



MATTERS OF PROCEDURAL INTEREST

No. 11 — July to December 2016

Prepared by Chamber and Procedural Services Office

QUEENSLAND LEGISLATIVE ASSEMBLY PROCEDURAL BULLETIN

WORK OF THE HOUSE

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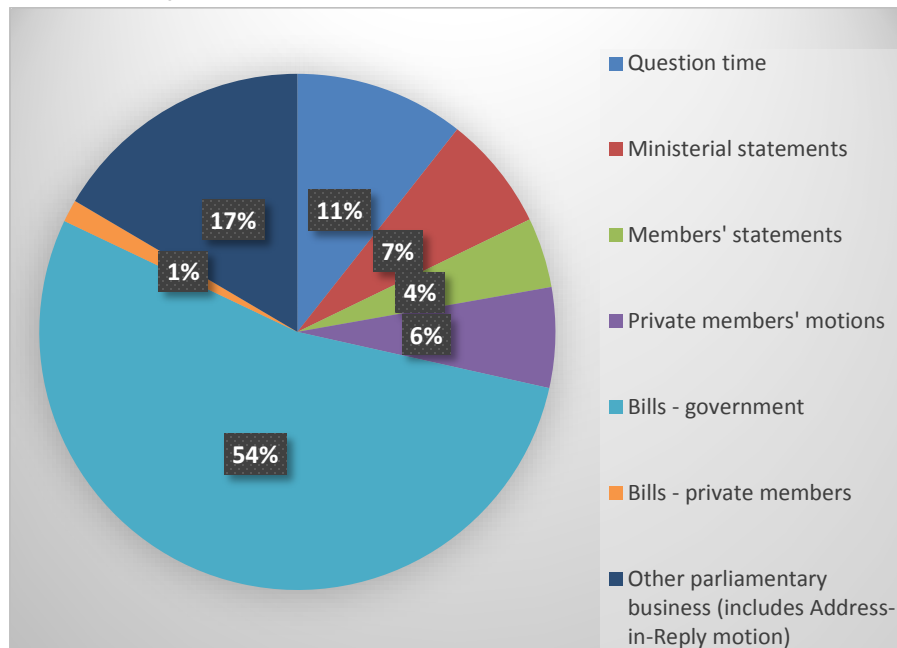
Click here to view: [Work of the House statistics](#)

Overview comparison

	1 Jul to 31 Dec 2016			1 Jan to 30 Jun 2016		
Sittings						
Sitting days	21			22		
Average duration per sitting day [hrs:mins]	11:11			12:03		
Legislation						
	1 Jul to 31 Dec 2016	1 Jul to 31 Dec 2016	1 Jul to 31 Dec 2016	1 Jan to 30 Jun 2016	1 Jan to 30 Jun 2016	1 Jan to 30 Jun 2016
	Govt	PMB	Total	Govt	PMB	Total
Bills introduced	27	3	30	27	4	31
Bills passed	26	1	27	36	2	38
Bills referred to committees	26	3	29	25	3	28
Bills reported on by committees	27	3	30	36	7	43

Business conducted

The following chart shows a breakdown of the business conducted during the period 1 July to 31 December 2016.





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MEMBERS

First speech

A member's first speech is the first speech made by a member following their first election to the Legislative Assembly. The established practice is for members elected in a by-election to make their first speech by way of a statement at time agreed by the House.

On 31 August 2016 a motion was agreed to suspend sessional orders immediately after question time to enable the Member for Toowoomba South to make a statement not exceeding 20 minutes noting his election.

Record of Proceedings: 31 August 2016, 3196

Order and conduct of members

On 14 September 2016 the Speaker made a statement regarding the order and conduct of members in the House noting that:

- when the Speaker is on their feet all members, regardless of where they sit in the House, are expected to sit down immediately and fall silent, as is required by standing order 244(3).
- when a member is speaking and the Speaker calls that member by office or electorate, so as to indicate that the Speaker is interrupting for a matter, the member is expected to stop speaking.
- the chamber should be a place of vigorous and passionate debate, not a place for shouting over each other.

