



MATTERS OF PROCEDURAL INTEREST

No. 18 — January to June 2020

Prepared by Chamber and Procedural Services Office

QUEENSLAND LEGISLATIVE ASSEMBLY PROCEDURAL BULLETIN

WORK OF THE HOUSE

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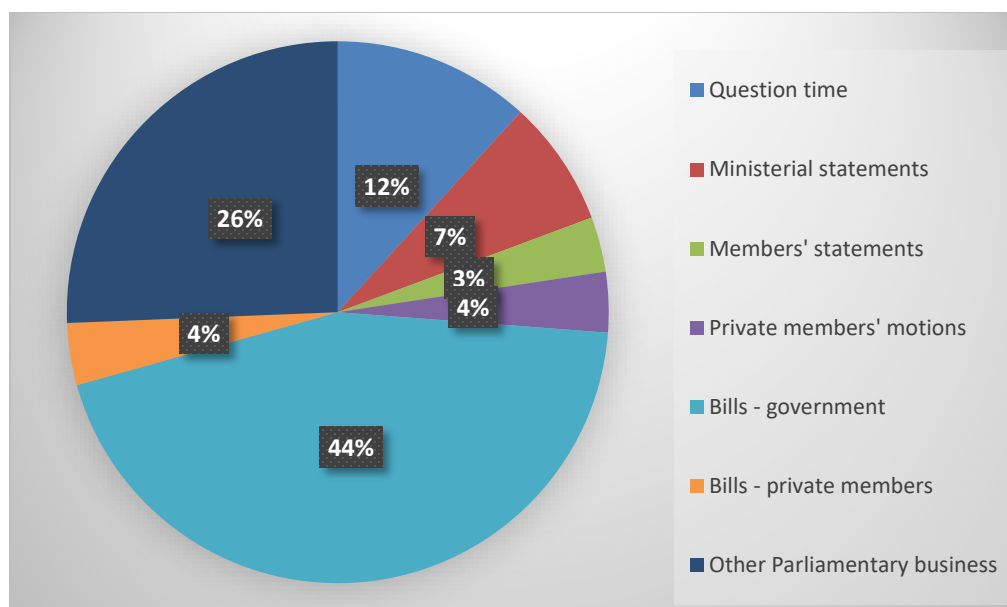
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Overview comparison

	1 Jan to 30 June 2020			1 Jul to 31 Dec 2019		
Sittings						
Sitting days	15			18		
Average duration per sitting day [hrs:mins]	9.50			9.33		
Legislation						
	1 Jan to 30 Jun 2020	1 Jan to 30 Jun 2020	1 Jan to 30 Jun 2020	1 Jul to 31 Dec 2019	1 Jul to 31 Dec 2019	1 Jul to 31 Dec 2019
	Govt	PMB	Total	Govt	PMB	Total
Bills introduced	13	1	14	21	3	24
Bills passed	20	0	20	18	0	18
Bills referred to committees	8	1	9	21	3	24
Bills reported on by committees	14	3	17	18	2	20

Business conducted

The following chart shows a breakdown of the business conducted during the period 1 January to 30 June 2020.





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MEMBERS

Warnings and suspension of members

During the period from January to June, the Speaker issued warnings to members about their conduct and ordered members to withdraw from the Chamber for a specified period on 22 occasions.

Record of Proceedings: 4 February 2020, p29
5 February 2020, p219 and p 227
18 February 2020, p318
19 February 2020, p419 and p422
20 February 2020, p528
18 March 2020, p712
22 April 2020, p748
19 May 2020, p865
17 June 2020, p1262, p1266, p1341, p1343, p1345
18 June 2020, p1377, p1380, p1387, p1445
Standing Order 253A

PRIVILEGE

The Ethics Committee investigates and reports on the ethical conduct of particular members and on matters of privilege and possible contempts of parliament referred to it by the Speaker or the House.

Between January and June 2020, the committee reported on three alleged breaches of parliamentary privilege by members of the Assembly. The first matter was an allegation of disorderly conduct on the parliamentary precinct. This type of allegation had not been considered by an Ethics Committee since the enactment of the *Parliamentary of Queensland Act 2001* which provided a statutory definition of contempt. Therefore, the committee first had to determine the elements that would constitute a contempt in light of this statutory definition. The first element had two limbs: did the member engage in conduct on the parliamentary precinct? If yes, was that conduct disorderly? The second element was whether that disorderly conduct amounted to, or was intended to amount to, an improper interference with the free exercise by the Assembly of its authority or functions.

