



WESTERN AUSTRALIA

LEGISLATIVE ASSEMBLY

**PROCEDURE AND PRIVILEGES
COMMITTEE**

**Report on outstanding issues to be
considered by the House**

2000

WESTERN AUSTRALIA
LEGISLATIVE ASSEMBLY

PROCEDURE AND PRIVILEGES
COMMITTEE

**Report on outstanding issues to be
considered by the House**

Presented by:

Hon George Strickland MLA
Speaker of the Legislative Assembly

Laid on the Table of the Legislative Assembly
on
16 November 2000

COMMITTEE MEMBERS

Chairman

Hon. George J. Strickland, MLA
(Speaker of the Legislative Assembly)

Members

Mr Robert C. Bloffwitch, MLA
(Deputy Speaker and Member for Geraldton)

Mr John C. Kobelke, MLA
(Member for Nollamara)

Mr Eric S. Ripper, MLA
(Deputy Leader of the Opposition and Member
for Belmont)

Mr Fred C. Tubby, MLA
(Member for Roleystone)

COMMITTEE STAFF

Clerk to the Committee

Mr John D. Mandy
Deputy Clerk (Procedure) of the Legislative
Assembly

Mr Peter J. McHugh
Clerk of the Legislative Assembly

Mr Doug Carpenter
Deputy Clerk (Committees) of the Legislative
Assembly

TABLE OF CONTENTS

	Page No
Summary.....	1
List of Recommendations.....	2
1. Operation of Standing Committees System Report.....	10
2. Pecuniary Interests and Address in Reply Report.....	14
3. Outstanding Matters arising from the Modernisation of the Standing Orders Report.....	16

PROCEDURE AND PRIVILEGES COMMITTEE

Summary

The Procedure and Privileges Committee reviewed those outstanding issues still requiring debate and adoption by the Legislative Assembly prior to it rising at the end of this year.

Portfolio Based Standing Committee System

It is important that the House adopts the standing orders for the Standing Committee System as it is essential these be in place prior to the start of the new Parliament in 2001 if a smooth transition to the new standing committee system is to be achieved.

Address in Reply

As the Address in Reply is the first business considered by the House, it is also important that the standing orders giving priority to the Address in Reply for the first seven sitting days after an election and first four sitting days at the beginning of a new session of Parliament be in place prior to the next opening of Parliament.

Pecuniary Interests

Similarly it would be helpful to members if the proposed changes to the pecuniary interest standing orders are in place at the commencement of the next Parliament.

Joint Standing Committee on Delegated and Uniform Legislation

The House has already agreed to standing orders which, subject to the Legislative Council's agreement to adopt similar standing orders, will amalgamate the Joint Standing Committee on Delegated Legislation and the Standing Committee on Uniform Legislation and Intergovernmental Agreements into one joint standing committee. A request needs to be sent to the Legislative Council accordingly.

Estimates Committees

It is also proposed the Estimates Committees Standing Orders be adopted. These were originally proposed as part of the trial Standing Orders but, as they would not have been trialed during the trial period for new standing orders, they were deleted. Your Committee also reviewed the Public Accounts Committee's recommendations in its report on the budget estimates process and made the following findings that –

- the current Estimates Committees system should be retained; and
- the process will be further enhanced because portfolio based standing committees will have the ability to conduct additional or supplementary hearings related to the estimates at any time.

Private Bills

A formal motion is required to delete the Private Bills Standing Orders, which have not been used for more than 30 years, and to invite the Legislative Council to do likewise.

List of Recommendations

Recommendation 1

Your Committee recommends,

That the Leader of the House give notice of the following motion for debate and resolution prior to the House rising in 2000 –

“That this House adopts –

- a) Recommendation Nos 1 to 7 contained in the Procedure and Privileges Committee’s Report on the Operation of the Standing Committee System; and
- b) Recommendation Nos 1 to 3 of the Procedure and Privileges Committee’s Report on Pecuniary Interest and the Address in Reply.”.

Recommendation 2

Your Committee recommends,

That the Leader of the House give notice of the following motion for debate and resolution prior to the House rising in 2000 –

“That this House acquaints the Legislative Council it has agreed to the following Standing Orders to allow the establishment of a Joint Standing Committee on Delegated and Uniform Legislation and accordingly invites the Legislative Council to adopt similar Standing Orders –

Appointment

291. At the commencement of every Parliament, a Standing Committee on Delegated and Uniform Legislation will be appointed by the Assembly on receipt of a message from the Council for the appointment of a Joint Standing Committee.

Functions

292. It is a function of the Committee to -

- (a) consider and report on any regulation that –
 - (i) appears not to be within power or not to be in accord with the objects of the Act pursuant to which it purports to be made;
 - (ii) unduly trespasses on established rights, freedoms or liberties;
 - (iii) contains matter which ought properly to be dealt with by an Act of Parliament; and
 - (iv) unduly makes rights dependent upon administrative, and not judicial, decisions; and
- (b) inquire into, consider and report on matters relating to proposed or current inter-governmental agreements and uniform legislative schemes involving the Commonwealth, States and Territories, or any combination of States and Territories without the participation of the Commonwealth.