Record of Proceedings: 14 September 2016, 3453
Standing Orders 243-258

Apologies and explanations

Standing order 269(4) requires the Speaker in considering whether a matter should be referred to the Ethics Committee to take account of whether an adequate apology or explanation has been made in respect of the matter.

The Speaker has actively encouraged members to correct the record, apologise or clarify their incorrect or misleading statements so as to avoid a referral of matters to the Ethics Committee. If members who make incorrect or misleading statements in the House or committee refuse to correct the record, they leave the Speaker little choice but to refer those matters to the committee.

Record of Proceedings: 15 September 2016, 3543
Standing Orders 269(4)



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Documents read or cited by a member

Standing Order 30 provides that a document read or cited by a member may be ordered to be tabled pursuant to a motion moved without notice, amendment or debate.

The Premier, in an answer to a question without notice on 29 November 2016, referred to legal advice she had received about releasing a report on a review of the Department of Child Safety's handling of a child safety matter. The member who asked the question rose on a point of order asking if the Premier will table the legal advice. The Speaker did not take the point of order.

At the conclusion of question time, the Manager of Opposition Business rose on a point of order and moved that in accordance with standing order 30, the documents cited by the Premier in her answer be tabled in the House. Numerous points of order followed and the Premier tabled a document that she said she cited. The document was the Premier's speaking notes.

The Speaker ruled that the Premier had tabled the document she cited and advised that the motion to effect the result the opposition was seeking was not moved and there was now no point of order. The Leader of the Opposition queried the timeframe for moving such a motion and the Speaker undertook to consider the matter further.

Orders for production of documents

Later that day, the Speaker clarified the House's authority to order the production of documents under standing orders 27 and 30. An order or summons to produce documents under the *Parliament of Queensland Act 2001* or standing order 27 must be made by way of a notice of motion. Standing order 30 provides a mechanism to short-circuit the requirement for a notice of motion.

The Speaker dealt with two issues that arose as a result of the points of order. Firstly, the meaning of 'read or cited' and secondly, the issue of timing.

The Speaker considered that reading a document in the House satisfies the requirement of standing order 30. Similarly, quoting from a document in part or in whole also satisfies the meaning of either 'read' or 'cited'. Further, a reference to a document as an authority or source of information also satisfies the requirement and such action constitutes citing the document. The Speaker also stated that it was not necessary to have the document in the member's possession in the House or to quote from it directly.

In relation to the timing, the Speaker determined that the motion must be made at the time the member reads or cites the document or immediately thereafter, such as at the conclusion of the member's speech. This is because a motion under standing order 30 is essentially subsidiary to the matter before the House.

Following the ruling, the Leader of Opposition Business gave notice of a motion for the House to order the production of the legal advice cited by the Premier in accordance with standing order 27. The notice of motion was recorded on the Notice Paper under General Business.



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Lapse of General Business Notices of Motion

Standing Order 74 provides that all general business notices of motion lapse after the expiration of 30 calendar days, unless a statute of the standing orders provide otherwise. As the notice of motion for the production of documents was given during the last sitting week for 2016, the notice lapsed before the next sitting of the House set down for February 2017.

Record of Proceedings: 29 November 2016, 4571, 4580,
4627-4628, 4634-4635

Standing Order 27, 30 and 74

Speaking lists and seeking the call

On 10 November 2016, the Speaker made a statement to clarify that the standing orders are clear that the decision as to who has the call is at the complete discretion of the chair. Standing order 247(3) provides the correct procedure for disputing the call of the Speaker and a member may move that any member who has risen but who has not been called be now heard. The Speaker advised that speaking lists were a guide and members must jump and seek the call in accordance with standing order 247(1) and that the member in charge of the bill should not be called, thereby closing the debate, when it is apparent that other members are on their feet and seeking the call, even if the member in charge of the bill should manage to rise first. If no other member rises to speak, the member in charge of the bill can be called.

