



MATTERS OF PROCEDURAL INTEREST

No. 9 — July to December 2015

Prepared by Chamber and Procedural Services Office

QUEENSLAND LEGISLATIVE ASSEMBLY PROCEDURAL BULLETIN

WORK OF THE HOUSE

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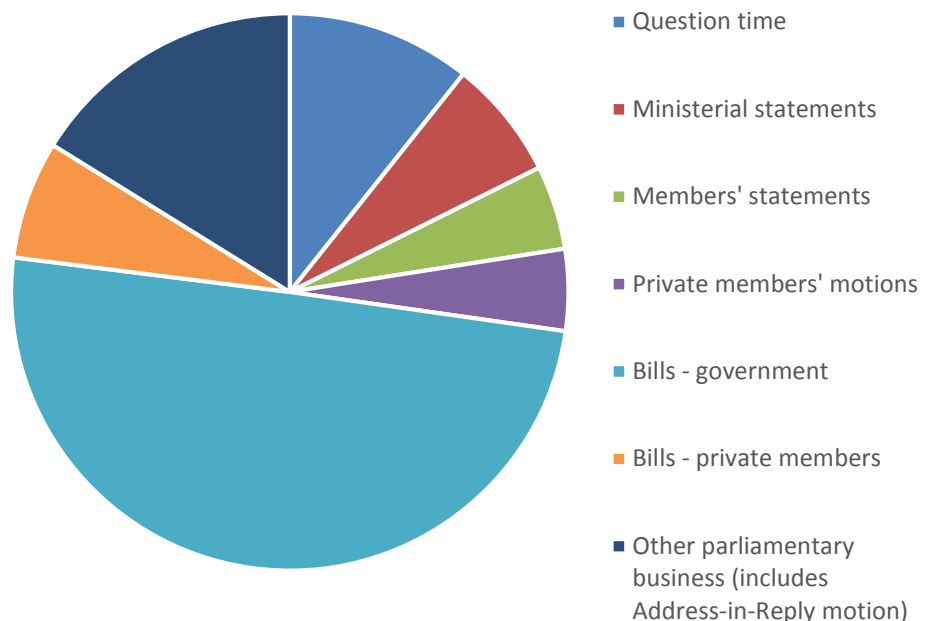
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Overview comparison

	1 Jul to 31 Dec 2015			1 Jan to 30 Jun 2015		
Sittings						
Sitting days	20			13		
Average duration per sitting day [hrs:mins]	10:38			9:59		
Legislation						
	1 Jul to 31 Dec 2015	1 Jul to 31 Dec 2015	1 Jul to 31 Dec 2015	1 Jan to 30 Jun 2015	1 Jan to 30 Jun 2015	1 Jan to 30 Jun 2015
	Govt	PMB	Total	Govt	PMB	Total
Bills introduced	43	9	52	13	8	21
Bills passed	26	3	29	7	0	7
Bills referred to committees	48	2	50	20	8	28
Bills reported on by committees	26	11	37	6	0	6

Business conducted

The following chart shows a breakdown of the business conducted during the period 1 Jul to 31 Dec 2015.





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MOTIONS

Order for the production of documents

On 28 October 2015, the Member for Glasshouse gave notice of a motion that, in accordance with Standing Order 27, the House order the Treasurer and minister responsible for energy to produce any analysis and modelling prepared for the government on the policy to aggregate electricity corporations and its impact on electricity prices.

During debate on the motion, the Treasurer moved an amendment requiring the Treasurer and minister responsible for energy to produce to the House in December 2015 at the Mid Year Fiscal and Economic Review, an analysis of any anticipated impacts of the government's policy to aggregate electricity corporations in Queensland.

The House agreed to the Treasurer's amendment and to the amended motion. On 15 December 2015, the Treasurer tabled the document.

Record of Proceedings: 28 October 2015, 2497-2504
Standing Order 27

Amendment to Second Reading – Specified Date

On 11 November 2015, the Member for Hinchinbrook moved an amendment to the second reading question 'that the Bill be read a second time after 1 April 2016, by which time the current environmental impact assessment of the port of Cairns is scheduled to be completed.' This was in relation to the Sustainable Ports Development Bill which restricted new port developments in areas adjoining the Great Barrier Reef World Heritage Area. The Bill's impact on the Port of Cairns and its ability to undertake capital dredging was contested by all sides.

The votes on the amendment were equal. Mr Speaker casted his vote with the noes. The amendment was negatived.

