

ADVISORY PAPER NO. 4 - LEGISLATION

Recommendations of the Needs Assessment Report

- **Bills should only be published after presentation to the Assembly (page 13)**
- **There should be 2 weeks between publication of a Bill and its second reading (page 13)**
- **The Standing Orders should not allow for Bills to be taken through all their stages in one day (page 13)**
- **Amendments to Bills should, as a rule, be tabled and circulated in advance (page 13)**
- **The scrutiny of legislation should be regarded as the primary responsibility of the Assembly and sufficient time should be allowed for this (page 24)**
- **The Assembly should consider the desirability of explanatory notes on Bills (page 24)**
- **Assent (or refusal of assent) to Bills should be given immediately after they are sent to the President and the Assembly should be notified (page 24)**
- **The Assembly should employ a qualified lawyer who could assist Members with amendments and supply legal advice to the Speaker and Clerk (page 25)**

2.

- **A Legislation Office staffed by a Clerk with procedural knowledge should be considered in the future, if the work of receiving and processing amendments becomes too much for the Table Office (page 25)**

1. To accommodate some of the recommendations on legislation the following revised Standing Orders are proposed to replace Standing Orders 45 to 47. Then follows an explanation as to changes.

45 Initiation of Bills

A bill may be initiated:

- (a) **by the calling on of a notice of intention to present a bill;**
- (b) **by an order of the Assembly; or**
- (c) **without notice by a Minister under *Standing Order 61 (Appropriation Bill or Bill dealing with taxation)***

A bill not prepared according to the Standing Orders shall be ordered to be withdrawn.

46 Notice of intention to present Bill

- (a) **A Member giving a notice of intention to present a bill**

must deliver the notice in writing to the Clerk at the Table.

3.

- (b) The notice must:**
 - (i) specify the title of the bill and the day for presentation; and**
 - (ii) be signed by the Member and at least one other Member.**
- (c) A notice of intention to present a bill shall be treated as if it were a notice of motion.**

47 Signed copy of bill to be presented

- (a) A Member presenting a bill must sign a legible copy of the bill and hand it to the Clerk at the Table.**
- (b) The title of a bill must agree with the notice of intention to present it, and every clause must come within its title.**

47A First Reading

When a bill is presented to the Assembly the bill shall be read a first time without a question being put.

47B Second Reading and explanatory memorandum

If copies of the bill are available to Members, the Member presenting the Bill may move immediately after the first reading, or at a later hour -

That this bill be now read a second time

4.

Except in the case of the Appropriation Bill the debate on the question must then be adjourned to a future sitting not less than seven days after presentation.

If copies of the bill are not available, a future sitting shall be appointed for the second reading and copies of the bill must then be available to Members.

Where possible the Member presenting the bill should also present an explanatory memorandum which should include an explanation of the reasons for the bill.

2. The origin of Standing Orders 45 to 48 was at a time when printing facilities were not readily available and there was a need to ensure that Members of a Parliament had adequate notice of a bill and adequate time to receive a copy of the bill and study it.

Leave is now an unnecessary first step and achieves nothing in terms of ensuring Members get ample notice of a bill or copies of bills in a timely fashion.

Bills are published in the **Gazette** as the means of making them generally available. With modern printing techniques there is no need for these safeguards and the Standing Orders proposed reflect modern reality. However there is a provision to cover the odd occasion when a bill will not be printed in time for presentation as for example a bill to meet a

suddenly arising national emergency. The bill can still be introduced but not progressed until printed copies are circulated to Members.

5.

3. The proposed Standing Orders are a variation on the above recommendations to conform with the established practices of the National Assembly such as having printed copies available on presentation and having 7 not 14 (as recommended) days elapse between introduction and second reading. The sitting pattern as proposed readily lends itself to this procedure and gives certainty to the bills' availability.

4. Some houses of Parliament also have omitted references to "*Committee of the Whole Assembly*" and substituted a phrase which reflects what that phase of bill consideration is all about; that is "*consideration in detail.*" Language used in National Assembly Standing Orders 48, 49 and 51 could also be modernized. Standing Order 51 is particularly and perhaps unnecessarily detailed and could readily be condensed.

5. Another inconsistency in the Standing Orders is that a seconder to a motion or amendment in Committee of the Whole Assembly is not required but one is required when a bill is being considered within a Select Committee. It is proposed in relation to the recommendations on committees that a seconder in committees be dispensed with altogether (see also Advisory Paper No. 8).

6. Paragraph 51 (2) provides that "*any proposed amendments of which notice has not been given shall be handed to the Chairman in writing*" implying that in most cases notice is given. Notice is accomplished by handing a copy of the amendment to the Clerk or lodging it in the Parliament Office (Standing Order 22 (1)). Additional words to the effect

that the amendments should be circulated to Members as soon as possible after receipt could enhance the Standing Order.

6.

7. Advisory Paper No. 5 refers separately to the financial procedures and legislation.

8. Assent

Standing Order 58 requires the Clerk to submit a bill passed by the Assembly to the President for assent. Sub-article 170 (2) of the Constitution requires the President to signify that the President has either assented to the bill or withheld assent. If the President withholds assent sub article 170 (3) requires the President to return the bill to the Speaker with a message saying why assent was withheld.

There is no requirement for the President to notify the Assembly that a bill has been assented to yet such notification would close the whole legislative loop. There is provision for the President to send messages to the Assembly and this means should be invoked to signify to the Assembly that a bill has been assented to and the date of the assent. If the President's Office also numbers Acts then the number too should be conveyed to the Assembly as part of the message. While a signed copy of an Act is passed to the Assembly ideally this should accompany the message of assent.

9. An Officer within the Parliament Office should be identified as Legislation or Bills Officer and this person should be responsible for preparing bills for each stage they have to pass; the printing and distribution of bills; the maintenance of the signed bills and Acts; reprinting of bills incorporating amendments that might be agreed by the Assembly; assisting with the drafting of amendments to bills; and conveying bills to the President for assent.

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