



MATTERS OF PROCEDURAL INTEREST

No. 12 — January to June 2017

Prepared by Chamber and Procedural Services Office

QUEENSLAND LEGISLATIVE ASSEMBLY PROCEDURAL BULLETIN

WORK OF THE HOUSE

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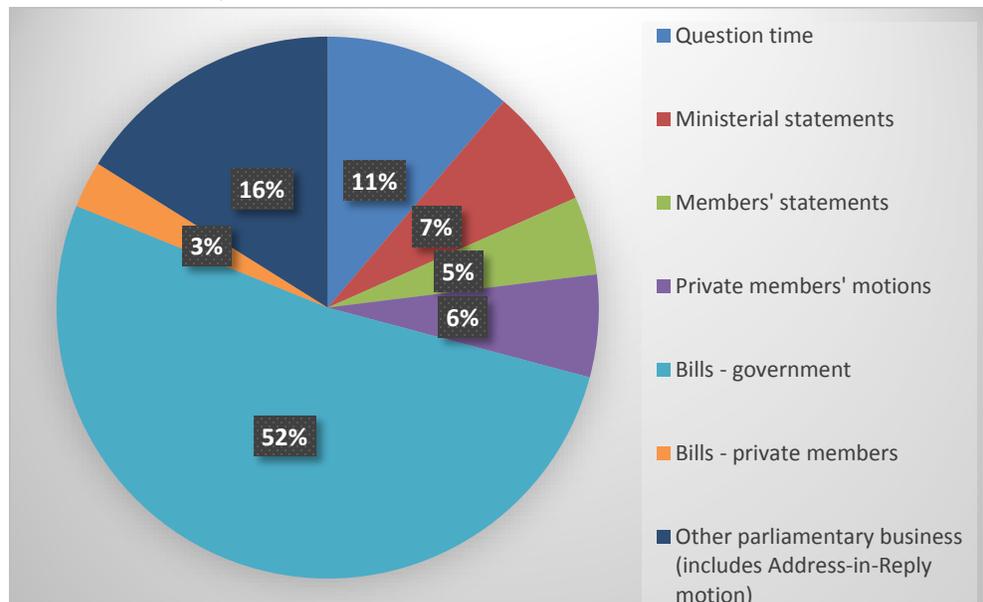
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Overview comparison

	1 Jan to 30 Jun 2017			1 Jul to 31 Dec 2016		
Sittings						
Sitting days	19			21		
Average duration per sitting day [hrs:mins]	10:23			11:11		
Legislation						
	1 Jan to 30 Jun 2017			1 Jul to 31 Dec 2016		
	Govt	PMB	Total	Govt	PMB	Total
Bills introduced	28	9	37	27	3	30
Bills passed	19	1	20	26	1	27
Bills referred to committees	27	8	35	26	3	29
Bills reported on by committees	19	3	22	27	3	30

Business conducted

The following chart shows a breakdown of the business conducted during the period 1 January to 30 June 2017.





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MEMBERS

Challenge and clarification of vote

Since 2014, the Assembly has adopted a system of party voting for divisions. In summary, a member of the government or official opposition is deemed to be voting with their party unless they have advised their Whip otherwise. Crossbench members record their vote on a tally sheet provided by the Clerk. The Speaker calls upon the party Whips to report their party's vote and the Clerk to report the votes of the minor parties and independents. (For independent members, the vote is reported by electorate.) The Speaker then announces the result of the division to the House. The Standing Orders provide that any member may challenge the report of the vote prior to the Speaker announcing the result. If a report is challenged the Speaker may direct that the report stand, be corrected or that the matter be resolved by way of personal vote.

On 1 March 2017, a division was called on the second reading question for the Sugar Industry (Arbitration for Mill Owners and Sugar Marketing Entities) Amendment Bill (a private members' bill introduced by the Leader of the Opposition on 28 February 2017). The question was resolved in the affirmative with the support of three minor party members and one independent member. Immediately after the Speaker had announced the result of the division, the independent member who voted in support of the second reading rose on a matter of privilege, stating that he had made an error in his vote as he had intended to vote no and now sought guidance from the Speaker. After confirming with the member that he had in fact recorded his vote for the ayes on the tally sheet, the Speaker ruled that while the member may have intended to vote otherwise, he would not change the vote.