Membership

293. (1) The Joint Standing Committee will consist of eight members, of whom -

- (a) four will be members of the Assembly; and
- (b) four will be members of the Council.

(2) The Assembly members of the Committee will be chosen as the Assembly may determine but, where there is a party in the Assembly of not less than five members, other than a party whose leader is either the Premier or the Leader of the Opposition, one of the Assembly members of the Committee will be a member of that party.

(3) A person will not be appointed to, or continue as, a member of the Committee if that member is -

- (a) a Minister of the Crown;
- (b) the President of the Legislative Council;
- (c) the Speaker of the Legislative Assembly;
- (d) the Chairman of Committees of the Legislative Council;
- or
- (e) the Deputy Speaker of the Legislative Assembly.

Quorum

294. A quorum for a meeting of the Joint Standing Committee is four members, provided the Assembly and the Council is represented by at least one member.

Election of Chairman and Deputy Chairman

295. At its first meeting and thereafter as the occasion requires the Committee will elect from its members a Chairman who belongs to the party or parties supporting the Government, and a Deputy Chairman.

Subcommittees

296. (1) The Committee may appoint a subcommittee of three or more of its members, provided the Assembly and Council are represented by at least one member, to inquire into and report to the Committee upon any matter which the Committee is empowered to examine.

(2) A subcommittee may take oral evidence.

(3) At a meeting of a subcommittee, three members constitute a quorum.

(4) The Standing Orders that apply to the Joint Standing Committee apply to the subcommittee in a like manner.

(5) A subcommittee will report to the Committee as soon as practicable on each matter referred to that subcommittee.

Reports

297.

Delegated Legislation

(1) If the Committee is of the opinion that any of the regulations ought to be disallowed, in whole or in part, it will report that opinion and the grounds thereof to the Assembly and Council before the end of the period during which any motion for disallowance of those regulations may be moved in the Assembly or the Council, but if both Assembly and Council are not sitting, it may report its opinion and the grounds thereof to the authority by which the regulations were made.

(2) Where a report is made to the regulation-making authority, pursuant to paragraph (1) of this Standing Order, a copy of the report will be delivered to the

Clerk of the Legislative Assembly and the Clerk of the Legislative Council who will make it available to any member of Parliament for perusal, and any such report will be tabled in the Assembly and the Council not later than six sitting days from the start of the next ensuing sitting of the Assembly and the Council.

(3) If the Committee is of the opinion that any other matter relating to any regulation should be brought to the notice of the Assembly and the Council, it may report that opinion and matter to the Assembly and the Council.

Uniform Legislation and Intergovernmental Agreements

(4) When considering draft uniform legislation and intergovernmental agreements, the Committee will use its best endeavours to meet with any time limits notified to the Committee by the responsible Minister.

(5) The Committee will consider and, if the Committee considers a report is required, report on any matter relating to uniform legislation and intergovernmental agreements within three months; but if it is unable to report in three months, it will report its reasons to the Assembly and Council.

Presentation of Reports

(6) A report of the Joint Standing Committee will be presented in writing to the Assembly and the Council by a member of the Joint Standing Committee nominated by it for that purpose.

Certain standing orders of the Assembly and Council to apply

298. Except to the extent that they impinge upon the functioning of the Committee, standing orders applicable to select committees of the Legislative Council will apply to the Committee's proceedings. Assembly Standing Orders 249, 252, 262, 263 and 264 will also apply to the Assembly members of the Joint Standing Committee.

Recommendation 3

Your Committee recommends,

That the Leader of the House give notice of the following motion for debate and resolution prior to the House rising in 2000 –

“That this House adopt the following Standing Orders –

“Bills referred to estimates committees

222. (1) After the second reading of the Appropriation bill or bills which provide for the main recurrent and capital appropriations, the consideration in detail stage will be replaced by estimates committees A and B.

(2) The estimates committees will examine the bills and proposed expenditure contained in the Estimates and report on proposed expenditure by the Parliament and government departments and agencies funded from the Consolidated Fund.

(3) The estimates committees will consider the budget of each government agency and public trading enterprise partly funded or not funded from the Consolidated Fund, but no report on agencies and enterprises not funded is required.

Management committee

223. (1) There will be a management committee which will comprise the Leader of the House, one member nominated in writing to the Speaker by the Premier, and two members similarly nominated by the Leader of the Opposition.

(2) Before the estimates committees first meet, the Leader of the House will present to the House the report of the management committee, which report will prescribe -

- (a) which parts of the Estimates are to be considered by each committee; and
- (b) the time allotted for consideration of each part or any division or program of the Estimates and the budgets of those agencies and enterprises referred to in Standing Order 222 (2) and (3).

(3) On the presentation of the report of the management committee, the Speaker will forthwith propose the question, "That the report be adopted" and debate may proceed for a maximum period of one hour on that question and any proposed amendments.

Estimates committees membership

224. Each estimates committee will consist of -

- (a) a Chairman;
- (b) three members appointed by the Leader of the House and three members appointed by the Leader of the Opposition; and

- (c) the Minister or Parliamentary Secretary responsible in the Assembly for the department, agency or enterprise under consideration, or another Minister acting in that capacity, or when considering the estimate for "Parliament", the Speaker or the Deputy Speaker.

