



MEMBERS' ETHICS AND PARLIAMENTARY PRIVILEGES COMMITTEE RIGHT OF REPLY: QUEENSLAND LEGISLATIVE ASSEMBLY INFORMATION PAPER

Freedom of speech

Members of Parliament enjoy a unique privilege of freedom of speech, derived from Article 9 of the *Bill of Rights 1688*. Article 9 states that:

... the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament.

Effectively, this means that in the interests of public and open debate, members can speak in Parliament about matters without fear of any legal proceedings, such as defamation, being brought against them. This absolute privilege is essential for the effective operation of Parliament.

Whilst members of Parliament are able to say anything they think fit in debate, until recently individuals or corporations have had no means of redress against adverse comments made about them under parliamentary privilege.

Right of reply

On 18 October 1995, the Queensland Parliament became the first State Parliament to introduce a right of reply for individuals and corporations. The right of reply process applies to statements made in the Legislative Assembly after that date. On 31 August 2004, Standing Orders 279 to 283 of the *Standing Rules and Orders of the Legislative Assembly* replaced the right of reply resolution. The relevant standing orders, which govern the right of reply process, are reproduced on page 2 of this information paper.

The procedure provides that persons or corporations who are the subject of adverse comment in Parliament that affects their reputations are able to seek a right of reply. The right of reply relates to statements made by members under parliamentary privilege in the Legislative Assembly which refer to a person or corporation either by name, or in such a way as to allow them to be readily identified and which, had they been made outside Parliament, could reasonably be considered actionable in a court of law.

Statements made by members in the Legislative Assembly are still absolutely privileged and therefore defamation or other legal proceedings still cannot be brought against them. However, the right of reply allows aggrieved persons to put their 'side of the story' on the parliamentary record.

The right of reply is not an automatic right to have a response incorporated in *Hansard*, but a process by which a person or corporation may seek to do so.

The Members' Ethics and Parliamentary Privileges Committee (MEPPC) has responsibility for advising the Legislative Assembly about individual requests for a right of reply.

Submissions

Submissions for a right of reply are required to be made in writing to:

The Speaker – Queensland Parliament
Parliament House
George Street
Brisbane Qld 4000

A submission must be received by the Speaker within the term of the Parliament in which the person or corporation has been adversely referred to: Standing Order (SO) 280(3).

The Speaker must be satisfied that the matter is sufficiently serious and is not frivolous, vexatious or offensive in character, and that it is practicable for the MEPPC to consider the matter: SO 280(2)(a).

Should the Speaker refer a matter to the MEPPC, and should the committee decide to consider the submission, it is not the role of the committee to consider or judge the truth of any statements made in the House or the submission: SO 282(5). However, it is incumbent upon the person concerned to ensure the accuracy of their response. A deliberately misleading statement to the MEPPC may be treated as a contempt.

Public servants seeking a right of reply must do so as private citizens: SO 282(7). Any person making their submission through a representative must personally sign the response: SO 282(8).

If a person making a submission does not respond to a communication from the MEPPC within three months, the committee may consider the matter to be closed: SO 282(6).

Should it decide to consider a submission, the MEPPC is required to report to the Legislative Assembly and recommend that either a response by the person be incorporated in *Hansard* or that the committee and the House take no further action in relation to the matter: SO 283.

Further information

Further information regarding the right of reply may be obtained from the Members' Ethics and Parliamentary Privileges Committee:

Address: Parliament House, Brisbane, 4000
E-mail: meppc@parliament.qld.gov.au
Internet: www.parliament.qld.gov.au/committees
Phone: 07 3406 7586
Fax: 07 3406 7691

LEGISLATIVE ASSEMBLY OF QUEENSLAND

**STANDING RULES AND ORDERS OF THE LEGISLATIVE ASSEMBLY: EFFECTIVE FROM 31 AUGUST 2004
EXTRACT: CHAPTER 42: CITIZEN'S RIGHT OF REPLY**

279. Reference to a person includes a corporation

- (1) In this chapter a reference to a person includes a corporation.
- (2) A corporation making a submission under this chapter is required to make it under their common seal (if it has a common seal).

280. Affected person may make a submission

- (1) A person who has been referred to in the Legislative Assembly or a committee by name, or in such a way as to be readily identified may make a submission to the Speaker:
 - (a) claiming that the person has been adversely affected in reputation or in respect of dealings or associations with others, or injured in occupation, trade, office or financial credit, or that the person's privacy has been unreasonably invaded, by reason of that reference to the person or corporation; and
 - (b) requesting that the person be able to incorporate an appropriate response in Hansard or the relevant committee report.
- (2) The Speaker may refer the submission to the ethics committee if the Speaker is satisfied:
 - (a) that the subject of the submission is not so obviously trivial or the submission so frivolous, vexatious or offensive in character as to make it inappropriate that it be considered by the ethics committee; and
 - (b) that it is practicable for the ethics committee to consider the submission under this chapter.
- (3) A person shall ensure a submission is received by the Speaker within the term of the Parliament in which the person has been adversely referred.

281. Submissions

- (1) A submission under this chapter shall be succinct and strictly relevant to the questions in issue and shall not contain anything offensive in character.
- (2) A submission under this chapter shall not contain any matter the publication of which would have the effect of:
 - (a) unreasonably adversely affecting or injuring a person or corporation, or unreasonably invading a person's privacy, in the manner referred to in SO 280(1); or
 - (b) unreasonably adding to or aggravating any such adverse effect, injury or invasion of privacy suffered by a person.

282. Action by the ethics committee

- (1) The ethics committee may decide not to consider a submission referred to it under this chapter if the committee considers that the subject of the submission is not sufficiently serious or the submission is frivolous, vexatious or offensive in character, and such a decision shall be reported to the House.
- (2) If the ethics committee decides to consider a submission under this chapter, the ethics committee may confer with the person who made the submission and any member who referred in the House to that person or corporation or where the submission relates to another committee's proceeding, the relevant committee.
- (3) In considering the submission under this chapter, the ethics committee shall deliberate in a private meeting.
- (4) The ethics committee shall not publish a submission referred to it under this chapter or its proceedings in relation to such a submission, but may present minutes of its proceedings and all or part of such submission to the House.
- (5) In considering a submission under this chapter and reporting to the House the ethics committee shall not consider or judge the truth of any statements made in the House or the submission.
- (6) If a person making a submission does not respond to a communication from the committee within three months, the committee may consider the matter to be closed.
- (7) Public servants seeking a right of reply must do so as private citizens.
- (8) Persons making their submission through a representative must personally sign the response.

283. Recommendation and report by the ethics committee

In its report to the House on a submission under this chapter, the ethics committee may make either of the following recommendations and no other recommendations:

- (a) that no further action be taken by the ethics committee or the House in relation to the submission; or
- (b) that a response by the person who made the submission, in terms specified in the report and agreed to by the person or corporation and the ethics committee, be incorporated in Hansard.