



Legislative Council  
Standing Orders Committee

Interim Report on a Review of the  
Standing Orders

Appointment of a Legislation Committee

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*Ordered to be printed*

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**EXTRACTED FROM THE MINUTES OF THE PROCEEDINGS  
OF THE LEGISLATIVE COUNCIL**

**Thursday, 27 March 2003**

- 2 PARLIAMENTARY COMMITTEES** — Mr John Lenders moved, by leave

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- (d) **STANDING ORDERS COMMITTEE** — That the Honourables the President, Lidia Argondizzo, Barry Bishop\* and Andrea Coote, Mr John Lenders, Ms Glenyys Romanes and the Honourable Graeme Stoney be members of the Select Committee on the Standing Orders of the House; four to be the quorum.

\* \* \* \* \*

Question — put and resolved in the affirmative

**Tuesday, 3 May 2005**

- 7 STANDING ORDERS COMMITTEE** — Ms Candy Broad moved, by leave, That the Honourables Andrea Coote and Graeme Stoney be discharged from the Standing Orders Committee and that the Honourables Philip Davis and Bill Forwood be appointed to that Committee.

Question — put and resolved in the affirmative.

**Thursday, 19 May 2005**

- 4 STANDING ORDERS COMMITTEE** — Mr John Lenders moved, by leave, That the Honourable Lidia Argondizzo be discharged from the Standing Orders Committee and that Mr Matt Viney be appointed to that Committee.

Question — put and resolved in the affirmative.

\* By order of the Council on 23 November 2005 the Honourable Barry Bishop may be substituted by another Member of The Nationals if he is unable to attend a meeting of the Committee, provided that the substitute Member is nominated in writing to the President.

## REPORT

The Select Committee of the Legislative Council on Standing Orders, appointed pursuant to the Resolution of the Council on 27 March 2003, has the honour to report as follows:

1. On 24 May 2005 the Legislative Council agreed to the following Resolution:

That —

- (1) the Standing Orders Committee be required to undertake a review of the Standing Orders and make recommendations for new and/or amended Standing Orders.
  - (2) the Committee present its report on the review to the Council no later than the first sitting day in 2006.
  - (3) the Committee have power to confer with the Standing Orders Committee of the Legislative Assembly regarding a review of the Joint Standing Orders and to report jointly thereon to the House.
2. On 23 November 2005 the Council further resolved to amend that Resolution to require the Committee to present an interim report on the review no later than 7 February 2006 and a final report no later than 15 June 2006.
  3. The Committee held its first meeting on the review on 1 August 2005 and as at 24 November 2005, had met on eight occasions.
  4. In October 2002, the Legislative Council adopted a new set of Standing Orders, the first since 1924, to come into operation on the first sitting day in 2003. On 26 February 2003, the second sitting day of the 55<sup>th</sup> Parliament, the Council adopted a comprehensive set of new Sessional Orders to govern the conduct of business of the House. Several of the new Sessional Orders suspended the new Standing Orders. The Sessional Orders were subsequently amended by the Council on 31 March 2004 and 24 February 2005.
  5. In moving for the adoption of the new Sessional Orders, the Leader of the Government proposed to the House that in the third year of the Parliament the Sessional Orders be referred to the Standing Orders Committee to determine whether they would be appropriate for inclusion in the Standing Orders in the 56<sup>th</sup> Parliament. To facilitate the inquiry, a new set of draft Standing Orders was prepared by the Clerks as the basis for the review. The new draft incorporates the Sessional Orders, updates the current Standing Orders in clearer, more concise language where appropriate and also includes new Standing Orders considered necessary to further improve the conduct of business of the House or to give effect to current practice not enshrined in the Standing Orders.