The matter in question involved a member wearing a t-shirt with protest slogans and holding a sign that contained political branding. The member was on the Parliamentary Precinct and communicating with protest crowds that were outside the precinct. There was a finding of contempt in this matter. However, in terms of penalty the committee recommended that no further action be taken.

The other two allegations related to a failure to update and maintain an accurate statement on the Register of Members' Interests. In both of those matters, the committee found that the elements of contempt could not be made out, and no further action was recommended.

COVID-19

On 13 March 2020, the Parliamentary Service started implementing remote work for various areas of the Service which did not directly service the House and Committees. In the following weeks, all staff worked from home except Security,



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and some Catering and Property Services staff who were required onsite or could not effectively perform their roles from home. Staff who were required to assist and support members in sitting weeks also attended the precinct during sitting weeks. The rapid expansion of remote work was aimed at reducing the total number of people on the precinct.

On 15 March 2020, the Speaker emailed all members to inform them of measures being implemented at the Parliamentary Precinct for the upcoming sitting week and future sitting weeks in response to COVID-19. The overall strategy was to reduce the number of people on the precinct. Other aspects of the strategy included increasing surface cleaning with hospital grade disinfectant and ensuring social distancing in common areas, meeting rooms and office spaces. Parliamentary staff, electorate office staff and members were instructed to stay home if ill or experiencing any COVID related symptoms. A COVID response plan was developed and published on the parliament's intranet page to ensure that a structured and organised strategy was adopted to respond to the threat posed by COVID-19.

From 16 March 2020, all public tours were cancelled, the public gallery was closed, international delegation visits were cancelled and access to committee proceedings was limited to witnesses. All staff work-related travel was cancelled. Staff returning from overseas were required to self-isolate for 14 days before returning to work. Staff whose spouse or others living with them were returning from overseas were also required to self-isolate.

From 17 March, all school tours, seminars, functions and events were cancelled until 30 June 2020. Access to the precinct was only granted to swipe card pass holders, Queensland government ID holders and journalists who are permanent accredited members of the Parliamentary Press Gallery with swipe cards. Committees were asked to hold physical committee proceedings only if essential and for witnesses to appear in person only where necessary.

On 17 March 2020, Sessional Orders for the temporary suspension and replacement of Standing Orders 103 to 106 relating to divisions were agreed to. The Sessional Orders provided a variation to the usual conduct of party voting. In short, the Government and Opposition whips reported party votes but those votes could include those members present within the precinct and any proxy votes as opposed to all members physically sitting in their seats. Minor parties, recognised parties or Independents were required to be present in the chamber to sign a tally sheet. The Sessional Orders also included a process to challenge the result of a party vote. This required the bells to be rung and for members to sit in their allocated seat in the chamber.

In late March 2020, the Parliamentary Service commenced investigating technology options for conducting a virtual sitting of the Assembly.

In April the Leader of the House and Manager of Opposition Business agreed on the following arrangements for future sittings: bulk pairing of members to reduce the overall number of members in the Assembly; the quorum (currently 16 members) to be shared between government and opposition members; maximum number of members in the Assembly Chamber at any one time to be 20; no quorum calls would be made; and no challenges to divisions would be made.



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The Speaker also approved a 'special' seating plan outlining the seats that were to be occupied by 20 members to enable social distancing. The seats were colour coded for the Speaker and other officers, government and opposition members, for 'the next speaker' and for the crossbench when voting in a party vote. A perspex screen was installed between the Clerk and Deputy Clerk in the chamber as physical distancing at the table was not achievable. Parliamentary attendants were instructed to wipe down lecterns and seats after use by members.

On 20 April, the Speaker tabled a statement out of session in which he stated that non-essential travel was strongly discouraged and that members should stay in their communities due to COVID-19. The view of the Speaker was that rural and regional members risked spreading COVID-19 to parliamentarians upon their arrival and to their communities upon their return home. For this reason both the Speaker and the Deputy Speaker, both regional members, announced that they would not attend the sitting of parliament on 22 April.

