



LEGISLATIVE COUNCIL

OFFICE OF THE CLERK OF THE PARLIAMENTS

MEMORANDUM

To Honourable Members of the Legislative Council

From Clerk of the Parliaments

Subject Effect of prorogation on Committees

Date 11 August 1999

Reference

I have received advice that the House has today been prorogued, until Tuesday 7 September 1999. Several inquiries have been received from members regarding the status of Committees in the event of prorogation.

For the information of all Members I advise that the situation with respect to Committees is as follows.

**Joint Statutory Committees**

Joint Statutory Committees have power under the relevant Act constituting each Committee to "sit and transact business despite any prorogation of the Houses of Parliament or any adjournment of either House of Parliament".<sup>1</sup> These Committees include:

Committee on the Health Care Complaints Commission  
Committee on the Independent Commission Against Corruption  
Committee on the Office of the Ombudsman and Police Integrity Commission  
Regulation Review Committee.

<sup>1</sup> See Health Care Complaints Commission Act 1983 section 70 (8); Independent Commission Against Corruption Act 1988 section 68 (8); Ombudsman Act 1971 section 31F (8); Regulation Review Act 1987 section 8 (8). Similar provisions apply to the Public Accounts Committee and Standing Ethics Committee of the Legislative Assembly.

## Sessional Committees

Sessional Committees established by resolution of the House cease to exist on prorogation and must be reappointed in the next session.<sup>2</sup> All current references lapse. These Committees are:

- House Committee
- Library Committee
- Printing Committee
- Standing Orders Committee

## Standing Committees

The situation is more complex in respect of Standing Committees. The Standing Committees of the Legislative Council, as well as the Joint Standing Committee on Road Safety, which according to Standing Order 257C are appointed for the life of the Parliament, continue in existence after prorogation. Their current references remain and are held over until the House meets on 7 September. These Committees are:

- Standing Committee on Law and Justice
- Standing Committee on Parliamentary Privilege and Ethics
- Standing Committee on Social Issues
- Standing Committee on State Development
- General Purpose Standing Committees
- Joint Standing Committee on Road Safety (STAYSAFE).

However, whilst these Committees continue in existence and their references remain, advice received in December 1994 states that the Standing Committees cannot meet or transact any business during prorogation.<sup>3</sup>

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<sup>2</sup> Unlike Standing Committees these Committees are not appointed for the life of the Parliament under a Standing Order.

<sup>3</sup> In December 1994 the Crown Solicitor provided advice to the Clerk of the Legislative Assembly on a number of questions concerning the status of standing committees after prorogation. The Crown Solicitor advised that Legislative Council Standing Order 257C was invalid to the extent that it purports to authorise standing committees to meet when the House itself cannot meet and transact business. Assuming that advice is correct, it has since been accepted that, whilst Legislative Council Standing Committees continue in existence after prorogation, and their references remain and are held over until the House meets again, the Standing Committees may not meet and transact business during any prorogation. Of course, it is possible for the Parliament to pass legislation which authorises the Standing Committees to meet and transact business during prorogation. This has been done on a number of occasions in the past. See for example the Parliamentary Committees Enabling Act 1993 No. 106, which enabled certain Committees to function during prorogation of Parliament and during the fourth session of the Fiftieth Parliament. However, no such legislation was passed during the first session of the Fifty-Second Parliament.

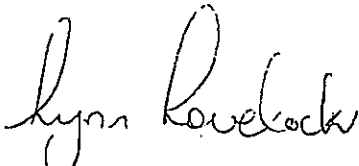
## General Purpose Standing Committees

As noted above, the General Purpose Standing Committees are covered by the same rules applying to other Standing Committees of the Legislative Council. That is, they continue in existence and their references remain during prorogation, however, they cannot meet or transact any business until the House meets again on 7 September.

Where members of the General Purpose Standing Committees have submitted questions on notice in relation to the forthcoming hearings into the budget estimates and these questions have been forwarded to Ministers, these questions remain valid in the same way that submissions, evidence and other material before a Standing Committee have continuing validity through prorogation.

However, just as a Standing Committee cannot meet or transact any business during prorogation, it is not possible for any further questions on notice in relation to the forthcoming hearings into the budget estimates to be forwarded to Ministers during prorogation.

I trust that the above clarifies the situation for those Members serving on Committees.

  
John Evans  
Clerk of the Parliaments