The bill subsequently failed on the third reading with the independent member voting no.

Record of Proceedings: 1 March 2017, 432 and 435
Standing Orders 103-109

MOTIONS

Debate of petitions

In November 2016, the House adopted a sessional order providing a procedure to debate petitions signed by 10,000 or more persons. On 14 February 2017, the Speaker noted that 'the sessional order does not give guidance on whether an e-petition and paper petition with the same wording and timing count as one petition in terms of exceeding the 10,000 signatures'. The Speaker advised that the Committee of the Legislative Assembly (CLA) had agreed to trial the approach that such petitions on the same topic could be considered as one petition for that purpose. The Speaker noted that the CLA would monitor the issue to ensure the process was not being abused, given that petitioners are permitted to sign both a paper petition and an e-petition on the same topic.

Record of Proceedings: 14 February 2017, 2
Sessional Order 2A



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Anticipation rule

A member may not anticipate the discussion of any subject which appears on the Notice Paper. On 14 February 2017 a petition in relation to abortion law reform, containing 31,735 signatures was presented to the House. On 15 February 2017 the Speaker advised that the CLA had resolved that no notice to take note of the petition would be entered on the Notice Paper, as debate of the petition would anticipate the cognate debate of two private members' bills, namely, the Abortion Law Reform (Women's Right to Choose) Amendment Bill and the Health (Abortion Law Reform) Amendment Bill. However, it would be permissible for members to refer to the petition during the debate of the cognate bills.

Record of Proceedings: 15 February 2017, 103
Standing Order 231
Sessional Order 2A(1)(c)

Amendment out of order, direct negative

While there is no reference in standing orders to an amendment which is a direct negative of the question before the House, the precedent adopted is that such amendments are not in order if they are confined to the mere negation of the terms of a motion. The appropriate procedure to express a completely contrary opinion is by voting against the motion without seeking to amend it.

On 15 February 2017 the Minister for Agriculture and Fisheries and Minister for Rural Economic Development moved the following motion:

That this House condemns the federal and state Liberal National Party members of parliament for abandoning graziers, meatworkers and small businesses of the Rockhampton and Charters Towers regions in their fight against the Turnbull government's planned compulsory acquisition of prime Queensland grazing land.

The Leader of the Opposition moved an amendment to delete all words after 'House' and insert other words to achieve the following amended motion:

That this House acknowledges the strong and effective representation undertaken by LNP members that ensured that the rights of Queensland graziers, landowners, meatworkers and small businesses in and around Rockhampton and Charters Towers were protected and that no landowner would be forced to sell their land to the federal Department of Defence.

The Speaker ruled the amendment was a direct negative to the motion moved and was therefore out of order.

Record of Proceedings: 15 February 2017, 137, 139, 140



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Lapsed notice of motion

A notice to debate a petition lapses if no member seeks the call to move the motion.

On 2 March 2017 the motion that the House take note of an e-petition from 23,041 petitioners requesting the House to commit to a new referendum on daylight saving to give Queenslanders the opportunity to have their democratic say on this matter lapsed, as no member moved the motion.

Record of Proceedings: 2 March 2017, 472
Sessional Order 2A(5)

Order for production of documents

On 1 March 2017 the House agreed to the following motion:

That, in accordance with standing order 27, this House orders the Deputy Premier and Minister for Transport to produce to the House a report from Queensland Rail on the outcome of the chair's 'stress test' of the Citytrain timetable.

The original motion specified that the production of documents was to be made within 72 hours but this timeframe was omitted by an amendment moved by the Deputy Premier.

The agreed order was recorded on the Notice Paper and in accordance with Standing Order 29, the Clerk advised the House of the outstanding order on subsequent sitting Wednesdays.

On 24 May 2017, the Member for Glass House on a matter of privilege requested the Speaker to rule on when a delay in compliance with the order constitutes a contempt of parliament and what remedies are available to the House.

