



MATTERS OF PROCEDURAL INTEREST

No. 5 — July to December 2013

Prepared by Chamber and Procedural Services Office

QUEENSLAND LEGISLATIVE ASSEMBLY PROCEDURAL BULLETIN

WORK OF THE HOUSE

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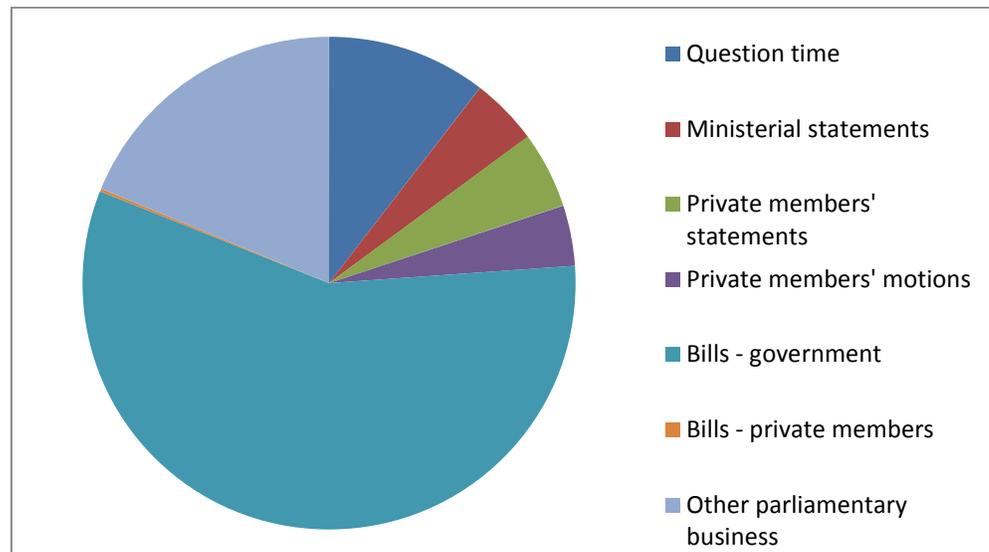
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Overview comparison

	1 Jul to 31 Dec 2013			1 Jul to 31 Dec 2012		
Sittings						
Sitting days	18			22		
Average duration per sitting day [hrs:mins]	11:24			10:50		
Legislation						
	Govt	PMB	Total	Govt	PMB	Total
Bills introduced	35	5	40	45	2	47
Bills passed	35	0	35	34	0	34
Bills referred to committees	28	5	33	42	2	44
Bills reported on by committees	27	5	30	65	2	67

Business conducted

The following chart shows a breakdown of the business conducted during the period 1 July to 31 December 2013





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MEMBERS

The Speaker made a number of statements highlighting common procedural issues and rules.

Reflections on the Chair

Reflecting or commenting on decisions or actions of the Chair, whether relating to actions inside the House or the character of the Chair in general may be treated as a contempt.

Record of proceedings: 19 November 2013, 3866-3868
Standing Order 266(23)

Personal reflections on members and withdrawals

Personal reflections on members, imputations of improper motives and unbecoming or offensive words in reference to another member are highly disorderly and a member has a right to require the withdrawal of any such personal reflection. Generally if the affected member believes a statement is a personal reflection and objects to the words used, the Chair will require withdrawal and not make an objective assessment. The offended member must take objection to the words at the time they are spoken. Members asked to withdraw by the Chair must do so in an unqualified and unreserved way.

Record of proceedings: 19 November 2013, 3866-3868
Standing Orders 234 & 235

Remarks to be addressed through the chair

A member should always address their remarks through the Chair and refer to other members by their correct title, either their ministerial or parliamentary office or their electorate. This is to enable more civilised debate.

Record of proceedings: 19 November 2013, 3866-3868
Standing Orders 244 & 247

Interjections

When a member is speaking, no other member may converse, make noise or disturbance so as to interrupt the member speaking. The Chair may not always intervene unless the interjections are frequent and interrupt the flow of a member's speech. Persistent and disruptive interjections are considered disorderly.

Record of proceedings: 19 November 2013, 3866-3868
Standing Order 251

Points of order

A point of order is a question as to whether the present proceedings are in order or allowed by the rules of the House or parliamentary practice. It is not an opportunity for a member to express their point of view or attempt to allegedly correct the record, or allege that another member is misleading the House, or introduce another topic. Deliberately disruptive, persistent and frivolous points of order may result in a member being warned under standing orders.