Appointment of members

225. The Leader of the House and the Leader of the Opposition will notify in writing to the Speaker their appointment of members for each part, division or program, specified in the report of the management committee.

Replacement of members

226. A member may be replaced on an estimates committee by -

- (a) the member appointing another member as a replacement;
- (b) the Leader of the House or the Leader of the Opposition appointing another member as a replacement; or
- (c) a member deputed by the Leader of the House or the Leader of the Opposition appointing another member as a replacement,

and no change will take effect until notified in writing to the Clerk to the committee.

Chairing of estimates committees

227. (1) The Chairman of an estimates committee will be the Deputy Speaker or an Acting Speaker.

(2) Any member of the committee may take the Chair temporarily whenever requested so to do by the Chairman of that committee.

Quorum

228. The quorum of an estimates Committee will be four, excluding the Chairman, and if at any time a quorum is not present, the Chairman may suspend the proceedings of the committee until a quorum is present.

Non-committee members

229. Members of the Assembly who are not members of the committee may participate, at the discretion of the Chairman, in the proceedings of the committee, but will not vote, move any motion, or be counted for the purpose of a quorum.

Ministerial advisers

230. Advisers who are present at an estimates committee to assist Ministers will not directly answer questions or otherwise address the committee except with the approval of and in the presence of a Minister or Parliamentary Secretary.

Minutes of estimates committees

231. Minutes of each estimates committee will be recorded by the Clerk to the committee, and will be signed by the Deputy Speaker or an Acting Speaker and the Clerk to the Committee.

Procedure in estimates committees

232. In each estimates committee

- (a) the question will be proposed for each division or part thereof of the Estimates referred to that committee, "That the appropriation be recommended", and if there is an equality of votes on any such question, the committee will include in its report to the House, its inability to report on that division;
- (b) when considering the budgets of agencies or enterprises referred to in Standing Order 222 (3) no question will be proposed;
- (c) voting in a division will be taken by a show of hands of those members of the committee, exclusive of the Chairman, present when a question is put and tellers will not be appointed;
- (d) any question of procedure or point of order will be determined by the Chairman of the committee, subject to the ultimate decision of the Speaker; and
- (e) at the conclusion of consideration by estimates committee A of the Estimates referred to it or at the expiry of the time allocated to that committee, the question will be put forthwith - "That the clauses, schedules and title of the bill be agreed to"

Presentation of reports

232. Reports of the estimates committees will state which parts of the Estimates have been considered and whether the proposed expenditures are recommended. Failure of an estimates committee to report on any part of the Estimates within the time required by the Assembly will be deemed to be a report recommending the proposed expenditures. The time for presentation of the reports may be as determined by the Assembly.

Procedure for presentation of reports

233. The reports of the estimates committees will be presented together to the Assembly by the Deputy Speaker and may be considered forthwith, the question being proposed for each, "That the report be adopted". Debate on that question and any amendment thereto will not exceed one hour in total, but that will not preclude an amendment being moved and the question being put thereon. If the reports of the committees are adopted, the third reading of the bill may be moved forthwith."."

Recommendation 4

Your Committee recommends,

That the Leader of the House give notice of the following motion for debate and resolution prior to the House rising in 2000 –

- “ (1) That the Private Bills Standing Orders be deleted.
- (2) That Legislative Council be informed that the Legislative Assembly has deleted the Private Bills Standing Orders and accordingly invites the Legislative Council to do likewise.”.

1. Operation of Standing Committees System Report

On 6 April 2000 the Legislative Assembly agreed to the following motion establishing a Standing Committee System –

“That this House -

- (a) supports the establishment of three portfolio-based Standing Committees to come into operation after the next election;
- (b) supports the retention of the Public Accounts Committee in its current form;
- (c) supports the amalgamation of the Joint Standing Committee on Delegated Legislation and the Standing Committee on Uniform Legislation and Inter-governmental Agreements, in accordance with recommendation 18 of the Final Report of the Select Committee on Procedure and subject to the concurrence of the Legislative Council.”.

The Legislative Assembly requested in the same motion that the Procedure and Privileges Committee report to the House on the method of operation and Standing Orders which should apply to portfolio-based Standing Committees.

The Operation of Standing Committees System Report was presented to the Legislative Assembly on 22 June 2000 and it contained recommendations that are essential for a smooth transition to the new Standing Committee System scheduled to commence from the start of the new Parliament in 2001.

For this reason it is important that the House debate and adopt the following matters prior to its rising at the end of this year –

- **Appointment and functions of Standing Committees**

It is proposed that standing orders for the establishment and functions of portfolio-based standing committees be adopted by the House. The general powers for standing and select committees, as set out in the Standing Orders will apply for all other matters.

Recommendation 1

Your committee recommends –

That the following Standing Orders be adopted by the House -

“ **Appointment and Functions**

287. (1) At the commencement of every Parliament the Assembly will appoint three portfolio-related standing committees, namely -

- (a) Social Development, Education and Community Affairs;
- (b) Health, Justice and Government;
- (c) Primary Industry, Resources, Transport and Trade.