6. In determining its program for the review the Committee decided at the outset to identify the issues which warranted further, and in some cases quite detailed consideration. These matters will be the subject of the Committee's final report to the Council on a new set of Standing Orders, which will be presented to the Council in June 2006.
7. There is however one issue which the Committee feels it necessary to report on in this interim report — the appointment of a Legislative Council Legislation Committee. A significant responsibility of an Upper House as a House of review is the consideration of legislation. The Committee therefore believes that a mechanism, which would enable more detailed scrutiny of legislation than is presently provided by both the second reading debates and consideration of Bills in Committee of the Whole, is worthy of consideration.
8. In its consideration of a Legislation Committee model the Committee examined the types of Legislation Committees operating in some Australasian jurisdictions. The survey concentrated on Upper Houses which consistently provide for Legislation Committee models that generally operate with broad, Select Committee style powers. In particular, the systems which operate in the Australian Senate and in the Legislative Councils of New South Wales, South Australia and Western Australia were examined by the Committee. The Legislation Committee systems applying in the New Zealand House of Representatives and in the Legislative Assembly of Western Australia were also reviewed by the Committee.
9. The systems applying in the other jurisdictions were compared on the basis of —
  - The type and composition of the committee.
  - The method of determining which Bills are referred to a committee.
  - The method of inquiry, including the procedures for inquiring into a Bill, powers to gather evidence and the typical length of an inquiry.
  - Whether there is a *Hansard* report of the proceedings.
  - The form of committee report.
  - The treatment of the report in the House in relation to progressing a Bill to the next stage.
10. After considering the characteristics of Legislation Committees in other jurisdictions, the Committee believes that an appropriate model for Victoria is as set out in the Appendix to this report. The Committee therefore recommends that this model be adopted by the Legislative Council as Sessional Orders on a trial basis from February 2006 with the trial to conclude on 15 June 2006. At that time the Committee will determine whether such a procedure should be adopted on a permanent basis in the future.

11. Whilst the Committee has recommended these trial Sessional Orders to facilitate the working of the House in relation to complex Bills, it is not the Committee's intention to prevent the House from exercising its right to continue to consider a Bill in Committee of the whole. Such safeguards are evident in the proposed trial Sessional Orders.

Committee Room,  
24 November 2005

## APPENDIX

### PROPOSED TRIAL SESSIONAL ORDERS

That the following new Sessional Orders be inserted after Sessional Order 41:

#### LEGISLATION COMMITTEE

**42. Establishment**

The Council will appoint a Legislation Committee.

**43. Function**

The function of the Committee is to consider in detail a Bill or series of related Bills referred to the Committee by the Council and to report to the Council on the Committee's consideration of the Bill, which may include any recommendations for amendments to the Bill(s).

**44. Membership**

- (1) The Committee will consist of six Members, not being Ministers, appointed by resolution of the Council. The membership of the Committee must, so far as reasonably practicable, be proportional to party, minority group or independent membership in the Council.
- (2) A vacancy is to be filled —
  - (a) by an appointment under sub-clause (1) within two sitting days of the day on which the Council is made aware of the vacancy; or
  - (b) by an appointment made by the President when a vacancy occurs during a prorogation or adjournment of at least 12 days.

**45. Chair and Deputy Chair to be elected**

- (1) Prior to the commencement of any other business, the Committee will elect one of its Members to be the Chair of the Committee and one of its Members to be Deputy Chair.
- (2) If the Committee is unable to appoint a Chair or Deputy Chair the Committee will report that fact to the Council on the next sitting day for resolution by the Council.

**46. Substitute Members**

- (1) A Member of the Committee may be substituted by another Member by leave of the Committee.

- (2) The substitute Member is a Member of the Committee for all purposes.
- (3) A substitution must be for the purpose of consideration of all or part of a specific Bill or related Bills, but a substitute Member, by further leave, may be a substitute Member in relation to one or more Bills at the same time.
- (4) All Members of the Council will be notified of a substitution.

#### **47. Referral**

At any time after the second reading and before the third reading stage the Council may, on motion without notice of any Member, resolve that all or part of a Bill or a series of related Bills be referred to the Committee. The time allowed for debate on such motion is as prescribed for procedural motions by Sessional Order 33(b).

#### **48. Meetings**

- (1) The Committee can meet during the sittings and adjournment of the Council.
- (2) Meetings of the Committee at which a Bill is considered will be open to the public as if the proceedings were a meeting of the Council.
- (3) All Members of the Council will be notified of the days and times that the Committee will meet to consider a Bill.
- (4) Members of the Council who are not Members of the Committee may participate in the public proceedings of the Committee, but will not vote, move any motion, or be counted for the purpose of a quorum.

#### **49. Quorum**

At any meeting three members of the Committee will constitute a quorum and at least one Government and one Opposition Member must be present.

#### **50. Record of proceedings of committee**

Minutes of proceedings must be taken of each meeting of the Committee and must record the following:

- (a) the names of the Members who attended each meeting;
- (b) every motion or amendment proposed and the name of its mover; and
- (c) the divisions and the names of the Members voting for each side on a question, which must also be included in the Committee's report to the Council.

## **51. Quorum or division in Council**

If a quorum or division is called for in the Council while the Committee is sitting, the meeting will be suspended until the quorum is formed or the division has concluded and Members have had an opportunity to return to the meeting.