In a ruling of 25 May 2017, the Speaker noted that the motion agreed to on 1 March was an order which placed an obligation on the Deputy Premier to comply with its terms, but it did not stipulate a timeframe within which compliance was required. Without a timeframe, there was no standard against which a failure to report could be measured; therefore no contempt arose. In relation to the remedies available to the House, the Speaker cited Standing Order 29, which provides a mechanism whereby outstanding orders can be brought to the attention of the House. The Speaker also stated that it is always within the warrant of the House to take any further action, including further orders, which the House believes to be desirable or necessary.

On 14 June 2017, the Clerk advised the House that a return to the order had been tabled by the Deputy Premier that day.

Record of Proceedings: 1 March 2017, 403-409;
22 March 2017, 753; 10 May 2017, 1025;
24 May 2017, 1323; 25 May 2017, 1413-1414; 14 June 2017, 1575
Standing Orders 27, 29



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Motion to take note

Standing Order 62(1) 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 later time.

On 24 May 2017, the Premier made a ministerial statement regarding the Manchester terrorist incident and moved that the statement be noted. The Leader of the Opposition spoke to the motion and the motion was agreed.

Record of Proceedings: 24 May 2017, 1323-1324
Standing Order 62(1)

PRIVILEGE

Contravention of Parliament's Terms and Conditions of Broadcast

On 23 March 2017, the Speaker advised the House that he had considered a complaint from a member that the Queensland opposition media had contravened the Parliament's terms and conditions of broadcasting by publishing a photograph from the proceedings of parliament on 15 February 2017.

When considering whether a matter should be referred to the Ethics Committee, Standing Order 269(4) requires the Speaker to take account of the degree of importance of the matter and whether an adequate apology or explanation has been made in respect of the matter. As the Leader of the Opposition had offered an apology to the House on 22 March 2017 and the offending material had been deleted and other remedial measures had been taken, the Speaker determined that the matter did not require referral to the Ethics Committee.

Record of Proceedings: 23 March 2017, 831

LEGISLATION

Same question rule

Standing Order 87(1) states that unless the Standing Orders otherwise provide, a question or amendment shall not be proposed which is the same as any question which, during the same session, has been resolved in the affirmative or negative. A number of rulings in relation to the same question rule and bills was considered during the period.

- On 14 February 2017, the Speaker circulated a statement advising that he had considered the Rural and Regional Adjustment (Development Assistance) Amendment Bill (a private members' bill introduced on 26 May 2016), and the Farm Business Debt Mediation Bill (introduced by the Minister for Agriculture and Fisheries on 30 August 2016) and advised that both bills dealt with the same substance and that if both passed, they could not stand together. Accordingly, the same question rule would be enlivened.

On 21 March 2017, the motion that the Farm Business Debt Mediation Bill be read a second time was agreed to. The Speaker then ruled that the Rural



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and Regional Adjustment (Development Assistance) Amendment Bill could not proceed and was discharged from the Notice Paper.

Record of Proceedings: 14 February 2017, 2-3;
21 March 2017, 687-688

Standing Order 87 and 150

- On 14 February 2017, the Leader of the Opposition introduced the Bail (Domestic Violence) and Another Act Amendment Bill 2017. Immediately after the bill was introduced, the Leader of the House, on a matter of privilege, contended that the Victims of Crime Assistance and Other Legislation Amendment Bill 2016, currently before a committee, contained provisions broadly similar to matters contained in the Bill introduced by the Leader of the Opposition and asked that the Speaker rule on whether the same question rule was enlivened.

On 15 February the Speaker ruled that the introduction of a Bill, its first reading and referral to a committee, does not enliven the same question rule as against other Bills that have been recently introduced. Two Bills with similar or inconsistent provisions can both be introduced, read a first time and referred to a committee. There is no rule which restrains the presentation of two or more Bills relating to the same subject and containing similar provisions. However, if a decision of the House has already been taken on one such Bill, for example, if the Bill has been given or refused a second reading, the other is not proceeded with if it contains substantially the same provisions. The Speaker held that any ruling would only be proper after one of the Bills received its second reading or was defeated at the second reading.

Subsequently, on 21 March 2017, the Speaker ruled that whilst there might be some similarity across both Bills in terms of seeking to ensure that victims or eligible persons are informed of certain information, the specific information and the relevant requirements were different. The Speaker therefore ruled that the same question rule did not apply in respect of the Bills.