- (2) The functions of each committee are to review and report to the Assembly on –
- (a) the outcomes and administration of the departments within the Committee's portfolio responsibilities;
 - (b) annual reports of government departments laid on the Table of the House;
 - (c) the adequacy of legislation and regulations within its jurisdiction; and
 - (d) any matters referred to it by the Assembly including a Bill, motion, petition, vote or expenditure, other financial matter, report or paper.

(3) At the commencement of each Parliament and as often thereafter as the Speaker considers necessary, the Speaker will determine and table a schedule showing the portfolio responsibilities for each committee. Annual reports of government departments and authorities tabled in the Assembly will stand referred to the relevant committee for any inquiry the committee may make.

(4) Whenever a committee receives or determines for itself fresh or amended terms of reference, the committee will forward them to each standing and select committee of the Assembly and joint committee of the Assembly and Council. The Speaker will announce them to the House at the next opportunity and arrange for them to be placed on the notice boards of the House.

General provisions of standing and select committees to apply

288. The general provisions for standing and select committees will apply to each standing committee. ”.

• Reordering of Standing Orders relating to Standing Committees

It is proposed that the Standing Orders relating to Standing Committees have a minor re-order to reflect the initial list of portfolio distribution as listed in Recommendation No. 3.

Recommendation 2

Your committee recommends –

That the Chapter of the Standing Orders relating to standing committees be re-ordered to commence with the Public Accounts Committee, followed by portfolio-related standing committees, the Joint Standing Committee on the Anti-Corruption Commission and the Joint Standing Committee on Delegated and Uniform Legislation.

- **Initial portfolio distribution**

Your committee has generally concurred with the Select Committee on Procedure's recommendation for portfolio distribution with a variation that the Treasury portfolio be allocated to the Public Accounts Committee.

Recommendation 3			
Your committee recommends –			
That the initial portfolio distribution between committees be as shown in the following table –			
PUBLIC ACCOUNTS	SOCIAL DEVELOPMENT, EDUCATION and COMMUNITY AFFAIRS	HEALTH, JUSTICE and GOVERNMENT	PRIMARY INDUSTRY, RESOURCES, TRANSPORT and TRADE
Treasurer	Aboriginal Affairs	Attorney General	Commerce and Trade
	the Arts	Emergency Services	Energy
	Citizenship and Multicultural Interests	Fair Trading	Fisheries
	Disability Services	Federal Affairs	Forest Products
	Education	Housing	Lands
	Employment and Training	Health	Mines
	Environment	Justice	Planning
	Family and Children's Services	Parliamentary and Electoral Affairs	Primary Industry
	Heritage	Police	Regional Development
	Labour Relations	Premier	Resources Development
	Local Government	Public Sector Management	Services
	Seniors	Racing and Gaming	Small Business
	Sport and Recreation		Tourism
	Women's Interests		Transport
	Youth		Water Resources
			Works

- **Attendance at hearings of any Assembly member, not being a Minister, with certain restrictions**

It is proposed that any member of the Assembly who is not a member of a committee can attend public evidence taking and, subject to the discretion of the Chairman, may ask questions of witnesses. They may not attend deliberative meetings or be counted for quorum purposes.

Recommendation 4

Your Committee recommends –

That Standing Order 267 be amended by the addition of paragraph (3) as follows –

“(3) If a portfolio-related committee, or the Public Accounts Committee in relation to portfolio-related matters allocated to it, is examining a witness, any member of the Assembly, not being a Minister, may attend and at the discretion of the Chairman, ask questions of the witness. That member is not a member of the committee and may not vote, move any motion, be counted for the purpose of a quorum, or be involved in any deliberative part of the committee meeting.”.

- **The Assembly may co-opt onto a committee any Assembly member, not being a Minister, with certain restrictions**

It is proposed that the Assembly may co-opt a member with a significant interest or expertise on to a committee. The co-opted member will be permitted to attend and participate in all committee meetings, including deliberative meetings, but will not be able to vote, move a motion or be counted for the purposes of a quorum. A co-opted member will have the right to ask questions of witnesses.

Recommendation 5

Your Committee recommends –

That Standing Order 249 be amended by the addition of paragraphs (4) and (5) as follows -

“(4) The Assembly may on motion co-opt any member of the Assembly, not being a Minister, to participate for a specified inquiry, in meetings of a portfolio-related committee or the Public Accounts Committee in relation to portfolio-related matters allocated to it. That member is not a member of the committee and may not vote, move any motion or be counted for the purpose of a quorum, but in relation to that inquiry may ask questions of witnesses and participate in a deliberative meeting.

(5) When the Assembly is not sitting, the Speaker may appoint a member as a co-opted member until the Assembly can confirm the appointment or otherwise.”.

- **Change to quorum provision for committees to take evidence (reduced to 2)**

Your Committee accepted the Public Accounts Committee’s submission that sub-committee’s should have power to take evidence with a quorum of two providing the Committee’s approval is given, by way of resolution, for each witness. In accordance with S.O. 268, subcommittees would be required to take formal evidence recorded by Hansard which ensures it is made available to all other committee members not serving on the sub-committee.

Recommendation 6

Your Committee recommends –

That Standing Order 259 (1) be deleted and the following substituted -

“(1) A quorum for committees is two to take evidence and three to deliberate and pass resolutions.”.

