



MATTERS OF PROCEDURAL INTEREST

No. 8 — January to June 2015

Prepared by Chamber and Procedural Services Office

QUEENSLAND LEGISLATIVE ASSEMBLY PROCEDURAL BULLETIN

WORK OF THE HOUSE

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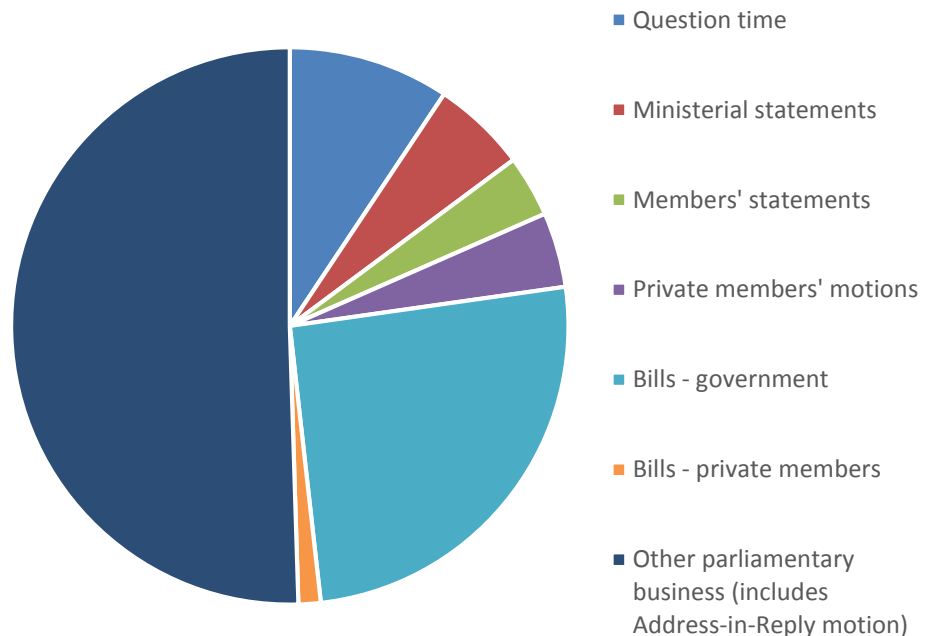
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Overview comparison

	1 Jan to 30 Jun 2015			1 Jul to 31 Dec 2014		
Sittings						
Sitting days	13			18		
Average duration per sitting day [hrs:mins]	9:59			9:53		
Legislation						
	1 Jan to 30 Jun 2015	1 Jan to 30 Jun 2015	1 Jan to 30 Jun 2015	1 Jul to 31 Dec 2014	1 Jul to 31 Dec 2014	1 Jul to 31 Dec 2014
	Govt	PMB	Total	Govt	PMB	Total
Bills introduced	13	8	21	23	5	40
Bills passed	7	0	7	29	0	35
Bills referred to committees	20	8	28	23	5	33
Bills reported on by committees	6	0	6	24	3	30

Business conducted

The following chart shows a breakdown of the business conducted during the period 1 Jan to 30 June 2015.





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MEMBERS

First Speeches

A member's first speech is the first speech made by a member following their first election to the Legislative Assembly. By convention, a member's first speech is heard without interjection or interruption but this is contingent upon the member not being unduly provocative in their speech. In a new Parliament, newly elected members usually make their first speech during the Address-in-Reply debate.

On 26 March 2015, Mr Speaker noted that the House would be debating a confidence motion before proceeding to any other business such as the Address-in-Reply and that some new members may feel compelled to join in that debate. Mr Speaker ruled that contributions to this debate would be regarded as a first speech as 'members have a choice as to whether to participate or not'.

Record of proceedings: 26 March 2015, 23-24

Speaker's statement – common procedural issues

Mr Speaker provided a detailed statement to the House reminding members of common procedural issues and setting out his expectations of members in regards to these. These included:

- Members need to rise and call (if no member has risen, the Speaker is entitled call on the next item of business).
- All statements should be made through the chair and members must refer to other members by their correct title.
- Members who make persistent, deliberately disruptive or frivolous points of order or raise frivolous matters of privilege may be warned under standing orders.
- Members should correct the record at the earliest opportunity.
- Personal explanations are not an opportunity to attack another member.
- Unparliamentary language is any language or expression that is unworthy of the dignity of the House or parliament as an institution.
- Imputations of improper motives, personal reflections, and unbecoming or offensive words in relation to another member are disorderly and a member has a right to require the withdrawal of such personal reflections.
- Members should not refer to another member who is absent during debate.
- The standing orders rules for questions and answers will be strictly enforced.