Record of Proceedings: 11 November 2015, 2779, 2783
Standing Orders 91 and 141

Address in Reply

The motion for an Address to the Governor in reply to the opening speech was agreed by the House on 3 December 2015. (Total debate time was 26 hours 35 minutes). The amendment moved by the Leader of the Opposition on 27 March failed. The presentation of the Address to the Governor was made on 19 February 2016.



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PRIVILEGE

Alleged use of the broadcast of the proceedings of the Queensland Parliament in contravention of the terms and conditions

The former Speaker referred the matter to the Ethics Committee of the 54th Parliament (the former committee), in accordance with Standing Order 268(2). The matter had not been fully investigated prior to the dissolution of the Ethics Committee of the 54th Parliament, so the Ethics Committee of the 55th Parliament resolved to continue the consideration of this matter, in accordance with section 105 of the *Parliament of Queensland Act 2001*.

This matter concerned an allegation that the Together Union used footage from the broadcast of the proceedings of the Parliament in an advertisement in contravention of the Parliament's Broadcast Terms and Conditions (the Terms and Conditions). The advertisement in question was broadcast on commercial television and was available on YouTube.

The Clerk of the Parliament had written to the Together Union's Secretary to draw his attention to the Terms and Conditions and urge him to take immediate action to withdraw the footage from the advertisement, however, despite further correspondence with the Together Union's legal representatives, the publication of the advertisement was not withdrawn.

The Terms and Conditions provide that the further publication of the broadcast of proceedings shall be used only for the purpose of fair and accurate reports of proceedings and shall not be used for:

- political party advertising or election campaigning;
- satire or ridicule; and
- commercial sponsorship or commercial advertising.

The Terms and Conditions also state that reports of proceedings shall provide a balanced presentation of differing views and excerpts of proceedings are to be placed in context.

The Ethics Committee reported on 29 October 2015.¹ The committee found that the union's use of the footage of the broadcast of proceedings of Parliament did not constitute a breach of the Parliament's Broadcast Terms and Conditions.

However, the committee noted that in other circumstances such as where there was evidence of activity during an election period to draw people's attention to an advertisement containing parliamentary images on the Internet the committee might find a breach of the terms and conditions.

As a result of the inquiry the committee suggested that the Committee of the Legislative Assembly review the current Terms and Conditions with a view to ensuring that they:

¹[Ethics Committee Report No. 157](#)



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- meet the current and future needs of Parliament;
- are enforceable in light of the continuing technological revolution of media and social media platforms;
- do not unnecessarily hinder the rights of the public to participate in democratic processes and express a point of view;
- to ensure they are clearly understood by the public and broadcasters and other like organisations; and
- are more readily enforced by the Speaker (or delegate), the Ethics Committee and the House.

On 12 November 2015, the House amended the Broadcast Terms and Conditions to include the following condition:

The material must only be used for the purposes of fair and accurate reports of proceedings and must not in any circumstances be used for; political advertising, election campaigning or any advertising campaign that would normally require at law a broadcaster to announce who has authorised the material; ...²

Record of Proceedings: 12 November 2015, 2830 - 2831
Sections 50, 57 and 58 of the Parliament of Queensland Act 2001

Alleged failure by a member to comply with the rules adopted by the former Parliamentary Crime and Misconduct Committee (PCMC) in relation to confidentiality of its proceedings and deliberate misleading of the Parliamentary Crime and Corruption Committee (PCCC)

The inquiry undertaken by the Ethics Committee concerned two matters. The first matter concerned an allegation that the Member for Bundamba failed to comply with the rules adopted by the former PCMC in relation to the confidentiality of its proceedings by not emptying her PCCC electorate office safe or returning the safe's keys to the secretariat.

The second matter concerned an allegation that the Member for Bundamba signed an incorrect statement in relation to the destruction of documents that were in her PCCC electorate office safe, with the signed statement then tendered to the PCCC.

The committee reported on 3 December 2015.³ The Ethics Committee found that on the matter of failing to comply with the rules adopted by the former Parliamentary Crime and Misconduct Committee (PCMC) in relation to confidentiality of its proceedings, that it was arguable that a reasonable person with knowledge of the circumstances could find that the actions of the Member for Bundamba were not inappropriate in the circumstances, and therefore they did not amount to an improper interference with the authority of the PCCC.

² The complete Broadcast Terms and Conditions are published on the website:

<http://www.parliament.qld.gov.au/work-of-assembly/broadcast-chamber/terms-and-conditions>

³ [Ethics Committee Report No. 160](#)



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The Ethics Committee also found that on the matter of deliberately misleading the PCCC on 20 April 2015 by signing an incorrect statement in relation to the destruction of documents which was tendered to the PCCC, the committee found there was no evidence the Member for Bundamba intended to mislead the Committee.