- **Allows a sub-committee, on resolution of the Committee for each witness, to take evidence**

Committees must approve each proposed witness that a sub-committee wants to call for the purpose of taking evidence.

Recommendation 7

Your Committee recommends –

That Standing Order 259 (1) be deleted and the following substituted -

“**260.** (1) A committee may appoint a subcommittee of two or more of its members to inquire into and report to the committee upon any matter which the committee is empowered to examine, but may not take evidence unless the committee so decides in relation to each proposed witness.”.

2. Pecuniary Interests and Address in Reply Report

The recommendations contained in the Pecuniary Interests and Address in Reply Standing Orders Report, while not seen as essential, are desirable to be in place prior to the next Opening of Parliament. This applies particularly to the Address in Reply Standing Orders because it is the first business dealt with by the House when it meets after the next General Election –

Pecuniary Interests

- **Prior to any vote, members are required to declare any pecuniary interest not held in general with the public providing it hasn't already been declared in the Members' Financial Interests Register (S.O. 128)**

Recommendation 1

Your Committee recommends -

That the Leader of the House initiates a debate by proposing the following new Standing Order as previously recommended by the Standing Orders and Procedure Committee -

“**128.** (1) Prior to a vote being taken, a member will declare any pecuniary interest which may not be held in general with members of the public, but that pecuniary interest or the failure to declare it will not invalidate that member's vote.

(2) A disclosure in a return under the *Members of Parliament (Financial Interests) Act 1992* need not be declared again under paragraph (1).”.

- **The *Members of Parliament (Financial Interests) Act 1992* when reviewed be changed to allow the register to be produced by the registrar in a cumulative format**

Recommendation 2

Your Committee recommends -

That when the *Members of Parliament (Financial Interests) Act 1992* is reviewed, the Act be amended to allow the registrar to produce the register in a cumulative format.

Address in Reply

- **Priority will be given to the Address in Reply at 7pm on each Tuesday after 7 sitting days in the first session of a new Parliament and after 4 sitting days in subsequent sessions of a Parliament and that no further amendments may be moved (S.O. 59 (2))**

While your Committee believes there should be an opportunity for the Address in Reply to be used as a method to discuss particular areas of government activity, many amendments moved to the Address in Reply relate specifically to Ministerial or departmental inadequacies and would be more appropriately dealt with by way of substantive motion during Private Members’ business or Matters of Public Interest debate. This would then allow notice to be given and debate to take place. The proposed change would also allow the House to resume its normal business shortly after the new Parliament or Session commences thereby reducing pressure exerted at other times in the parliamentary year.

Recommendation 3

Your Committee recommends -

That the following paragraph be added to Standing Order 59 –

“(2) Unless otherwise ordered, after the 4 sitting days referred to in 59(1)(a) or the 7 sitting days referred to in 59(1)(b) –

- no further amendment may be moved; and
- the Address in Reply will be debated on Tuesday from 7.00 p.m. with at least one member speaking prior to the matter being again adjourned.”.

Recommendation 1

Your Committee recommends,

That the Leader of the House give notice of the following motion for debate and resolution prior to the House rising in 2000 –

“That this House adopts –

- c) Recommendation Nos 1 to 7 contained in the Procedure and Privileges Committee’s Report on the Operation of the Standing Committee System; and
- d) Recommendation Nos 1 to 3 of the Procedure and Privileges Committee’s Report on Pecuniary Interest and the Address in Reply.”.

3. Outstanding Matters arising from the Modernisation of the Standing Orders Report

There are several outstanding matters that need to be acted upon prior to the House rising at the end of this year –

Standing Committee on Uniform Legislation and Intergovernmental Agreements

- **Consultation with the Legislative Council is proceeding regarding the transfer of functions and resources of the Standing Committee on Uniform Legislation and Intergovernmental Agreements to the Joint Standing Committee on Delegated Legislation. As the Legislative Assembly has already adopted Standing Orders that will allow this change to happen, it is proposed the Legislative Assembly invite the Legislative Council to adopt similar Standing Orders.**

The Legislative Assembly has already agreed to Standing Order Nos 291 to 298 which, subject to the Legislative Council’s agreement to adopt similar Standing Orders will allow the appointment of a Standing Committee on Delegated and Uniform Legislation upon receipt of a message from the Legislative Council for the appointment of a Joint Standing Committee.

The Council needs to receive a request from the Assembly so it can consider the issue.

Recommendation 2

Your Committee recommends,

That the Leader of the House give notice of the following motion for debate and resolution prior to the House rising in 2000 –

“That this House acquaints the Legislative Council it has agreed to the following Standing Orders to allow the establishment of a Joint Standing Committee on Delegated and Uniform Legislation and accordingly invites the Legislative Council to adopt similar Standing Orders –

Appointment

291. At the commencement of every Parliament, a Standing Committee on Delegated and Uniform Legislation will be appointed by the Assembly on receipt of a message from the Council for the appointment of a Joint Standing Committee.