The Speaker advised that it was his practice in private members' statements and at the adjournment debate to call members from the speaking list but the practice could be reviewed if that caused confusion.

Record of Proceedings: 10 November 2016, 4457
Standing Order 247

Application of time

Sessional orders set out the days and hours of sitting and order of business. On 30 November 2016 the Speaker made a statement regarding the application of time noting that:

- The House rarely operates to the strict times set out in the sessional orders. By practice, the Speaker in the chair has some discretion as to time. For example, most days private members' statements are allowed to intrude into the normal time set for question time to commence. The Speaker then adjusts the start and finish times for question time.
- The dinner break is regularly delayed to enable divisions on the private member's motion to be concluded and the start time after dinner similarly extended. In debates where a number of members are allocated time to speak, such as private members' statements, private members' motions, matters of public interest and adjournment debates when there is an interruption, such as by points of order, divisions or rulings by the chair, individual members allocated time to speak are not disadvantaged by those interruptions and debate has, by practice, been often extended to enable those allocated members their time. The chair has also declined to extend some debates where there have been interruptions and no individual members have been affected, such as divisions in question time.



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- Practice and practicality dictate that the chair has some discretion as to time. Yesterday the morning's proceedings were delayed for a condolence motion. Thus matters of public interest started later than normal. The debate was also interrupted by a division. In these circumstances to enable all allocated members time to speak, matters of public interest concluded after the lunch break. There was nothing irregular in what occurred.

Record of Proceedings: 30 November 2016, 4674
Sessional Order 1

MOTIONS

Motion to take note

Standing Order 62 provides that at the conclusion of a ministerial statement the Minister may move 'that the House take note of the statement' and if so, the Leader of the Opposition or their nominee shall be given equal time to reply to the statement either immediately or at some other time.

On 16 August 2016, the Premier made a ministerial statement regarding institutional child sexual abuse and moved that the statement be noted. The Leader of the Opposition spoke to the motion and the motion was agreed.

Record of Proceedings: 16 August 2016, 2725-2727
Standing Order 62

Motion to separate Queensland into two States

On 15 September 2016, a member gave notice of a motion for debate that, 'the House supports, in accordance with section 124 of the Commonwealth Constitution, the separation of Queensland into two states, and the boundary of the two states is to be recommended by an independent body such as the Redistribution Commission.'

Section 124 of the Commonwealth Constitution provides that 'A new State may be formed by separation of territory from a State, but only with the consent of the Parliament thereof, and a new State may be formed by the union of two or more States or parts of States, but only with the consent of the Parliaments of the States affected.'

In considering whether the motion was out of order, the Speaker was of the view that the proposed motion, if agreed to, would not be effective consent by the Queensland Parliament within the meaning of section 124 because the territory to be separated from the state was not identified with any precision. The motion, if agreed to, would simply express an opinion of the House on the issue and was a matter for the House to determine. The motion was debated that evening and did not pass.

Record of Proceedings: 15 September 2016, 3552, 3568
Standing Order 70



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Disallowance motions

Section 50 of the *Statutory Instruments Act 1992* provides for how the House may disallow subordinate legislation. The disallowance can be the entire regulation or a provision of. A disallowance motion can be amended.

During the period July to December 2016, three resolutions were passed that disallowed certain provisions or parts of subordinate legislation

Record of Proceedings: 17 August 2016, 2911-2925;
14 September 2016 3505-3510; and 2 November 2016, 4063-4080

PRIVILEGE

Unauthorised disclosure of committee proceedings

Standing Orders 211, 211A and 211B provides that the proceedings of committee that are not open to the public or authorised to be published by the committee are strictly confidential until the committee has reported the proceedings to the House or otherwise published the proceedings.