The committee recommended no finding of contempt be made on either matter.

However, the committee noted that despite their finding that the technical elements of contempt were not made out in respect to each allegation, the evidence before the committee across the two allegations demonstrated a pattern of reckless conduct on behalf of the Member for Bundamba.

Accordingly, in the interest of maintaining standards for conduct of Members of the Assembly, the committee recommended that the Member for Bundamba, at the earliest opportunity, make a statement in the Assembly acknowledging that her conduct was not of the standard expected of a Member of Parliament and of a Minister of the Crown, and apologising for not complying with the rules adopted by the former PCMC in relation to the confidentiality of its proceedings and for signing an incorrect statement in relation to the destruction of documents which was tendered to the PCCC.

On 3 December 2015 the Member for Bundamba rose on a matter of privilege and apologised to the House 'unreservedly and sincerely' for 'any conduct that was not of a standard expected of a person' in her position.

On 4 December the Member for Bundamba resigned as a Minister.

Record of Proceedings: 3 December 2015, 3205

LEGISLATION

Four year terms

On 17 September 2015, the shadow Attorney-General introduced the Constitution (Fixed Term Parliament) Amendment Bill and the Constitution (Fixed Term Parliament) Referendum Bill. Both bills were referred to the Finance and Administration Committee for examination. The committee was requested by the Parliament to consider the bills alongside its general policy inquiry into fixed terms (referred on 16 September 2015).

In its report, the Finance and Administration Committee recommended the bills be passed. The committee also recommended a number of amendments to the Constitution (Fixed Term Parliament) Amendment Bill which included splitting the bill into two. It was recommended that one bill contain the provisions that repealed, amended or created entrenched provisions to be approved by voters at a referendum. It was also recommended that another bill contain the provisions that were consequential amendments to non-entrenched provisions in Acts.



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On 1 December 2015, the House agreed a motion to divide the Constitution (Fixed Term Parliament) Amendment Bill into two bills. The motion—

- detailed the components of each new Bill
- provided that if the House agreed to split the bill and to the components of each new bills, that the bill would not be further considered until the new bills had been presented and supplied to members
- stipulated that if the new bills were to be presented, that the question before the Chair would be that the House accepts the bills as complying with the order to divide the bill and deem the bills to have been read a first time, with the second reading to be moved.

On 2 December 2015, the shadow Attorney-General tabled the two new bills in accordance with the motion – Constitution (Fixed Term Parliament) Amendment Bill and Electoral (Constitutional) Amendment Bill. The Leader of the House then moved that the bills be deemed read a first time and stand as an order of the day for the second reading to be moved. The motion was agreed to.

On 4 December 2015, the Constitution (Fixed Term Parliament) Amendment Bill (the new bill) and the Constitution (Fixed Term Parliament) Referendum Bill were debated in cognate and passed with amendment. The amendments were all moved by the Attorney General and supported by the Opposition.

The Katter Australia Party (KAP) members called divisions on the second and third reading questions however no vote was recorded as there were fewer than five members voting no. (SO106 provides if fewer than five members vote with either the ayes or noes, the Clerk will record whether the question was agreed to or not in the Record of Proceedings but the result of the vote and the names of members voting will not be recorded.)

The Constitution (Fixed Term Parliament) Amendment Bill succeeded at the referendum held in March 2016.

Record of Proceedings: 17 September 2015, 1986-1988
1 December 2015, 2981
2 December 2015, 3080-3081
4 December 2015, 3289-3327

Electoral (Improving Representation) and Another Act Amendment Bill —same question rule

On 12 November 2015, Mr Speaker made a ruling about the same question rule following a point of order from the Leader of the House during the introduction of a private members bill – the Electoral (Improving Representation) and Another Act Amendment Bill.

Standing Order 87(1) provides 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.

Mr Speaker had to determine whether the bill introduced was similar to an earlier private members bill introduced by the shadow Attorney-General that



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had failed to pass the second reading stage – the Electoral (Redistribution Commission) and Another Act Amendment Bill.

Mr Speaker determined that in order for the bill to offend standing order 87, it did not have to be identical to another bill. Rather, it was a question of substance, not form. Mr Speaker undertook a detailed comparison of the clauses of each bill as per previous practice.

It was held that both bills sought to impact upon the number of members in the Assembly and the composition and appointment of the Redistribution Commission. However, the bills attempted to do this in substantially different ways. The bill therefore, did not offend the same question rule and Mr Speaker allowed the bill to proceed.

