the opening of the 57<sup>th</sup> Parliament:**

- **Lower galleries and designated part of upper galleries in the Council Chamber be reserved for Assembly members.**

Welcome to Country and Smoking Ceremony

- 14 The Committee, with its Council colleagues, noted that the indigenous smoking ceremony held on the front steps at the time of the Governor's arrival at recent openings was a positive move and well regarded. The Committee confirms that this ceremony should continue, as it is an important ritual in welcoming the Governor — who is one of the three constituent parts of the Parliament — to the Parliament building.
- 15 The Committee noted that indigenous Welcome to Country ceremonies form part of modern civic life. In a Welcome to Country ceremony, recognition of indigenous history and community is made through a formal process conducted by a representative or representatives of local indigenous custodians. The representative welcomes the attendees to their country, and the Committee deems that this would form a meaningful and appropriate part of the opening of Parliament. The Committee notes that the Commonwealth Parliament proposes that a Welcome to Country ceremony feature in its openings in future.<sup>4</sup>
- 16 In considering when an indigenous Welcome to Country ceremony be held, the Committee reached the view that it would be most appropriate for the ceremony to take place in the Council Chamber, immediately prior to the Governor's Speech. This reflects the fact that the opening is a non-political and parliamentary occasion and enables the custodian to formally welcome members of both Houses, and the Governor, as well as guests.

**Recommendation 3**

**That in relation to the Opening of the 57<sup>th</sup> Parliament:**

- **An indigenous smoking ceremony be held on the front steps upon the arrival of the Governor;**
- **An indigenous Welcome to Country ceremony be conducted in the Council Chamber immediately prior to the Governor's Speech.**

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<sup>4</sup> House of Representatives Standing Committee on Procedure, *Re-opening the Debate: Inquiry into the Arrangements for the Opening Day of Parliament*, October 2008, p 9

Privilege Bill

17 The traditional Westminster practice is for a bill, commonly referred to as a privilege bill, to be read a first time before the Queen's speech is reported. This reinforces the House's right to conduct business independently.

18 The Legislative Assembly has followed that practice, SO 5(3) stating:

A bill is read a first time to re-assert and maintain the right of the House to deal with its own business before the Governor's business.

Over the years some privilege bills introduced into the Assembly have not been debated at all. Recently, however, the practice has been for the bill to be considered and debated in the same way as any other bill.

19 Under current standing orders, 'ordinary' bills may be introduced without notice. On the opening day of the 56<sup>th</sup> Parliament seven bills were introduced in addition to the privilege bill. The ability to introduce legislation without notice has effectively watered down the significance of the privilege bill itself.

20 In some other Australian jurisdictions a more general approach has been taken to the House symbolically asserting its rights to act independently. For example, the House of Representatives simply requires that 'some formal business shall be transacted and the Prime Minister may announce his or her ministry'.

21 The Committee sees merit in the House continuing to assert its rights but, as other business is being transacted, does not feel it is necessary for a privilege bill to be introduced to reinforce those rights. Standing orders already require formal business to take place before the Governor's speech is reported and that formal business could be specifically stated to be a reassertion of the House's rights.

**Recommendation 4**

**That:**

- **The requirement for a privilege bill to be introduced on the opening day of a new Parliament or session is no longer required, but the House should still assert its right to conduct its own business through conducting formal business before the Governor's speech is reported.**
- **Standing Orders be amended to that effect.**

## Petitions

- 22 Members note that petitions are an important mechanism by which members of the public can directly present views to the Chamber. There is not currently a process whereby petitioners are informed of any action taken as a result, which often surprises petitioners. The standing orders require the Clerk to advise the relevant minister when a petition affecting his or her area of portfolio responsibility has been tabled, but there is no requirement for the minister to respond.
- 23 The Committee believes that some response process is reasonable, as it is a legitimate part of the dialogue between petitioners and their representatives. The Committee considers that responses, however, should not be published in *Hansard*, as it is for transcripts of proceedings. A response should, therefore, occur outside the Chamber by the minister responding direct to the member presenting the petition. A copy of the response should also be lodged with the Clerk.
- 24 Petitions presented to the House cover a range of matters, and make varying requests of the House. Some of these requests are on specific, local issues; others seek wholesale policy reviews. The nature of the response, therefore, depends entirely on the issue being addressed in the petition and there should not be a prescribed form or content for responses.
- 25 The Committee takes the view that 90 days is a fair timeframe for the minister to provide a response, but that the response should not be ‘policed’ by the Clerk’s Office or the House; the member presenting the petition should have responsibility for following it up with the minister if the response is late.
- 26 In responding to a petition, the minister is responding to the issue or grievance being raised, so where there are multiple petitions on substantially the same issue, one response is sufficient, providing it has been given within the preceding year.
- 27 The Committee draws the House’s attention to the fact that, if this process is agreed to, it will also need to apply to any future petitions system. In the model set out in the Committee’s report on petitions,<sup>5</sup> the Clerk would post a copy of the response online.