On 1 September 2016 the Speaker made a statement regarding the recent increase in the number of allegations regarding matters of privilege relating to portfolio committee proceedings. The Speaker noted that:

- whilst portfolio committee proceedings are generally conducted in public, the proceedings of such committees which are not open to the public and which are not authorised by a committee to be published remain strictly confidential to the committee as detailed in standing order 211(1).
- Standing order 211(2) allows for the disclosure of proceedings not authorised to be published to the world at large to all other members of parliament and to the Clerk or other officers of the House in the course of their duties. Accordingly, members who are not a member of a particular portfolio committee may be privy to the confidential deliberations of a committee by virtue of conversations with members on that committee or via the secure web portal for members and staff of committees.
- Members should note that standing order 211(4) makes it very clear that members should not refer to proceedings of a committee in the House unless the relevant committee has reported those proceedings to the House or otherwise published those proceedings to the world at large.

[Ethics Committee Report No.170](#) dealt with the unauthorised disclosure of answers to questions on notice as part of the estimates process. The committee found that there had been an unauthorised disclosure of proceedings but the source of the disclosure could not be identified. The committee concluded that as the answers were due to be published by the committee the following morning the disclosure did not substantially interfere with the work of the committee and recommended the matter did not require the further attention of the House. However, the committee noted that there had been a number of recent incidences in relation to unauthorised disclosure of committee material and wrote to all members reminding them of Standing Orders 211 and 211A.

Record of Proceedings: 1 September 2016, 3281
Standing Order 211



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On 1 December 2016 the Chair of the Legal Affairs and Community Safety Committee raised a matter of privilege regarding the apparent unauthorised publication of evidence given at a private hearing of the committee. The chair also advised that the evidence had been referred to in the House by a member. The Leader of the House immediately moved a motion noting the chair's report and for the House to redact the reference from the relevant member's speech in the Record of Proceedings.

On a matter of privilege, the member referred to in the motion advised that a constituent had provided the information and their permission for the member to quote from the letter. The member was unaware that the information had been provided to the committee in a private hearing. Debate on the motion was adjourned for two hours.

The Leader of the House later moved a motion to withdraw the contempt motion advising the evidence given in the private hearing had also been made in a statement circulated widely in a different form by the witness. The member had sourced their speech from the circulated statement and not the private hearing. The motion to withdraw was agreed to.

Record of Proceedings: 1 December 2016, 4857-4860; 4881
Standing Order 211

LEGISLATION

Absolute majority for amendments to the Constitution

The *Constitution of Queensland 2001* (the Act) was amended in September 2016 to provide that future amendments to the Act respecting the constitution, powers or procedure of the Parliament must be passed by an absolute majority of the Assembly before presented for assent. The amendments implement a recommendation made by the Committee of the Legislative Assembly in [Report No.18 titled Constitution of Queensland and Other Legislation Amendment Bill 2016](#).

An absolute majority means a majority of the number of members of the Assembly. Currently there are 89 members so an absolute majority is 45 votes. A casting vote by the Speaker or Deputy Speaker in favour of the 'ayes', or an absent member's vote by proxy in favour of the 'ayes' will be counted as a vote for the 'ayes'.

Record of Proceedings: 13 September 2016, 3432
Constitution of Queensland 2001 s4A

Recognition of Parliamentary Committees in Constitution

The core matters of the parliamentary committee system are now recognised in the *Constitution of Queensland 2001* (the Constitution) following amendment in 2016. At the start of each session, the Assembly must establish at least six portfolio committees to cover all areas of government activity. The Assembly must refer all bills to a committee for examination for a minimum period of six weeks (unless the bill is declared urgent by ordinary majority). The Assembly must also refer the annual appropriation bill to portfolio committees for examination in a public hearing.

Constitution of Queensland 2001 ss26A-C



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Absence of Message—Bill ruled out of order

Section 68(1) of the *Constitution of Queensland 2001* provides that the Legislative Assembly must not originate or pass a vote, resolution or Bill for the appropriation of— (a) an amount from the consolidated fund; or (b) an amount required to be paid to the consolidated fund; that has not first been recommended by a message of the Governor.