The Opposition and the Member for Cook supported the KAP motion that the portfolio committee report back on the bill by 30 November and all remaining stages be completed by 5pm on 3 December (the scheduled last sitting day for 2015.) The government voted against the motion.

The bill failed to pass the second reading stage on 2 December. The Member for Cook voted with the government on the second reading question and the votes were tied. Mr Speaker cast his vote with the noes.

Record of Proceedings: 12 November 2015, 2848-2849, 2912-2914
2 December 2015, 3084-3097
Standing Order 87

Relationships (Civil Partnerships) and Other Acts Amendment Bill

Mr Speaker advised the House that he had permitted a personal vote to be held in respect of all divisions in relation to the Bill in accordance with procedures contained in Standing Order 107. These were the first conscience votes held following the implementation of party vote division procedures (votes on second and third readings occurred on 3 December 2015).

Record of Proceedings: 2 December 2015, 3052
3 December 2015, 3203
Standing Order 104(2), 107

SESSSIONAL AND STANDING ORDERS

On 29 October the House amended Schedule 2 of the Standing Orders — Registers of Interests, to among other matters, apply an indexation method to the various disclosure limits.

Prior to the amendments, the following thresholds applied:

- disclosure of the source of any gifts valued at more than \$500
- disclosure of the nature of any other asset ... the value of which exceeds \$5,000 (excluding household and personal effects, motor vehicles used for private purposes, industry and employer superannuation entitlements)
- any source of income over \$500 per annum



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- any organisation of which the member is a financial contributor donating \$500 or more per calendar year

The quantum at which disclosure was required under (i), (ii) and (iii) had not altered in over 20 years. As a result, the incidence of declaration under the gifts category in particular, had increased significantly.

The House amended Schedule 2 to include a progressive formula which would allow the quantum disclosure amount to progress at intervals to alleviate the need to revisit this process. As a result dollar amounts have been replaced with the term 'published indexed threshold', defined as:

published indexed threshold means –

- (a) an amount periodically published by the Registrar (at least every two years) which sets the dollar amounts over which a matter is required to be declared in 7(5)
- (b) the Registrar is to determine the amount by identifying the dollar amount for declaration of the matter at the introduction of the registers in 1990 (the cost base) and increasing the dollar amount by an indexation factor.
- (c) The indexation factor is to be calculated by using the consumer price index (CPI) and the formula:
Indexation factor = $\frac{\text{CPI for beginning quarter ending}}{\text{CPI for last quarter}}$
- (d) The Registrar is to ensure that the published indexed threshold is published to Members, tabled in the House and appears on all Forms issued to Members.

The changes became effective from 1 January 2016.

Record of Proceedings: 29 October 2015, 2555-2564
Standing Orders – Schedule 2

QUESTIONS AND ANSWERS

Questions about Confidence

On 14 July 2015, Mr Speaker provided a ruling detailing his reasons for allowing questions asking ministers about their confidence in office holders which related to areas of their administration.

Several of these questions had been asked during the previous sitting week and points of order had been raised as to whether those questions amounted to seeking an opinion. Mr Speaker had allowed the questions and later provided that:

Office holders, such as Directors-General are responsible for the delivery of their agencies' services and are ultimately accountable to the Premier, although they report to their responsible Minister on a day-to-day basis. Questions of confidence about an office holder, whether it be a question to a Premier about a Minister or office



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holder, or a question to a Minister about an office holder that reports to them is much more than an opinion.

Record of Proceedings: 14 July 2015, 1255-1256
Standing Order 115(c)

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 three questions out of order; two because they had no nexus with ministerial responsibility (Member for Mansfield on 1 December 2015 and Member for Aspley on 3 December 2015), and one because it sought an opinion (Member for Maroochydore on 3 December 2015).

Record of Proceedings: 1 December 2015, 2950; 3 December 2015, 3164, 3165
Standing Orders 113(1)(a) and 115

Speaker's ruling – matters before Ethics Committee

During question time, the Leader of the Opposition asked the Premier about a media report referencing a leak to the Labor Party about proceedings of the Ethics Committee and whether the Premier had any information about the leak relayed to her to which the Premier responded, 'no.' Following the question, the Leader of the Opposition rose on a matter of privilege suddenly arising and quoted from the media article. The Leader of the Opposition stated that the information came from a leaked source. Mr Speaker advised the member that it was not a matter of privilege suddenly arising and requested the member to write to him about it.

Following this exchange, Mr Speaker ruled that in accordance with Standing Order 271, he would not allow any questions that may touch on the matter before the Ethics Committee as a result of the matters raised by the Leader of the Opposition.

Record of Proceedings: 1 December 2015, 2944-2946
Standing Order 271