The Bills were debated cognately and passed all stages on 22 March 2017.

Record of Proceedings: 14 February 2017, 39-43;
15 February 2017, 103-104;
21 March 2017, 556-557;
22 March 2017, 812-823

- On 28 February 2017, the Speaker considered the same question rule in the context of the provisions of the Liquor and Other Legislation Amendment Bill (introduced on 14 February 2017) which proposed a range of amendments to the Tackling Alcohol-fuelled Violence Legislation Amendment Act which was passed on 17 February 2016.

The Speaker cited previous Speakers' rulings indicating that where a bill contains provisions dealing with the same issues as another bill, where the bill contains only a few clauses that deal with issues considered by another bill, the bill can proceed but the offending clauses are ruled out of order in consideration in detail. The Speaker considered this ruling to be relevant to the Liquor and Other Legislation Amendment Bill and ruled that the bill



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could proceed to the second reading. However, the same question rule would be enlivened in consideration in detail on certain clauses and it was likely that certain clauses would be ruled out of order at that stage unless the House ordered otherwise.

Later that day the House agreed to a motion to suspend SO 87(1) for the bill.

Record of Proceedings: 28 February 2017, 253

Appropriation Bills, division called on second reading

Any member may challenge the report of votes by the Whips or the Clerk before the result of a vote is announced by the Speaker.

The Appropriation (Parliament) Bill and the Appropriation Bill were debated cognately on 15 and 16 June 2017. A division was called on the question that the bills be read a second time. The Government Whip reported votes for the ayes and the Opposition Whip originally reported votes for the noes. The Speaker asked the Opposition Whip to confirm the vote before calling the Clerk to report the votes of the minor parties and independent members. The Opposition Whip then reported votes for the ayes. The question was resolved in the affirmative.

Record of Proceedings: 16 June 2017, 1920
Standing Order 106(6)

Corrective Services (Parole Board) and Other Legislation Amendment Bill — amendments outside the long title

Amendments outside the long title of a bill may only be moved with the leave of the House. On 23 May 2017, during consideration in detail of clause 5 of the Corrective Services (Parole Board) and Other Legislation Amendment Bill, the shadow minister for Police and Corrective Services sought leave to move an amendment outside the long title of the bill. A division was called on the question of leave and resolved in the affirmative.

The shadow minister moved an amendment that proposed a 'no-body no-parole' scheme, that is, a prisoner convicted of murder or manslaughter who refuses to reveal where the victim's body is located should not be granted parole. The amendment failed to pass with the five crossbench members voting with the government.

Record of Proceedings: 23 May 2017, 1258-1259 & 1263
Standing Order 151

Requirement for Governor's Message

The *Constitution of Queensland 2001* (s68) provides that the Assembly must not originate or pass a vote, resolution or Bill for the appropriation of an amount from the consolidated fund or an amount required to be paid to the consolidated fund, that has not been recommended by a message of the Governor. Standing Orders also require that no proposal for an appropriation



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that falls within the meaning of the constitutional provision shall be introduced unless first recommended by a message of the Governor.

Following the introduction on 25 May 2017 of the Safer Waterways Bill (a private members' bill to establish an authority called the Queensland Crocodile Authority), the Speaker advised the House that he would consider whether the bill contained an appropriation and therefore offended s.68 of the Constitution (Governor's recommendation required for appropriation) and/or Standing Order 174 (Appropriation proposal to be recommended).

On 14 June 2017, the Speaker advised the House that he applied the following three-part test to determine whether there was an appropriation in the bill. That is, did the bill:

- (a) purport to confer any authority to pay an amount from consolidated revenue,
- (b) extend the objects and purposes of an existing appropriation,
- (c) alter the destination of an existing appropriation?