Functions

292. It is a function of the Committee to -

- (a) consider and report on any regulation that –
 - (i) appears not to be within power or not to be in accord with the objects of the Act pursuant to which it purports to be made;
 - (ii) unduly trespasses on established rights, freedoms or liberties;
 - (iii) contains matter which ought properly to be dealt with by an Act of Parliament; and
 - (iv) unduly makes rights dependent upon administrative, and not judicial, decisions; and
- (b) inquire into, consider and report on matters relating to proposed or current intergovernmental agreements and uniform legislative schemes involving the Commonwealth, States and Territories, or any combination of States and Territories without the participation of the Commonwealth.

Membership

293. (1) The Joint Standing Committee will consist of eight members, of whom -

- (a) four will be members of the Assembly; and
- (b) four will be members of the Council.

(2) The Assembly members of the Committee will be chosen as the Assembly may determine but, where there is a party in the Assembly of not less than five members, other than a party whose leader is either the Premier or the Leader of the Opposition, one of the Assembly members of the Committee will be a member of that party.

(3) A person will not be appointed to, or continue as, a member of the Committee if that member is -

- (a) a Minister of the Crown;
- (b) the President of the Legislative Council;
- (c) the Speaker of the Legislative Assembly;
- (d) the Chairman of Committees of the Legislative Council;
- or
- (e) the Deputy Speaker of the Legislative Assembly.

Quorum

294. A quorum for a meeting of the Joint Standing Committee is four members, provided the Assembly and the Council is represented by at least one member.

Election of Chairman and Deputy Chairman

295. At its first meeting and thereafter as the occasion requires the Committee will elect from its members a Chairman who belongs to the party or parties supporting the Government, and a Deputy Chairman.

Subcommittees

296. (1) The Committee may appoint a subcommittee of three or more of its members, provided the Assembly and Council are represented by at least one member, to inquire into and report to the Committee upon any matter which the Committee is empowered to examine.

(2) A subcommittee may take oral evidence.

(3) At a meeting of a subcommittee, three members constitute a quorum.

(4) The Standing Orders that apply to the Joint Standing Committee apply to the subcommittee in a like manner.

(5) A subcommittee will report to the Committee as soon as practicable on each matter referred to that subcommittee.

Reports

297.

Delegated Legislation

(1) If the Committee is of the opinion that any of the regulations ought to be disallowed, in whole or in part, it will report that opinion and the grounds thereof to the Assembly and Council before the end of the period during which any motion for disallowance of those regulations may be moved in the Assembly or the Council, but if both Assembly and Council are not sitting, it may report its opinion and the grounds thereof to the authority by which the regulations were made.

(2) Where a report is made to the regulation-making authority, pursuant to paragraph (1) of this Standing Order, a copy of the report will be delivered to the Clerk of the Legislative Assembly and the Clerk of the Legislative Council who will make it available to any member of Parliament for perusal, and any such report will be tabled in the Assembly and the Council not later than six sitting days from the start of the next ensuing sitting of the Assembly and the Council.

(3) If the Committee is of the opinion that any other matter relating to any regulation should be brought to the notice of the Assembly and the Council, it may report that opinion and matter to the Assembly and the Council.

Uniform Legislation and Intergovernmental Agreements

(4) When considering draft uniform legislation and intergovernmental agreements, the Committee will use its best endeavours to meet with any time limits notified to the Committee by the responsible Minister.

(5) The Committee will consider and, if the Committee considers a report is required, report on any matter relating to uniform legislation and intergovernmental agreements within three months; but if it is unable to report in three months, it will report its reasons to the Assembly and Council.

Presentation of Reports

(6) A report of the Joint Standing Committee will be presented in writing to the Assembly and the Council by a member of the Joint Standing Committee nominated by it for that purpose.

Certain standing orders of the Assembly and Council to apply

298. Except to the extent that they impinge upon the functioning of the Committee, standing orders applicable to select committees of the Legislative Council will apply to the Committee's proceedings. Assembly Standing Orders 249, 252, 262, 263 and 264 will also apply to the Assembly members of the Joint Standing Committee.

Estimates Committees Standing Orders

- **It is proposed that Standing Order Nos 222 to 234 relating to Estimates Committees, originally proposed by the Standing Orders and Procedures Committee in the Report on the Modernisation of the Standing Orders, be adopted by the Legislative Assembly.**

These Standing Orders were not included in the August/December 1999 trial period of the new Standing Orders because the Estimates Committees would not operate until May in the following year.

Your Committee has reviewed the recommendations contained in the Public Accounts Committee's report on the State Budget Estimates Information Process in the Legislative Assembly which specifically refer to the portfolio based standing committees and the existing Estimates Committees process used by the Legislative Assembly.

Your Committee's findings are that –

- **the House has the primary responsibility of reviewing the Budget Estimates;**
- **the existing Estimates Committees process used by the Legislative Assembly is appropriate as it allows all members of the House an opportunity to participate in the estimates hearings over a set period of time; and**
- **the portfolio based standing committees are not precluded from conducting at any other time their own investigations within their respective portfolio allocations.**

The existence of the two processes will enhance the Legislative Assembly's capacity to review the Budget Estimates.