On 3 November 2016, the Speaker ruled that the Heavy Vehicle National Law and Other Legislation Amendment Bill 2016, introduced on 13 September 2016, was an appropriation bill for the purposes of section 68 and therefore, required a message from the Governor. An appropriation for the purposes of section 68 is any conferral of authority on the executive to pay an amount from the consolidated fund and this includes any amendment which would potentially increase an existing appropriation, extend the objects and purposes of an existing appropriation or alter the destination of an existing appropriation. Further, an appropriation bill can neither be introduced nor passed before it has been recommended by a Governor's message. While it was determined that compliance with section 68 was not justiciable, it was considered prudent that the Assembly follow constitutional procedures. Accordingly, the Speaker ruled the bill out of order.

Bill reintroduced

Later that day motions to discharge the bill from the Notice Paper and withdraw it were agreed by the House. A motion was then agreed to reintroduce the same bill following the presentation of a message and for the bill, having already been reported on by a committee, be set down for its second reading immediately after its reintroduction and first reading without further referral. A message was then presented and the bill was reintroduced and passed the first reading. The bill was then set down on the Notice Paper for its second reading.

Record of Proceedings: 3 November, 4107-4108; 4147-4148;
Standing Order 174-175

Absence of Message—amendment ruled out of order

On 1 December 2016 the Speaker ruled that a proposed amendment to the reintroduced Heavy Vehicle National Law and Other Legislation Amendment Bill, circulated by the Shadow Minister, would be ruled out of order if moved as it required a message from the Governor under s68 of the *Constitution of Queensland 2001*.

The Speaker referred to his ruling on 3 November 2016 in relation to the absence of a message and noted that an appropriation for the purposes of section 68 is any conferral of authority on the executive to pay an amount from the consolidated fund. This includes any amendment which would potentially increase an existing appropriation, extend the objects and purposes of an existing appropriation or alter the destination of an existing appropriation. The Speaker ruled that the amendment sought to extend the objects and purposes of the appropriation and therefore required a message.

The Speaker ruled the amendment out of order when moved by the Shadow Minister in consideration in detail.

1 December 2016, 4882, 4912-4913
Standing Order 174-175



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QUESTIONS AND ANSWERS

Rules for questions and answers

Standing Orders 113, 114 and 115 set out the general rules that apply to both questions on notice and questions without notice. When asking a question, members must ensure that their questions do not contain lengthy or subjective preambles; arguments, inferences or imputations; hypothetical matters and; the names of persons unless they are strictly necessary to render the question intelligible and can be authenticated.

In a statement to the House on 1 September the Speaker noted:

- Answers to questions on notice, both in terms of timeliness and content, are the responsibility of each minister. While the mechanics of such a process are often delegated, the responsibility for ensuring compliance with the standing orders cannot be delegated.
- Answers to questions are also routinely reviewed to ensure compliance with standing order 118 and other standing orders and practice and procedure.
- Answers must be relevant to the question; should not simply debate the subject matter of the question and should also comply with the general rules of debate.

Beyond ensuring procedural compliance, the Speaker does not otherwise assess the quality of answers. Complaints about answers can arise because questions are not answered in the way the questioner desires. It may also be that a minister, or those who draft a response on the minister's behalf, comprehends the question differently from the way the questioner intended or misunderstands the member's question. Sometimes ministers are not as comprehensive in their answers as they could be. Often the best remedy is to ask a more specific question.

Record of Proceedings: 1 September 2016, 3281
Standing Orders 110-118

SESSSIONAL AND STANDING ORDERS

Sessional Orders were amended on 1 November 2016 to allow time to note petitions signed by 10,000 or more persons. Motions that the House take note of a petition are recorded on the Notice Paper for debate after the Committee of the Legislative Assembly has determined that the subject matter is not frivolous, vexatious, previously dealt with by the House or would anticipate debate on another order. The total time permitted for the debate is 16 minutes, with the mover and the member following the mover permitted 5 minutes each, and two other members permitted 3 minutes each. A division on any question or quorum call is not permitted during debate of this order of business.

The first petition was debated on 3 November 2016.

Record of Proceedings: 1 November 2016, 3932 and 3 November 2016, 4132-4135
Sessional Order 2A