### Recommendation 5

**That:**

- **Within 90 days of a petition being tabled, the relevant minister will provide a response in writing to the member who tabled the petition and the Clerk;**
- **In the event of an petitions process being adopted by the House, the ministerial response to an petition lodged with the Clerk will be published online;**
- **Standing Orders be amended to that effect.**

<sup>5</sup> Standing Orders Committee *Report on Epetitions*, PP 189, Session 2006–09, 7 May 2009

## Passage of legislation

- 28 The inquiry's terms of reference required the Committee to examine any new or amended standing orders regarding the passage of legislation. The Committee noted that significant changes to the standing orders dealing with the passage of legislation took effect in 2005. Those changes included: the abolition of Committee of the Whole and the introduction of Consideration in Detail stage; the ability of ministers to introduce bills without giving notice, and the modernising of language in messages.
- 29 The Committee surveyed other Houses in Australia and New Zealand in relation to techniques taken to modernise the legislative process. It became clear in the analysis that the Assembly is as well advanced as many Houses. Further, the Committee asserts that it is important to preserve members' rights to participate in each stage of the legislative process, and there is no compelling case for change in Victoria. The Committee concluded that there are no practical steps to take to modernise the legislative process, and this view was confirmed with the Council Committee.

## Adjournment debate

- 30 In its report to the House in July 2009, the Committee foreshadowed that it would evaluate the effectiveness of the Legislative Council's sessional orders governing the adjournment debate. After discussion, the Committee noted that the principal concern with the Assembly's adjournment debate is that there is no formal response mechanism, which could lead to perceptions that nothing is achieved as a consequence of the matters being raised. A meaningful debate is responsive and accountable, and seen to be so. The Committee concluded, therefore, that a response mechanism whereby ministers provided a response to matters raised within 30 days would strengthen the debate as a vital forum.
- 31 The Committee has a strong preference for responses to adjournment debate matters to be provided outside the House, so as not to take up the House's time. The Committee also concluded that responses should not be printed in *Hansard*, as *Hansard* should stand as a record of discussions in the House.

### Recommendation 6

**That:**

- **Where a matter raised on the adjournment debate is not addressed in the House by the minister at the time of being raised, the minister must provide a written response to the member who raised the matter within 30 days;**
- **Standing Orders be amended to that effect.**

**Divisions**

- 32 The Committee recognises that members with childcare responsibilities would benefit from flexibility in some of the more formal components of their duties to the Chamber. In recent years, provision has been made for a member, if necessary, to bring an infant into the Chamber to be breastfed.<sup>6</sup>
- 33 The Committee is aware that there could be occasions where a member with a young child may find themselves caring for their child in the parliamentary precinct, particularly during the evening, when a division is called for. In such a case, a member has little time to find an alternative carer for the child, as the doors to the House are locked after three minutes. The Committee, therefore, proposes an arrangement whereby a member with childcare responsibilities may participate in a party vote by sitting in the Speaker's Gallery and being counted as though he or she were sitting in their designated seat in the House.

**Recommendation 7**

**That:**

- **A member with childcare responsibilities be able to sit in the Speaker's gallery with a child and cast a vote for the purposes of SO 165;**
- **Standing Orders be amended to that effect.**

Committee Room  
9 December 2009

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<sup>6</sup> Speaker's Ruling, *Hansard*, Vol 45718 March 2003, p 248 (Maddigan)

## Appendices — proposed amended standing orders

### Appendix 1 — Opening of Parliament

#### 2 Opening of a new Parliament

On the first day of a new Parliament the proceedings will be:

- (1) Members meet at the time and place specified in the Governor's proclamation.
- (2) The Clerk reads the proclamation.
- ~~(3) The House waits for a message from the Commissioners appointed by the Governor for opening Parliament. The Serjeant at Arms announces the messenger and escorts him or her to the table to deliver the message.~~
- ~~(4) Members attend the Council Chamber to hear the commission read and then return to the Assembly Chamber.~~
- (35) The Commissioner appointed by the Governor for swearing members is announced by the Serjeant-at-Arms, the Commissioner delivers the Commission to the Clerk, and the Clerk reads the Commission.
- (46) The Clerk reads the general election writ, which lists the members elected.
- (57) Members then make and subscribe the oath or affirmation of allegiance in accordance with the *Constitution Act*.
- (68) The House elects a Speaker.
- (79) The House elects a Deputy Speaker.
- (810) The Premier informs the House of the time at which the Governor will be advised of the Speaker's election and the sitting is suspended until a time after that presentation. Other members may accompany the Speaker to the presentation.
- (911) The Speaker reports the presentation to the House and the House awaits a message from the Governor.

## 5 Resumption of business after the suspension

The order of business after the suspension will be:

- (1) Question time.
- (2) Formal business, [in assertion of the House's rights](#).
- ~~(3) A bill is read a first time to re-assert and maintain the right of the House to deal with its own business before the Governor's business.~~
- (43) The Speaker will report the Governor's speech to the House.
- (54) An address-in-reply to the Governor's speech is moved after the speech is reported. The motion is seconded.
- (65) Any other business.

## Appendix 2 — Responses to adjournment matters

### 33 Adjournment debate

Following an adjournment motion proposed by a minister under SO 31(4)(a) or by the Speaker under SO 32:

- (1) The question 'That the House now adjourns' may be debated and any debate will last for a maximum of 30 minutes or until 10 members have spoken, whichever is the shorter. Subject to such overall time period, the time limit for each member speaking in the debate is three minutes.
- (2) Immediately afterwards a period of 30 minutes in total will be provided for ministers to respond. [If the minister responsible is not present in the House to respond, the minister will provide a written response to the member who raised the matter within 30 days.](#)
- (32) At the end of any debate, the Speaker will adjourn the House, without putting any question, until the next sitting day.

## Appendix 3 — Responses to petitions

### 52 Copy of petition to responsible minister and response made

- (1) A copy of every petition received by the House must be referred by the Clerk to the minister responsible for the administration of the matter that is the subject of the petition.
- (2) Within 90 days of the petition being tabled, the minister responsible will provide a response in writing to the member who lodged the petition and the Clerk.
- (3) Where a petition is tabled on substantially the same issue as an earlier petition and the minister responsible has responded within the preceding year, the minister is not required to provide a further response.

## Appendix 4 — Party votes

### 165 Procedure for a party vote

- (1) After the doors are locked the Chair restates the question.
- (2) Subject to paragraph (3), Members must sit in their allocated places in the Chamber.
- (3) For the purposes of participating in a party vote, a member with child care responsibilities may sit in the Speaker's Gallery along with the child or children being cared for and may address the Chair from that Gallery for the following purposes:
  - (a) to cast a vote, or challenge a vote under paragraph (9), as an independent member or the only member of his or her party present.
  - (b) to vote contrary to his or her party under paragraph (7).
- (4) First the Clerk asks any independent member to cast his or her vote.
- (5) The Clerk next asks the whip of each party, or their representative, to cast the party's votes; parties are asked to vote in the order of the size of their parliamentary membership.

## Legislative Assembly Standing Orders Committee

- (65) The number is cast for the ayes or for the noes. Votes may only be cast for members present in the Chamber and every member present must vote, [including a member present in accordance with paragraph \(3\)](#).
- (76) After the votes have been cast by the parties, any member who is voting contrary to his or her party's vote will cast a vote.
- (87) Where it becomes obvious that one member only is voting for either the ayes or the noes, the Chair must immediately declare the resolution of the House. The member who called for the division may ask for his or her dissent to be recorded in the Votes and Proceedings. The Chair then directs the Clerk to record that dissent.
- (98) The whip of each party, or their representative, [an independent member, or the only member of a party present](#), may before the result of the vote is announced by the Chair, challenge the votes cast by another party. Where a party's vote is challenged the Chair may direct that the matter be resolved by a personal vote.
- (109) The Chair announces the result to the House.
- (110) The whip of each party, or their representative, will immediately advise the Clerk of the names of those members of their party that were not present for the vote.
- (124) The Clerk will record the result of the vote and the names of those members voting aye and no and publish those details in the Votes and Proceedings.