Record of proceedings: 19 November 2013, 3866-3868
Standing Orders 248 & 249



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Matters of privilege suddenly arising

A genuine matter of privilege suddenly arising may be raised by a member at any time. However, the matter must firstly be a matter of privilege and secondly it must have suddenly arisen and require immediate redress. Examples include: members being prevented from entering the chamber, strangers present in the House, required material not being available for proceedings before the House. It is not a matter of privilege suddenly arising to allegedly attempt to correct the record, or allege that another member is misleading the House, or put a member's own position on a matter.

On 21 November 2013 the Deputy Speaker ruled it was not a matter of privilege suddenly arising when a member rose to speak in response to an Ethics Committee report tabled earlier that day.

Record of Proceedings: 19 November 2013, 3866-3868
21 November 2013, 4225
Standing Order 248

Allegations of deliberately misleading the House

If a member believes another member has deliberately misled the House, then the member should write to the Speaker with all evidence supporting the allegation.

Record of proceedings: 19 November 2013, 3866-3868
Standing Order 269

Correcting the record

At an appropriate point in proceedings, Members should correct any incorrect or misleading statements that they have made in proceedings. In doing so they should liaise with the Chair for an appropriate time.

Record of proceedings: 19 November 2013, 3866-3868

Language

Generally, unparliamentary language is any language or expression that is unworthy of the dignity of the House or Parliament as an institution. Members asked to withdraw unparliamentary words or comments must do so in an unreserved and unqualified way. (SO 235)

Record of proceedings: 19 November 2013, 3866-3868
Standing Order 235

Absence or state of a member

In accordance with long standing practice of the House, members should not refer to the absence or state of another member.

Record of proceedings: 19 November 2013, 3866-3868



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Members need to rise and call

Members wishing to speak should rise and address the Speaker. If more than one member rises, the Speaker shall call upon the member who, in the Speaker's opinion rose first. Speaking lists prepared by Whips are guides and do not form part of the proceedings.

Standing Order 247(3) provides the procedure for a member to challenge the call. That is by moving that any member who has risen 'be now heard' or that a member speaking 'be not heard' or 'be not further heard'. The motion must be put immediately without amendment or debate.

Record of Proceedings: 20 August 2013, 2571
Standing Order 247

Personal explanations

There is an opportunity each sitting day for any member to make a personal explanation to clarify their position on a matter raised about them personally, whether it be inside or outside the chamber. During this time, a member can explain how they have been misrepresented or offended however at no stage should a member debate their particular side of an issue.

On 31 October 2013, two members rose to make personal explanations. In both instances, the Speaker ruled that the member was not making a personal explanation. The Speaker stated that personal explanations *'are an opportunity for a member to explain their position, not to attack another member with regard to providing that personal explanation'*. The Speaker noted that members who continue to abuse the ruling will be warned under standing orders.

Record of proceedings: 31 October 2013, 3783-3784
19 November 2013, 3866-3868
Sessional Order 1

Conduct during divisions

A division, which includes when the bells are ringing, forms part of the proceedings of the House and standing orders apply. This means the Speaker continues to maintain order and can warn and name members when their behaviour warrants it. The removal of a member from the chamber who has behaved in a disorderly way and been warned or named under standing orders is performed after the division and tally has been completed.

Record of proceedings: 29 October 2013, 3555 – 3556
19 November 2013, 3866-3868
Standing Orders 8, 243, 252-254

Disorderly conduct of members

Under the Standing Orders, the Speaker has the power to remove from the chamber any member who, after being warned, continues to display unruly or disobedient behaviour. Actions considered highly disorderly include continuous/repetitive interjections and points of order or a member's refusal to accept a direction on the Speaker.



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A member may be ordered to withdraw from the chamber for a period up to one hour or for the day. Where members are excluded for the day, this exclusion may also include during divisions.

Between 1 July and 31 December 2013, 57 direct warnings were issued to members, five of which resulted in members being ordered from the chamber for one hour, pursuant to Standing Order 253A.

Record of proceedings: 20 August 2013, 2673
15 October 2013, 3241
29 October 2013, 3575
30 October 2013, 3705
30 October 2013, 3767

Standing Orders 252 to 253A

Dress standards in the chamber

Dress standards in the chamber should be appropriate to the Queensland climate and reflect general community standards. Generally speaking, members and staff are expected to dress in business attire. Only in exceptional circumstances such as divisions have members been permitted to enter the chamber in non-business attire. At the completion of a division, the member is then expected to leave the chamber.

On 20 November 2013, during consideration in detail on a bill, a member rose on a matter of privilege requesting that a minister, who was wearing a t-shirt and shorts, remove himself from the chamber. The Deputy Speaker ruled it was not a matter of privilege. The member then raised a point of order on the issue and the Deputy Speaker ruled that it was not a point of order noting the minister had left the chamber.