Record of proceedings: 27 March 2015, 197-199
Standing Orders 112-115, 118, 234, 247-249 and 251-254



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Anticipation rule

During preliminary business on 20 May 2015, Mr Speaker made a statement drawing members' attention to Standing Order 231, which prohibits anticipation of a subject that appears on the Notice Paper. Mr Speaker noted that the Industrial Relations (Restoring Fairness) and Other Legislation Amendment Bill, introduced on 1 May 2015, was currently before the Finance and Administration Committee. With reference to provisions of the Bill that sought to remove legal impediments to the operation of union encouragement clauses in existing awards, Mr Speaker reminded members to be mindful to not anticipate this subject in lesser proceedings such as motions, questions and answers to questions.

Later during preliminary business, the Member for Mansfield gave notice that during the time allotted for private members' motions that evening he would move that the House:

Recognises public servants' right to privacy and directs the Premier and all ministers to ensure no details of any public servant, including their name, position and contact, are ever provided to a union without the express written consent of the employee.

The Leader of the House rose to a point of order, expressing concern that the Member for Mansfield's motion would offend Standing Order 231 as it related specifically to clause 32 of the Industrial Relations (Restoring Fairness) and Other Legislation Amendment Bill.

Mr Speaker chose to consider the matters further and return to the chamber with a ruling later that afternoon. Mr Speaker ruled that the notice of motion sought to anticipate debate of the Bill and it was therefore ruled out of order. Mr Speaker advised that he had also considered Standing Order 70, which allows Mr Speaker to make minor variations to notices of motion to allow them to proceed. He stated however that no variation he could make would avoid the substance of the issue and as it was now less than two hours before the scheduled debate, he would not allow the substituted notice of motion. As there were no other notices of motion on the Notice Paper, government business continued at the time normally allotted for private members' motions.

Record of proceedings: 20 May 2015, 687, 696-697, 715
Standing Orders 70, 231

Use of the title 'MP'

In a statement to the House on 20 May 2015, Mr Speaker advised that falsely holding oneself out to be a current member of parliament may constitute a contempt of parliament. Mr Speaker advised that, following complaints from current members, the Parliamentary Service conducted an audit of former members' websites and social media accounts to ascertain if they included references to being a member of parliament, an MP or the member for the electorate they formerly represented. The audit found that thirty of the 45 former members of the 54th Parliament had websites or social media profiles



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which made some reference to them being a member of parliament. Those former members were requested to remove these references.

On 4 June 2015, Mr Speaker informed the House that as of that date, 'no former members have personal websites which refer to themselves as being a member of parliament. However, three former members still have a third-party social media site, such as Facebook or Twitter, that might give the impression that they remain a member of parliament. All three former members have indicated that they have taken steps to close or amend those social media sites including by contacting the third-party providers directly'. In light of the action taken by the remaining three former members to resolve the issue, Mr Speaker did not refer the matter to the Ethics Committee.

Record of proceedings: 20 May 2015, 687; 4 June 2015, 1105

MOTIONS

Confidence motion

The Queensland State election held on 31 January 2015 resulted in the formation of a minority Government. On 26 March 2015, the Premier moved 'That this House expresses its confidence in the Palaszczuk Labor Government'. The debate ran for 14.5 hours with 59 members speaking. At 3.22am on 27 March the motion was passed, 44 ayes, 42 noes.

Record of proceedings: 26 March, 46-196

Address in reply

On the third sitting day of a new Parliament, unless the House otherwise orders, a member moves a motion for an Address to the Governor in reply to the opening speech – this is known as the Address-in-Reply. Amendments may be moved to the motion. A seconder is required for the motion and any amendment. A total of 28 hours is allocated for the debate.

On 26 March 2015 (the third sitting day), the House adopted sessional orders for the remainder of the sitting week. As a result, the Address-in-Reply motion was moved on the following day and an amendment was also moved on that date. As at 30 June 2015 a total of 22 hours 47 minutes have been spent debating the motion. This is reflected as other parliamentary business in the graph above. On completion of the debate, Mr Speaker will formally present a copy of the motion to the Governor.

Record of proceedings: 27 March 2015, 238 and 246
Standing Orders 46-48 and 64



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Amendments to motions

A motion may be amended by:

- omitting certain words;
- omitting certain words and inserting other words; or
- inserting words.