The proposed Standing Orders, originally submitted by the Standing Orders and Procedure Committee are similar to resolutions passed by the Legislative Assembly over the last 10 years and are as follows –

Bills referred to estimates committees

222. (1) After the second reading of the Appropriation bill or bills which provide for the main recurrent and capital appropriations, the consideration in detail stage will be replaced by estimates committees A and B.

(2) The estimates committees will examine the bills and proposed expenditure contained in the Estimates and report on proposed expenditure by the Parliament and government departments and agencies funded from the Consolidated Fund.

(3) The estimates committees will consider the budget of each government agency and public trading enterprise partly funded or not funded from the Consolidated Fund, but no report on agencies and enterprises not funded is required.

Management committee

223. (1) There will be a management committee which will comprise the Leader of the House, one member nominated in writing to the Speaker by the Premier, and two members similarly nominated by the Leader of the Opposition.

(2) Before the estimates committees first meet, the Leader of the House will present to the House the report of the management committee, which report will prescribe -

- (a) which parts of the Estimates are to be considered by each committee; and
- (b) the time allotted for consideration of each part or any division or program of the Estimates and the budgets of those agencies and enterprises referred to in Standing Order 222 (2) and (3).

(3) On the presentation of the report of the management committee, the Speaker will forthwith propose the question, "That the report be adopted" and debate may proceed for a maximum period of one hour on that question and any proposed amendments.

Estimates committees membership

224. Each estimates committee will consist of -

- (a) a Chairman;
- (b) three members appointed by the Leader of the House and three members appointed by the Leader of the Opposition; and
- (c) the Minister or Parliamentary Secretary responsible in the Assembly for the department, agency or enterprise under consideration, or another Minister acting in that capacity, or when considering the estimate for "Parliament", the Speaker or the Deputy Speaker.

Appointment of members

225. The Leader of the House and the Leader of the Opposition will notify in writing to the Speaker their appointment of members for each part, division or program, specified in the report of the management committee.

Replacement of members

226. A member may be replaced on an estimates committee by -

- (a) the member appointing another member as a replacement;
- (b) the Leader of the House or the Leader of the Opposition appointing another member as a replacement; or
- (c) a member deputed by the Leader of the House or the Leader of the Opposition appointing another member as a replacement,

and no change will take effect until notified in writing to the Clerk to the committee.

Chairing of estimates committees

227. (1) The Chairman of an estimates committee will be the Deputy Speaker or an Acting Speaker.

(2) Any member of the committee may take the Chair temporarily whenever requested so to do by the Chairman of that committee.

Quorum

228. The quorum of an estimates Committee will be four, excluding the Chairman, and if at any time a quorum is not present, the Chairman may suspend the proceedings of the committee until a quorum is present.

Non-committee members

227. Members of the Assembly who are not members of the committee may participate, at the discretion of the Chairman, in the proceedings of the committee, but will not vote, move any motion, or be counted for the purpose of a quorum.

Ministerial advisers

228. Advisers who are present at an estimates committee to assist Ministers will not directly answer questions or otherwise address the committee except with the approval of and in the presence of a Minister or Parliamentary Secretary.

Minutes of estimates committees

229. Minutes of each estimates committee will be recorded by the Clerk to the committee, and will be signed by the Deputy Speaker or an Acting Speaker and the Clerk to the Committee.

Procedure in estimates committees

230. In each estimates committee –

- (a) the question will be proposed for each division or part thereof of the Estimates referred to that committee, "That the appropriation be recommended", and if there is an equality of votes on any such question, the committee will include in its report to the House, its inability to report on that division;
- (b) when considering the budgets of agencies or enterprises referred to in Standing Order 222 (3) no question will be proposed;
- (c) voting in a division will be taken by a show of hands of those members of the committee, exclusive of the Chairman, present when a question is put and tellers will not be appointed;
- (d) any question of procedure or point of order will be determined by the Chairman of the committee, subject to the ultimate decision of the Speaker; and
- (e) at the conclusion of consideration by estimates committee A of the Estimates referred to it or at the expiry of the time allocated to that committee, the question will be put forthwith - "That the clauses, schedules and title of the bill be agreed to".

Presentation of reports

231. Reports of the estimates committees will state which parts of the Estimates have been considered and whether the proposed expenditures are recommended. Failure of an estimates committee to report on any part of the Estimates within the time required by the Assembly will be deemed to be a report recommending the proposed expenditures. The time for presentation of the reports may be as determined by the Assembly.

Procedure for presentation of reports

232. The reports of the estimates committees will be presented together to the Assembly by the Deputy Speaker and may be considered forthwith, the question being proposed for each, "That the report be adopted". Debate on that question and any amendment thereto will not exceed one hour in total, but that will not preclude an amendment being moved and the question being put thereon. If the reports of the committees are adopted, the third reading of the bill may be moved forthwith.

Recommendation 3

Your Committee recommends,

That the Leader of the House give notice of the following motion for debate and resolution prior to the House rising in 2000 –

“That this House adopt the following Standing Orders –

“Bills referred to estimates committees

222. (1) After the second reading of the Appropriation bill or bills which provide for the main recurrent and capital appropriations, the consideration in detail stage will be replaced by estimates committees A and B.

(2) The estimates committees will examine the bills and proposed expenditure contained in the Estimates and report on proposed expenditure by the Parliament and government departments and agencies funded from the Consolidated Fund.