Record of proceedings: 20 November 2013, 4117
Sessional Order 6

TABLED PAPERS

Documents read or cited

Any document read or cited by a member may be ordered to be tabled pursuant to a motion moved without notice, amendment or debate by another member. The intention of this standing order is to grant a member 'immediate' access to the document so as to verify that the document being cited is not being taken out of context. Documents include items such as discs, tapes or other materials which sounds, images, writing or messages are capable of being produced or reproduced.

On 19 November 2013, the Manager of Opposition Business moved that the Attorney-General table the device he was reading from. The device was a mobile phone. The question was put and was resolved in the negative.

Record of proceedings: 19 November 2013, 3991
Standing Order 30



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MOTIONS

Closure motion – ruled out of order

Any member may, during debate on a question, move a closure motion. If the Speaker considers the question has been sufficiently debated, the motion to close debate will be put without amendment or debate.

On 20 November 2013, the Attorney-General moved a motion (by leave and without notice). The Deputy Premier then moved the closure motion. Neither had spoken to the motion and no other debate occurred. The Speaker ruled that the question had not been sufficiently debated. The question was not put and debate ensued for another 20 minutes.

The Speaker again ruled a closure motion out of order on 21 November 2013. In that case the Leader of the House had moved a motion (by leave and without notice). Following almost one hour of debate, the Deputy Premier moved the closure motion. In ruling the motion out of order the Speaker advised that it is at the Speaker's discretion to consider whether the matter had been fully debated and that another member had indicated they wanted the call. Debate continued for another three minutes.

Record of proceedings: 20 November 2013, 4096
21 November 2013, 4272
Standing Order 88

Notice of dissent motion from ruling of Speaker – ruled out of order

A member may dissent from a ruling of the Speaker only by motion on notice within one sitting day from the day which the ruling was given. The notice must be in writing and delivered to the Clerk for recording on the Notice Paper.

On 7 August 2013, a member gave notice of dissent to a ruling by the Deputy Speaker. The notice, lodged with the Clerk and subsequently published in the Notice Paper for 8 August 2013 read as follows: 'That this House dissent from the ruling by the Deputy Speaker on 7 August 2013 in denying the Member for Gaven's point of order that the Deputy Speaker should have called the member on his feet and wanting the call rather than call the Leader of the House, thus denying the Member's rights under Standing Orders.'

On 20 August 2013 the Speaker ruled the notice out of order on the basis that '*the decision as to who has the call is at the complete discretion of the chair and can only be challenged immediately in accordance with Standing order 247(3)*' and further that it was '*not a ruling of the Speaker that can be challenged in accordance with Standing Order 250*'.

Record of proceedings: 7 August 2013, 2410
20 August 2013, 2571-2752
Standing Order 65, 250, 247(3)



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Motion to elect a senator to fill a casual vacancy in the Senate

A casual senate vacancy is when a Senate position becomes vacant before the expiration of the term of service. These vacancies are recognised in the Commonwealth Constitution which prescribes how the vacant positions are to be filled. In short, the relevant Parliament of the State must select a person to fill the vacancy until the expiration of the term. Further, if the person who held the senate position was the endorsed candidate of a recognised political party at the time of their election, the person chosen to replace them must also be a member of that political party. The procedure for electing a person to fill a casual senate vacancy in Queensland is set out in Standing Orders.

A vacancy for a Queensland senate position occurred in August 2013. The Speaker summoned members to a meeting of the House on 12 September to fill the vacancy. One nomination was received at the meeting and the motion to elect the nominee was moved. Debate on the motion has been adjourned and the meeting was subsequently adjourned to another day and later postponed. Debate on the motion is to be resumed in 2014.

Record of proceedings: 10 September 2013, 2842
12 September 2013, 3062-3063
17 October 2013, 3415-3418
Standing Orders 288 - 290

Motion to declare seat vacant

A member may resign their seat by signed written advice to the Speaker. The seat becomes vacant when the Speaker receives the resignation.

On 19 November 2013 the Speaker informed the House that Mr Scott Driscoll had tendered his resignation as the Member for Redcliffe. On 20 November the House passed a motion declaring the seat for the Electoral District of Redcliffe vacant.

Record of proceedings: 19 November 2013, 3944
Record of proceedings: 20 November 2013, 4006
Parliament of Queensland Act 2001, s75
Electoral Act 1992, s83

PRIVILEGE

Contempt finding

On 19 November 2013 the Ethics Committee tabled a [report](#) recommending that the Member for Redcliffe be charged with a total of 49 counts of contempt for failing to disclose interests in the Register of Members' Interests and in the Register of Related Persons' Interests and for deliberately misleading the House.

