

Parliamentary Service By-law 2013

Explanatory notes for SL 2013 No. 171

made under the *Parliamentary Service Act 1988*

General Outline

Short title

The short title of the subordinate legislation is the *Parliamentary Service By-law 2013*.

Authorising law

The authorising law is the *Parliamentary Service Act 1988* (the Act) specifically section 50 of that Act.

Policy objectives and the reasons for them

The objectives of the By-law are to:

- remake the By-law to expand and refine the list of prescribed behaviours that may warrant removal or refusal of entry to persons entering the precinct;
- clarify the directions that an authorised person may give under the Speaker's delegation; and
- amend the definitions of authorised officers to reflect the current titles of parliamentary service officers.

Achievement of policy objectives

To achieve its objectives the By-law gives directions from the Speaker under section 50 of the Act prescribing behaviour and conduct for persons entering or upon the parliamentary precinct.

The By-law also provides for certain authorised officers on the Parliamentary precinct to give directions not inconsistent with the directions of the Speaker and clearly defines those officers who are so authorised.

Consistency with policy objectives of authorising law

The By-law is consistent with section 50 (2) of the Act which provides that directions of the Speaker may take the form of by-laws prescribing behaviour and conduct made from time to time by the Speaker. The By-law is also consistent with section 50 (5) of the Act which provides that the Speaker may authorise the Clerk or a parliamentary service officer or employee to give directions not inconsistent with directions given by the Speaker.

Inconsistency with policy objectives of other legislation

The By-law is not inconsistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

While the Act contemplates directions of the Speaker being made other than by way of a By-law, by consolidating the directions in a By-law ensures that the directions of the Speaker are publically notified. Also, in accordance with section 50(3) of the Act the directions made by way of the By-law are deemed to have been directed to every person who thereafter enters the precinct.

Benefits and costs of implementation

The benefits of the By-law as detailed above is that in accordance with section 50(3) of the Act the directions are deemed to have been directed to every person who thereafter enters the precinct and that the directions of the Speaker are publically notified.

The development of the By-laws will not result in any substantial additional costs to the Parliament than the alternative way of giving the directions.

Consistency with fundamental legislative principles

Legislation should have sufficient regard to the rights and liberties of individuals -

Legislative Standards Act 1992, section 4(2) (a)

Clause 13 Other prohibited conduct or behaviour

Clause 13 of the By-law provides that person on the parliamentary precinct must not display a banner, sign or other thing that is, or contains matter associated with a political cause or campaign without the permission of the Speaker or an authorised officer. In this section display includes display on an item of clothing in a conspicuous way.

This provision does restrict the freedom of peaceful assembly but only on the parliamentary precinct itself and not immediately outside of the precinct. The provision recognises the rights, powers and immunities of the Legislative Assembly and the Assembly's right to control its own proceedings and to conduct its proceeding without interference

Consultation

As the By-law is the embodiment of the directions of the Speaker consultation was confined to the Office of the Speaker and the Parliamentary Service. Crown Law advice was sought in relation to the original drafting instructions.

Notes on provisions

Part 1 Preliminary

Clause 1 provides that the short title of the By-law is the *Parliamentary Service By-law 2013*.

Clause 2 provides that the purpose of the By-law is to give directions under section 50 of the Act by prescribing behaviour and conduct for persons entering or upon the parliamentary precinct.

Clause 3 provides that the dictionary in schedule 1 defines particular words used in this By-law.

Part 2 Behaviour and conduct

Clause 4 provides that an authorised officer may give a direction under this part that is not inconsistent with the directions given by the Speaker under section 50 of the Act (including this By-law). The authorisation under sub section (1) is an authorisation pursuant to section 50 (5) of the Act.

Clause 5 is a direction that requires persons entering the precinct to wear an entry pass issued by authorised officers. For the purposes of issuing a pass a person entering the precinct must provide their name, address and telephone contact officer to the authorised officer. Persons must also produce photographic identification should an authorised person request it for the purpose of verifying a person's identity. The provision also directs that persons entering or on the precinct should not give false information or give an entry pass issued to them to another person other than an authorised officer. Persons are also required to return their passes to an authorised officer when leaving the precinct.

Clause 6 is a direction to persons not to enter or attempt to enter the precinct using someone else's entry pass or parliamentary identification card.

Clause 7 is a direction to persons entering the precinct to allow themselves to be the subject of a scanning or general search or both. The provision defines a general search of the person and the person's baggage and the scanning search of the person or the person's baggage by electronic means. The provision also directs that persons should not engage in behaviour or conduct that is aimed at avoiding a direction undergo such a search.

Clause 8 is a direction that a person must not bring a restricted item (as defined in Schedule 1) on to the precinct or have in the person's possession on the precinct without the permission of the Speaker or an authorised officer.

Clause 9 directs that persons must place a prescribed item (as defined in the section) in the temporary custody of an authorised officer if directed to do so by an authorised officer while on the precinct or while in a particular part of the parliamentary precinct (e.g. while entering the public gallery or a committee hearing).

A prescribed item includes:

- any baggage or bulky object the person is carrying;
- a banner sign or other thing that contains matter associated with a political cause or campaign; or
- items such as mobile phones, cameras, or other personal electronic devices.

Clause 10 is a direction that persons must not enter a restricted without the permission of the Speaker or an authorised officer. Restricted area is defined in the section as areas restricted to members and parliamentary staff by notice placed by or under the authority of the Speaker or the Clerk.

Clause 11 is a direction that persons must not drive or park a vehicle on the parliamentary precinct without the permission of the Speaker or an authorised officer. The provision also requires persons to comply with notices of the Speaker or the Clerk with respect to driving or parking vehicles on the precinct and to comply with any reasonable direction given to the person about the movement or parking of the person by an authorised officer.

Clause 12 is a direction that persons must not vandalise or otherwise damage buildings or property within the parliamentary precinct. The provision clarifies that persons must not affix a banner sign or other structure (including the fence) on the parliamentary precinct without the permission of the Speaker or authorised officer.

Clause 13 is a direction specifying other conduct or behaviour that is prohibited on the precinct including:

- intimidation or harassment of a member or another person;
- placing a person on the precinct in danger; or
- disrupting the proceedings of the Legislative Assembly or its committees.

The clause also provides that person on the parliamentary precinct must not display a banner, sign or other thing that is, or contains matter associated with a political

cause or campaign without the permission of the Speaker or authorised officer. In this section display includes display on an item of clothing in a conspicuous way.

Part 3 Other provisions

Clause 14 provides for the Clerk to issue authorised officers with an identity card that can be used for the purposes of identifying the person as an authorised officer. An authorised officer must produce the identity card for a person's inspection at the first reasonable opportunity. The provision also requires authorised officers to return their identity card to the Clerk when they cease being an authorised officer.

Clause 15 repeals the Parliamentary Service By-Law 2002, SL No 191.

Schedule 1

This schedule defines terms used in the Act.