Amendments are stated in the House and delivered in writing to the Clerk.

On 6 May 2015 during a private member motion about an ethanol mandate, two amendments were moved during the debate. The first, moved by the minister, sought to amend the latter part of the motion. The second, sought to amend either the motion or the minister's amendment.

Mr Speaker noted that the form of the second amendment was irregular in that if it was seeking to amend the minister's amendment, it was probably out of order as it was a direct negative, by omitting the entirety of the first amendment. However, if it was an amendment to the motion it was in order but should not have been moved until the minister's amendment had been dealt with and was negated.

Mr Speaker ruled that he would treat the second amendment as an amendment to the minister's amendment. The question put to the House was that amendment to the Treasurer's amendment be agreed to. The question was negative. The question that was then put was that the Treasurer's amendment to the motion be agreed to. A division was called and the result was 43 ayes, 43 noes. Mr Speaker cast his vote with the ayes. The motion as amended was ultimately agreed to.

Record of proceedings: 6 May 2015, 445-451
Standing Orders 91, 93, 100

Use of electronic devices in the Chamber

On 20 May 2015, the House adopted a resolution to permit members' use of electronic devices in the chamber and parliamentary committees, provided that:

- (a) the use of any device avoids interference with or distraction to other members, either visually or audibly, and does not interfere with proceedings—in particular, phone calls are not permitted and devices should be operated in silent mode;
- (b) devices are not used to record the proceedings (by either audio or visual means);
- (c) communication on social media regarding private meetings of parliamentary committees or in camera hearings will be considered a potential breach of privilege; and
- (d) the use of devices is as unobtrusive as possible and is directly related to members' parliamentary duties; and

(2) The House notes that:

- (a) communication via electronic devices, whether in the chamber or not,



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is unlikely to be covered by parliamentary privilege; and

(b) reflections on the chair made by members on social media may be treated as a contempt, the same as any such reflections made inside or outside the chamber.

Record of proceedings: 20 May 2015, 697

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

On 21 May 2015, the Queensland Parliament elected Senator Joanna Lindgren following the resignation of Hon Senator Brett Mason on 15 April 2015.

The Commonwealth Constitution requires that the relevant Parliament must select a person to fill a casual vacancy. 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. How the person is selected is up to the relevant Parliament.

Standing Orders provide that the Speaker must summons members to a sitting of the Parliament within 14 days of a notification from the Governor that a vacancy has occurred in the numbers for the State in the Senate of the Commonwealth. The sitting must be between 7 and 14 days after the date of the summons to members. Given the strict timeframes, Mr Speaker considered the timing of the summons to ensure that the sitting occurred on a scheduled sitting day avoiding the need to effectively recall members out of session.

Mr Speaker received the Governor's notification of Senator Mason's resignation on 20 April 2015 and issued a summons on 24 April 2015 to members to attend a sitting on 7 May 2015. On 5 May 2015, the House resolved to suspend Standing and Sessional orders to postpone the consideration of an election of a Senator until 21 May 2015. This postponement allowed the LNP to select its nominee at its scheduled meeting on 16 May 2015.

Record of proceedings: 5 May 2015, 269, 285; 21 May 2015, 822-832
Standing Orders 288-290

Authentication of motion

On 4 June 2015, the Deputy Premier gave notice of a motion relating to Federal funding for state based infrastructure. In the motion, the Deputy Premier referred to the position of both sides of politics and a position recently put by the Deputy Leader of the Opposition. The motion was brought on for debate an hour later.

In debating the motion, the Deputy Leader of the Opposition advised the House that he disputed the position attributed to him in the motion and would produce to Mr Speaker a transcript of a press conference. The Deputy Premier tabled an online news article to authenticate the facts in the motion.

Mr Speaker, the Clerk, the Deputy Premier, the Leader of the House and the Deputy Leader of the Opposition reviewed the recording of the press conference.



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All agreed that the wording of the motion should be amended to better reflect the statements made by the Deputy Leader of the Opposition.

In addition to the authentication issues relating to this motion, there was also a proposed amendment to an earlier proposed amendment of the motion, which included the original disputed words. An amendment to an amendment that puts into an amendment words that were removed by the original amendment would be a direct negative. However, the particular amendment contained qualitative words and, once the issue of the disputed words regarding the position of the Deputy Leader of the Opposition was remedied, the amendment to the amendment was acceptable. Ultimately, the motion, as amended, was passed.