That afternoon, the Speaker informed the House that Mr Driscoll had tendered his resignation as the Member for Redcliffe.

Subsequent to the resignation announcement, the Assembly [ordered](#) Mr Scott Driscoll to attend the Bar of the House on 21 November to respond to the 49



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charges of contempt as recommended by the Ethics Committee in its report tabled that morning.

Mr Driscoll appeared at the date and time ordered by the House and was accompanied by his solicitor who he had elected to be heard in his defence. Following his appearance, the House debated a motion moved by the Leader of the House finding Mr Driscoll guilty of the contempt charges and imposed fines in accordance with the Ethics Committee recommendations. Further, the House noted that Mr Driscoll had already resigned his seat, but endorsed the Ethics Committee recommendation that the cumulative effect of the contempt findings was conduct not fitting of a member of the House and conduct which would have warranted expulsion from the Legislative Assembly.

Record of Proceedings: 19 November 2013, 3956 and 3994
21 November 2013, 4187 - 4199
Standing Order 274, 277

LEGISLATION

Bills declared urgent

A bill may be declared urgent and pass through all stages with unusual expedition. A motion to declare a bill urgent may be debated.

During the period 1 July and 31 December 2013, seven bills were declared urgent upon introduction and not referred to a committee. All seven bills were passed in the sitting week they were introduced, four were introduced and passed on the same day.

The urgent bills were: Queensland Independent Remuneration Tribunal Bill 2013, Parliament of Queensland Amendment Bill 2013, Vicious Lawless Association Disestablishment Bill 2013, Tattoo Parlours Bill 2013, Criminal Law (Criminal Organisations Disruption) Amendment Bill 2013, Workers' Compensation and Rehabilitation and Other Legislation Amendment Bill 2013 and Criminal Law Amendment (Public Interest Declarations) Amendment Bill 2013.

Record of Proceedings: 6 August 2013, 2294
12 September 2013, 3059
15 October 2013, 3147, 3158
16 October 2013, 3297
Standing Order 137

Consideration in detail of bills

During the consideration in detail stage, a member is able to ask the minister or member in charge of the bill questions about the clause or clauses under consideration. The questions must be relevant to the clause. Members are also bound by the time limits specified in sessional orders as to how many questions they can ask, issues they can canvass and the length of their overall questions and statements. Ministers may address members questions in the manner they think appropriate.

Record of Proceedings: 29 October 2013, 3556



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Same question rule

A question or amendment cannot be proposed which is the same as any question that has already been resolved in the current parliamentary session. Further no amendment, new clause or schedule to a bill can be moved which is substantially the same as one already negatived by the House or which is inconsistent with one that has already been agreed to by the House. Note:

- Matters do not have to be identical, merely the same in substance as the previous matter;
- There is no rule preventing the presentation of two bills on the same subject, or even opposite intent, however if a decision of the House has already been taken on one bill, the other is not to be proceeded upon; and
- No amendment may be moved to a bill that has already been moved to another bill and defeated or is substantially the same as the bill that has been defeated.

On 6 August 2013 the Speaker advised that a number of clauses contained in the Criminal Law Amendment Bill (No.2) 2012 were the same or were substantially the same as those contained in amendments to the Industrial Relations (Transparency and Accountability of Industrial Organisations) and Other Acts Amendment Bill 2013 passed by the House on 5 June 2013. The Speaker ruled the relevant clauses and parts out of order.

The Residential Tenancies and Rooming Accommodation Amendment Bill (a government bill) was passed on 30 October 2013. The Guide, Hearing and Assistance Dogs (Places of Accommodation) Amendment Bill (a private members bill) which was currently before the Health and Community Services Committee contained provisions that were identical or substantially similar to those contained in the bill already passed by the House. In a ruling on 31 October 2013 the Speaker noted that the same question rule was now enlivened and the private member's bill could no longer proceed. Accordingly the private member's bill was discharged from the Notice Paper and its referral to the portfolio committee was also consequently discharged.

Record of Proceedings: 6 August 2013, 2310
31 October 2013, 3777
Standing Order 87, 150

SESSIONAL ORDERS AND STANDING ORDERS

Amendments to Standing Orders

During this period, the House amended Standing Orders 263A and 263B which deal with member absences.

Members are now required to notify the Speaker if they will be absent for four consecutive sitting days, or for more than four sitting days, within any period of nine consecutive sitting days and; advise the duration of and reason for the absence and provide appropriate evidence to support the absence. The Speaker must report the member's absence or intended absence to the House. Where a member is absent for 12 consecutive sitting days (reduced from 21 days) the House may grant the member a leave of absence under SO263B.