(3) The estimates committees will consider the budget of each government agency and public trading enterprise partly funded or not funded from the Consolidated Fund, but no report on agencies and enterprises not funded is required.

Management committee

223. (1) There will be a management committee which will comprise the Leader of the House, one member nominated in writing to the Speaker by the Premier, and two members similarly nominated by the Leader of the Opposition.

(2) Before the estimates committees first meet, the Leader of the House will present to the House the report of the management committee, which report will prescribe -

- (a) which parts of the Estimates are to be considered by each committee; and
- (b) the time allotted for consideration of each part or any division or program of the Estimates and the budgets of those agencies and enterprises referred to in Standing Order 222 (2) and (3).

(3) On the presentation of the report of the management committee, the Speaker will forthwith propose the question, "That the report be adopted" and debate may proceed for a maximum period of one hour on that question and any proposed amendments.

Estimates committees membership

224. Each estimates committee will consist of -

- (a) a Chairman;
- (b) three members appointed by the Leader of the House and three members appointed by the Leader of the Opposition; and
- (c) the Minister or Parliamentary Secretary responsible in the Assembly for the department, agency or enterprise under consideration, or another Minister acting in that capacity, or when considering the estimate for "Parliament", the Speaker or the Deputy Speaker.

Appointment of members

225. The Leader of the House and the Leader of the Opposition will notify in writing to the Speaker their appointment of members for each part, division or program, specified in the report of the management committee.

Replacement of members

226. A member may be replaced on an estimates committee by -

- (a) the member appointing another member as a replacement;
- (b) the Leader of the House or the Leader of the Opposition appointing another member as a replacement; or
- (c) a member deputed by the Leader of the House or the Leader of the Opposition appointing another member as a replacement,

and no change will take effect until notified in writing to the Clerk to the committee.

Chairing of estimates committees

227. (1) The Chairman of an estimates committee will be the Deputy Speaker or an Acting Speaker.

(2) Any member of the committee may take the Chair temporarily whenever requested so to do by the Chairman of that committee.

Quorum

228. The quorum of an estimates Committee will be four, excluding the Chairman, and if at any time a quorum is not present, the Chairman may suspend the proceedings of the committee until a quorum is present.

Non-committee members

229. Members of the Assembly who are not members of the committee may participate, at the discretion of the Chairman, in the proceedings of the committee, but will not vote, move any motion, or be counted for the purpose of a quorum.

Ministerial advisers

230. Advisers who are present at an estimates committee to assist Ministers will not directly answer questions or otherwise address the committee except with the approval of and in the presence of a Minister or Parliamentary Secretary.

Minutes of estimates committees

231. Minutes of each estimates committee will be recorded by the Clerk to the committee, and will be signed by the Deputy Speaker or an Acting Speaker and the Clerk to the Committee.

Procedure in estimates committees**232.** In each estimates committee

- (a) the question will be proposed for each division or part thereof of the Estimates referred to that committee, "That the appropriation be recommended", and if there is an equality of votes on any such question, the committee will include in its report to the House, its inability to report on that division;
- (b) when considering the budgets of agencies or enterprises referred to in Standing Order 222 (3) no question will be proposed;
- (c) voting in a division will be taken by a show of hands of those members of the committee, exclusive of the Chairman, present when a question is put and tellers will not be appointed;
- (d) any question of procedure or point of order will be determined by the Chairman of the committee, subject to the ultimate decision of the Speaker; and
- (e) at the conclusion of consideration by estimates committee A of the Estimates referred to it or at the expiry of the time allocated to that committee, the question will be put forthwith - "That the clauses, schedules and title of the bill be agreed to"

Presentation of reports

232. Reports of the estimates committees will state which parts of the Estimates have been considered and whether the proposed expenditures are recommended. Failure of an estimates committee to report on any part of the Estimates within the time required by the Assembly will be deemed to be a report recommending the proposed expenditures. The time for presentation of the reports may be as determined by the Assembly.

Procedure for presentation of reports

233. The reports of the estimates committees will be presented together to the Assembly by the Deputy Speaker and may be considered forthwith, the question being proposed for each, "That the report be adopted". Debate on that question and any amendment thereto will not exceed one hour in total, but that will not preclude an amendment being moved and the question being put thereon. If the reports of the committees are adopted, the third reading of the bill may be moved forthwith."."

Private Bills Standing Orders

The Standing Orders and Procedures Committee originally recommended the Private Bills Standing Orders be deleted and this still needs to be agreed to by the House. The Joint Standing Orders on Private Bills have not been used for the last thirty years and have not been reprinted since 1968.

- **The House to resolve to delete the Private Bills Standing Orders.**
- **The Legislative Council be advised the Legislative Assembly has deleted the Private Bills Standing Orders and accordingly invites the Legislative Council to do likewise.**

Recommendation 4

Your Committee recommends,

That the Leader of the House give notice of the following motion for debate and resolution prior to the House rising in 2000 –

- “ (1) That the Private Bills Standing Orders be deleted.
- (2) That the Legislative Council be informed that the Legislative Assembly has deleted the Private Bills Standing Orders and accordingly invites the Legislative Council to do likewise.”.