Record of proceedings: 4 June 2015, 1132, 1144-1153
Standing Orders 67 and 70

Disallowance motion

On 2 June 2015, the Member for Indooroopilly gave notice that he intended to move a motion of disallowance in relation to Part 15 of the Transport Legislation (Fees) Amendment Regulation (No. 1) 2015, subordinate legislation No. 25 of 2015. The regulation had been tabled in the House on 19 May 2015.

The motion was moved and debated on 3 June 2015. At the conclusion of the debate a division was called. The result was 44 ayes, and the 44 noes. The votes being equal, Mr Speaker cast his vote with the noes and provided a brief explanation for his decision.

Record of proceedings: 2 June 2015, 883; 3 June 2015, 1055-1077
Standing Order 59

Authorisation of publication

Section 8 of the Parliament of Queensland Act 2001 provides that parliamentary proceedings cannot be impeached or questioned in any court or any place outside the Assembly. Section 9 defines proceedings of the Assembly and includes 'a document tabled in, or presented or submitted to, the Assembly, a committee or an inquiry'. However, section 9(3) allows documents to be used for the purpose for which they were created despite the tabling and if authorised for publication by the Assembly or a committee.

On 4 June 2015 the Premier tabled the 2015 Callide Creek Flood Review Report. While the report was not required to be tabled, the Premier noted that there was a 'substantial and justified public interest in the report being made available to the public.' The Premier then moved a motion for the House to authorise the publication of the report and the motion was agreed.

Record of proceedings: 4 June 2015, 1107-1108



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Estimates hearings order

The order setting dates for estimates hearings and reporting are set each year by the House by way of motion. The motion for the 2015 dates was agreed on 4 June 2015.

Amendments to the *Parliamentary Service Act 1988* (effective 1 June 2015) saw responsibility for the management of the Parliamentary Service return to the Speaker. As a result, the estimates motion also suspended all standing orders in relation to the Committee of the Legislative Assembly's examination of the Appropriation (Parliament) Bill with the Bill now included in the Finance and Administration Committee portfolio area.

Record of proceedings: 4 June 2015, 1114-1115

PRIVILEGE

Alleged deliberate misleading of the House

This matter concerned an allegation that the then Leader of the Opposition (now Premier) deliberately misled the House during her 2014 budget reply speech.

During the Ethics Committee's consideration of the matter, the former Leader of the Opposition made a submission to provide context and to clarify her statements in the House.

The Ethics Committee reported on 21 May 2015. The committee found that the former Leader of the Opposition's statement contained factually and apparently incorrect matter and that, without the benefit of hearing the former Leader of the Opposition's contextual statements to the committee, a reasonable person may have been misled by her statements.

The Ethics Committee concluded, however, that there was insufficient evidence to indicate that the former Leader of the Opposition intended to mislead the House. Accordingly, the Ethics Committee recommended that the House take no further action in relation to the matter.

The Ethics Committee recommended that the former Leader of the Opposition make a brief statement in the House to reiterate the clarifying statements she made to the committee. The member made a statement during the adjournment debate on 21 May 2015.

Record of proceedings: 5 June 2014, 3507; 21 May 2015, 866
Ethics Committee report No. 154

Alleged inducement offered to a member

This matter concerned an allegation that a member of the public offered the Member for Burleigh an inducement to join the Palmer United Party during a telephone conversation that was recorded by the member.



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Given that the allegations may have also constituted a criminal offence, under section 60(1)(a) of the Criminal Code (Qld), the Ethics Committee of the 54th Parliament sought the advice of the Queensland Police Service (QPS) as to whether they were also investigating the matter. The QPS advised that it had determined there was insufficient evidence to prosecute the matter under the Criminal Code (Qld).

At a private hearing of the Ethics Committee, it was claimed that the recording of the telephone conversation in question had been edited or tampered with. This claim was disputed by the Member for Burleigh who had made the recording on his iPhone. However, as the member had subsequently changed phones the original recording was not available.

The Ethics Committee requested that the QPS forensically analyse the copy of the audio recording provided by the member. The QPS advised the Ethics Committee that there was no evidence of removal of sections of speech or any other editing or tampering with the recorded audio or file data. The Ethics Committee considered that the results of the QPS' forensic analysis raised a suspicion that a contempt of deliberately misleading the committee may have occurred.