The Speaker noted that a bill is not an appropriation bill simply because its implementation may have some potential incidental cost implications and that there would not be a bill introduced that did not have some cost implications, especially administration costs. Based on the information available to him, the Speaker found there was no existing appropriation for the purpose of a Crocodile Management Authority. In addition, in his examination of the relevant clauses of the bill alone, he could not find how the bill would potentially confer any authority to pay an amount from consolidated revenue or have the effect of extending the objects and purposes or altering the destination of an existing appropriation. The Speaker also noted that there would no doubt be cost implications if the establishment of the Authority was implemented, however such costs would appear to be incidental to and not caused by the clauses. That is, the clauses of the bill alone do not confer an authority to pay an amount from consolidated revenue, nor do they potentially have the effect of extending the objects or purposes or of altering the destination of an existing appropriation.

Accordingly, the Speaker ruled that in answer to these criteria, the bill did not contain an appropriation and therefore did not require a message from the Governor and did not contravene s.68 of the Constitution of Queensland 2001 or Standing Order 174.

Record of Proceedings: 25 May 2017, 1440-1442; 14 June 2017, 1565-1566
Constitution of Queensland 2001, s68
Standing Order 174

QUESTIONS AND ANSWERS

Answers to Questions on Notice

Standing Order 118 provides that in answering a question a Minister shall not debate the subject matter to which it refers and an answer shall be relevant to the question.



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Following complaints from members about the relevance or adequacy of answers to questions on notice, the Speaker ruled 8 questions as unanswered and requested replacement answers in respect of 4 questions. In summary the Speaker ruled that:

- Answers are in order where a reasonable attempt to answer the question had been made and if the member wants more information they should ask further specific questions.
- There is no basis in standing orders for a Minister to refuse to answer a question by stating that the compilation of the answer is resource intensive.
- A question that is broad in terms of its scope, seeks information over a number of years or from multiple agencies, whilst technically in order, may require unreasonable resources to fully respond. In such circumstances, it is acceptable for the responsible Minister to attempt to answer the question. However, a genuine attempt to answer must be made.
- Suggestions that Ministers of an earlier government did not answer questions is irrelevant.
- A reference in an answer to a website, annual report or budget estimates document that does not, at the time of the question and/or answer, contain the information, is not an answer to the question and is irrelevant to the question.
- The annual estimates process undertaken each year does not exhaust the government's accountability for financial matters. Answers cannot be avoided on the basis that the matters might be dealt with in the estimates process.

Record of Proceedings: 22 March 2017, 709-710;
23 May 2017, 1207-1208;
13 June 2017, 1502-1503
Standing Order 118

SESSSIONAL AND STANDING ORDERS

Amendment to Standing Orders

Standing Orders 136 and 137 were amended, to reflect amendments to the Constitution of Queensland 2001 requiring all bills to be referred to portfolio committees for a minimum of six weeks unless a bill is declared an urgent bill. Amendments were also made to reflect the requirements of the Speaker and the Clerk in the consideration of the estimates for the Parliamentary Service and Legislative Assembly, rather than the Committee of the Legislative Assembly (CLA).

Record of Proceedings: 23 March 2017, 841-842
Standing Orders 136-137

A new Schedule called 'Protocols for committees regarding the documents and records of a Member', was adopted. These protocols apply when, in the course of a committee's inquiry, there is a need or desire to obtain the document or



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records of a member of the Assembly. The House also endorsed a 'Protocol for custodians in the possession or control of members' documents'.

Standing Order 211B Confidentiality of proceedings — Ethics Committee was adopted and provides that when the Ethics Committee tables a final report on a matter, it must table related minutes and evidence, unless it resolves that some or all of its proceedings remain confidential. Standing Order 211A was amended to refer only to the confidentiality of proceedings of the Parliamentary Crime and Corruption Committee.

Record of Proceedings: 25 May 2017, 1422-1425
14 June 2017, 1583

Standing Orders 211A, 211B and Schedule 10

In June there were amendments to a number of Standing Orders concerning estimates, to clarify receipt of certain material to nominated officers and to remove references to public meetings with the CLA, as all estimates are considered by portfolio committees in public hearings.

Standing Order 280 concerning citizen's right of reply, was amended to enable an affected person to make a submission to the Speaker within four years from the date of an adverse reference in the Legislative Assembly or a committee.

Record of Proceedings: 14 June 2017, 1583-1584 and 16 June 2017, 1842

**Standing Orders 180, 185-186, 192, 280(3) and Schedules 6 & 7
Sessional Order 2A**