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These amendments were a result of a recommendation made in [Report No. 9](#) of the Committee of the Legislative Assembly tabled on 11 September 2013.

Record of proceedings: 12 September 2013, 3027
Standing Order 263A, 263B

COMMITTEES

Establishment of a select committee

Section 106 of the *Parliament of Queensland Act 2001* provides the Assembly's power to establish committees and confer functions and powers on committees. For example, the House may by resolution establish a standing or select committee. The number of members that may serve on a committee can be determined either by statute, in accordance with standing orders or by the order of appointment.

On 21 November 2013, the Select Committee on Ethics was established by resolution of the House to investigate and report on certain matters relating to evidence given to the Parliamentary Crime and Misconduct Committee (PCMC). The establishment of the select committee was necessary because the membership of the permanent Ethics Committee and the PCMC is very similar. In accordance with the order of appointment the select committee comprises six members, three appointed by the Leader of the House and three by the Leader of the Opposition.

Record of proceedings: 21 November 2013, 4263-4273
Standing Order 195

Discharge and appointment of members to the PCMC

Standing Orders provide that members shall be appointed and discharged from committees by motion without notice.

On 21 November 2013 the House discharged the membership of the Parliamentary Crime and Misconduct Committee. In accordance with the motion agreed by the House, the Leader of the House and the Leader of the Opposition would appoint new members to the committee in accordance with s300 of the *Crime and Misconduct Act 2001*, the appointments being effective upon notice of the nominations to the Clerk who would table the nominations in the House.

Following the motion being passed and the House rising for 2013, a query was raised by a member in a letter to the Speaker regarding the validity of the motion passed by the Assembly. The Speaker subsequently engaged Queen's Counsel to provide [legal advice](#) on the validity of the motion. Counsel's opinion was that the motion was lawful and the Speaker tabled this advice on 10 December 2013.

Record of proceedings: 21 November 2013, 4263
Standing Order 196(1)



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QUESTIONS AND ANSWERS

Imputations

Standing Order 115(b)(iv) provides that questions without or on notice must not contain imputations. The Speaker may direct the language of a question be changed if, in the Speaker's opinion, it is unparliamentary or does not conform with Standing Orders or practices of the House.

On 8 August 2013, the Speaker asked a member to rephrase a question which contained an imputation.

Record of proceedings: 8 August 2013, 2501
Standing Order 115(b)(iv), 116

Preamble

When asking questions with or without notice, members must ensure the question is brief, relates to one issue and should not contain lengthy or subjective preambles (Standing Order 115(a) and 115(b)(i)).

During question time on 7 August 2013, a member was warned by the Speaker that the preamble to the question was too long and was asked to put the question to the minister. After attempting the question again, the Speaker ruled the question out of order on the basis that it was too long and contained a lengthy preamble.

Record of proceedings: 19 November 2013, 3885
Standing Order 115(a), 115(b)(i)

Anticipating debate

Standing Order 113(1)(b) provides that questions without notice may relate to proceedings pending on the Notice Paper for which the Minister is responsible however discussion must not be anticipated. Further, a member may not anticipate the discussion of any subject that appears on the Notice Paper. (SO231)

On 31 October 2013 the Speaker ruled a question out of order as the matter was in a bill before the House. In making the ruling the Speaker advised that when a similar question was asked earlier the Speaker had not had an opportunity to look at the bill and had incorrectly allowed the question to be answered.

On 19 November 2013 the Speaker ruled a question out of order on the grounds that it referred to matters pertaining to a private member's motion set down for later that evening.

Record of proceedings: 31 October 2013, 3786, 3792-3793
19 November 2013, 3882
Standing Order 113(1)(b), 231



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Matters not within minister's portfolio

Questions to a minister must relate to the public affairs within the minister's portfolio.

On 19 November 2013, the Speaker ruled a question out of order as on the basis that matters pertaining to registers of interests are to be referred to the Clerk and it was not within the Attorney's portfolio. In addressing a subsequent point of order, the Speaker advised that as the question was directly referenced to a previous question and answer the question was out of order. [While the original question did not refer to registers of interests, the Attorney's answer did.]

Record of proceedings: 19 November 2013, 3882, 3880-3881
Standing Order 113(1)(a)

Hypothetical matters

Standing Order 115(b)(v) provides that questions must not contain hypothetical matters.

On 19 November 2013, the Speaker ruled two questions without notice out of order on the grounds that both were hypothetical in the way that the members had phrased them.

Record of proceedings: 19 November 2013, 3884, 3887
Standing Order 115(b)(v)