The Ethics Committee of the 55th Parliament took up the inquiry and reported on 4 June 2015. The Ethics Committee found that there was evidence that the Member for Burleigh was offered a benefit—albeit unspecified—to change his political allegiances and join the Palmer United Party. The committee found, however, that there was insufficient evidence that the offer was intended to influence the member in the performance of his duties as a member or that the offer was improper in that it had some element of public mischief, corruption or breach of trust.

The Ethics Committee noted that as it did not have access to the original recording of the telephone conversation it had insufficient evidence to reach a definitive conclusion on whether the statement that the recording had been tampered with or edited was misleading.

The Ethics Committee recommended that the House take no further action in relation to the matter.

Ethics Committee report No. 155

LEGISLATION

Bill declared urgent

The government introduced the Magistrates Amendment Bill on 7 May 2015. The week prior, it had been brought to the government's attention that as a result of an administrative error, certain judicial officers appointed between 12 April 2013 and 24 April 2015 had made incorrect oaths and affirmations. The government was also aware that at least one judicial officer had not made an oath or



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affirmation following their appointment. The Bill was introduced to validate the appointment and the exercise of the powers or functions of these judicial officers.

The government desired to address this matter as quickly as possible. The Premier briefed Mr Speaker, the Opposition and members of the crossbench and on introducing the Bill, moved a motion under Standing Order 137 to declare the Bill urgent and have it pass all remaining stages on that day. The motion was agreed to, and the Bill passed without amendment later that day.

Record of Proceedings: 7 May 2015, 507-508, 529-530
Standing Order 137

Precedence for private members' Bills

The sessional orders for the 55th Parliament provide a 30-minute opportunity each sitting day for the introduction of private members' Bills, but no order of precedence is prescribed in the sessional orders. On 19 May 2015, Mr Speaker advised that in accordance with past practice, private members' Bills would be introduced in the order that the Bill is supplied to the Table Office, unless members agree otherwise.

Record of Proceedings: 19 May 2015, 590

SESSSIONAL AND STANDING ORDERS

On 26 March 2015, the House adopted Sessional Orders for the business to be conducted on 26 and 27 March 2015. This enabled debate of the confidence motion to take precedence on the Thursday and provided a question time on the Friday.

On 27 March 2015, the Sessional Orders for the first session of the 55th Parliament were adopted by the House. While similar to previous parliaments, the sessional orders provide for an increase in non-government business:

- Private member statements on Tuesday, Wednesday and Thursday prior to question time (total time 15 minutes, 5 members x 3 minutes each) as well as 30 minutes on a Thursday afternoon. (In the last Parliament private member statements were only made on Thursday afternoon for 90 minutes.)
- Introduction of private member Bills on Tuesday, Wednesday and Thursday (30 minutes allocated. In the last Parliament private member bills could only be introduced on a Thursday afternoon.)
- Private member motions on Tuesday, Wednesday and Thursday (30 minutes allocated each day. In the last Parliament there was one private member motion debated on a Tuesday for 60 minutes.)

Standing Orders were also amended to establish the eight portfolio committees.

Record of Proceedings: 26 March 2015, 19-22; 27 March 2015, 205-210



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QUESTIONS AND ANSWERS

Speaker's ruling – questions to relate to public administration

Standing Order 113 provides that questions may be put to a minister relating to public affairs with which the minister is officially connected or to any matter of administration for which the minister is responsible.

On 27 March 2015 Mr Speaker emphasised this Standing Order and advised that it often comes down to the way a question is framed. Mr Speaker ruled that 'questions that make no connection to official matters will be ruled out of order' and that 'the conduct of non-office holder or persons who are not public officials within the government will not be in order'.

Record of Proceedings: 27 March 2015, 225
Standing Order 113

Questions without notice – rules for questions

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;
- The names of persons unless they are strictly necessary to render the question intelligible and can be authenticated.

Further, members must take care to ensure that their questions are directed to the relevant Minister, do not ask for an expression of opinion, a legal opinion or an answer that would contravene the Standing Orders relating to matters of sub judice.

During the period, Mr Speaker ruled a question without notice out of order because it did not relate to the affairs of state or the Premier's portfolio (SO113). Mr Speaker later clarified his ruling advising that it often comes down to the way a question is framed and that 'questions that make no connection to official matters will be ruled out of order.' Further 'the conduct of non-office holders or persons who are not public officials within the government will not be in order'.

A question asking if the Premier had confidence in a particular member was ruled out of order on the basis that it sought an opinion.

Record of Proceedings: 27 March 2015, 213, 225; 3 June 2015, 1013
Standing Orders 113(1)(a), 114 and 115