## **52. Procedure for consideration of a Bill**

- (1) The Committee must consider each Bill in the following order:
  - (a) Clauses separately and in numerical order;
  - (b) Proposed new clauses;
  - (c) The schedules separately and in numerical order;
  - (d) Proposed new schedules;
  - (e) The preamble (if any);
  - (f) Long title;
  - (g) Short title.
- (2) The provisions of Standing Orders 12.14, 12.15, 12.18 and 12.21 apply to the Committee's consideration of a Bill.
- (3) The Minister, Minister representing or such other persons nominated by the Minister or Member in charge of the Bill may give evidence to the Committee.
- (4) The Committee may only call other persons, or send for documents and other things if authorised by the Council.
- (5) The Committee's proceedings when considering the Bill will be recorded by Hansard.

## **53. Amendments**

- (1) Any amendment may be moved during the Committee's consideration of the Bill, provided it is relevant to the subject-matter of the Bill or part of the Bill being considered.
- (2) When an amendment has been proposed to the Bill the question must be put "That the amendment be agreed to".
- (3) An amendment may be moved by a Member of the Committee or a Member on behalf of another Member of the Committee.
- (4) Notwithstanding the provisions of Sessional Order 44(1), a Minister or Minister representing or a Member in charge of the Bill may also move an amendment to the Bill.

## **54. Questions**

- (1) In the Committee all questions will be decided by a majority of Members present.

- (2) The Chair will have a deliberative vote and, in the case of an equality of votes, will give a casting vote.
- (3) The Deputy Chair will have a deliberative vote only.

**55. Time for reporting**

- (1) Unless otherwise resolved by the Council at any time, the Committee will present its final report to the Council no later than the first sitting day that occurs after two sitting weeks or four calendar weeks following the referral of the Bill or related Bills, whichever is the shorter period.
- (2) The Committee may resolve to request an extension to the time for reporting by letter to the President, who will then advise the Council at the earliest opportunity.
- (3) If the Committee has not reported to the Council at the appointed time the Bill will be considered in Committee of the whole Council unless leave is given for the Bill to proceed immediately to the third reading.

**56. Form of report**

- (1) The report of the Committee will comprise –
  - (a) a schedule of amendments recommended;
  - (b) the minutes of the Committee's consideration of the Bill, including all questions put and decisions of the Committee dealt with pursuant to Sessional Order 52, and any amendments moved; and
  - (c) the transcript of the Committee's consideration of the Bill, including any evidence from witnesses.
- (2) The Committee may, if considered necessary, include in its report a narrative explanation of the Committee's recommendations.

**57. Presentation of report**

- (1) The report of the Committee will be presented to the Council by the Chair or another Member of the Committee during formal business.
- (2) No debate will be permitted at the time of the presentation of the report.

**58. Consideration and adoption of report**

- (1) The Order of the Day for the consideration of the Committee's report on the Bill will be set down for two sitting days after the presentation of the report to the Council unless leave of the Council is granted to consider the report earlier.

- (2) When the Order of the Day for the consideration of the report is called a motion that the Council adopt the report of the Committee will be moved.
- (3) If the motion to adopt the report is agreed to, any amendments recommended by the Committee will be deemed to have been made to the Bill.
- (4) If the motion to adopt the report is not agreed to or not moved, the Bill will be considered in Committee of the whole Council unless leave is granted to proceed to the third reading.

**59. Procedure when Bill reported with no recommended amendments and no amendments proposed**

Where a report from the Committee containing no recommendations to amend the Bill has been adopted pursuant to Sessional Order 58 and no amendments are proposed, the Bill will be considered in Committee of the whole Council unless leave is given to proceed to the third reading.

**60. Procedure when Bill reported with recommended amendments and no other amendments proposed**

Where a report from the Committee containing recommendations to amend the Bill has been adopted pursuant to Sessional Order 58 and no other amendments are proposed, the Bill as amended will be considered in Committee of the whole Council unless leave is given to proceed to the third reading.

**61. Procedure when Bill reported and amendments proposed**

Where a report from the Committee has been adopted pursuant to Sessional Order 58 and further amendments are proposed the Bill will be considered in Committee of the whole Council.

**62. Consideration of certain clauses only**

Notwithstanding the provisions of Sessional Orders 59, 60 and 61, the Council may grant leave for the consideration in Committee of the whole Council of certain clauses only and the Committee's recommendations in relation to all other clauses will be deemed to have been agreed to by the Council.

**63. Application of provisions relating to procedural motions**

Any motion proposed pursuant to Sessional Orders 58 to 61 will be dealt with as a procedural motion pursuant to Sessional Order 33(b).