Standing Order 13 states that, if both the Speaker and the Deputy Speaker are absent from the House, the members present shall appoint a member to act as Speaker for the sitting day. On 22 April 2020, the Leader of the House moved a motion appointing an Acting Speaker for the one-day sitting week. Mr Joe Kelly, the ALP member for Greenslopes, was appointed as Acting Speaker.

On 22 April 2020, the COVID-19 Emergency Response Bill was introduced, declared urgent and passed by the Legislative Assembly on the same day. The bill was assented to on 23 April and became operational on the day of assent. The Act amended the Parliament of Queensland Act 2001 to provide the authority for a meeting of the Assembly to take place, by whole or in part, via technology such as teleconferencing or videoconferencing during the current COVID-19 emergency.

The Act also:

- allows members to attend, form a quorum and vote via electronic means or through the use of a proxy at a sitting held during the COVID-19 emergency; and
- gives the Assembly authority to make standing rules and orders to further set out the mechanics of how it will meet and conduct business via electronic means during the COVID-19 emergency.

Also on 22 April 2020, further Sessional Orders were agreed to implementing special procedures which enable members to participate in future sittings remotely through the use of technology. These Sessional Orders were effective from the assent date of the COVID-19 Emergency Response Bill and, where inconsistent with Standing Orders and other Sessional Orders, take precedence until that bill lapses or the House is dissolved.

The special procedures applied to the electronic participation of members during meetings of the Assembly. They gave the Speaker authority to approve the respective technology and for the Committee of the Legislative Assembly to modify the rules of debate, order and behaviour which may be at odds with usual practice. The procedures encouraged the electronic submission of tabled documents, amendments and notices of motion.



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Divisions under these procedures require the government and opposition whips report their votes directly to the Speaker in addition to the Leader of any Minor Party (ie the Katter's Australian Party). The Speaker then calls the members of other minor parties and independents in turn to cast their votes. There is no challenge vote under these procedures. For members to be included in a party vote, they must physically attend the chamber at some stage during the day's sitting.

A special adjournment motion was moved to adjourn until 19 May to a place, either the Legislative Assembly or the Undumbi Room, to be advised by the Speaker.

The Parliamentary Service made the necessary arrangements in preparation for conducting a hybrid sitting of the House (with some Members in person and others joining via Zoom) and conducted extensive testing on the hybrid sitting model. However, on 5 May the Clerk was advised by the Leader of the House via the Speaker that it would be a three-day sitting week conducted with members attending physically when the House resumed on 19 May.

In the sitting week of 19 to 21 May, the Assembly operated in accordance with the special procedures effective from 23 April 2020, albeit not relying on or referencing a technical solution approved by the Speaker.

On 22 May, the Leader of the House issued a revised pared down parliamentary sitting calendar for the remainder of the year in which the House sits one week per month for three days until the dissolution of the House in September.

LEGISLATION

Bills declared urgent

A bill may be declared urgent and pass through all stages in a very short timeframe, eg. a bill may:

- not be referred to a portfolio committee for examination, or
- be referred to a portfolio committee to report to the House in a period less than six weeks.

A motion to declare a bill urgent may be debated.

Public Health (Declared Public Health Emergencies) Amendment Bill

On 4 February 2020, the Public Health (Declared Public Health Emergencies) Amendment Bill was declared urgent upon its introduction and not referred to a committee for examination. The bill was passed on 6 February 2020.

Record of Proceedings: 6 February 2020, p228
Standing Order 137

Public Health and Other Legislation (Public Health Emergency) Amendment Bill

On 18 March 2020, the Public Health and Other Legislation (Public Health Emergency) Amendment Bill was declared urgent upon its introduction and not referred to a committee for examination. The bill was passed on the same day in



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order to adequately address the COVID-19 outbreak. Generally, the legislation provides:

- Executive Council to meet virtually/remotely and for electronic signatures;
- flexibility, if required, for the election date for the 2020 local government election to help minimise serious risks to the health and safety of persons caused by the COVID-19 pandemic;
- further powers of the Chief Health Officer and emergency officers to implement social distancing measures including regulating mass gatherings, isolating or quarantining people suspected or known to have been exposed to COVID-19; and
- amendments to the *Planning Act 2016* and the *Economic Development Act 2012* to ensure important services may continue to be provided to the community.

Record of Proceedings: 18 March 2020, p683
Standing Order 137

Appropriation (COVID-19) Bill

On 22 April 2020, the Appropriation (COVID-19) Bill was declared urgent upon its introduction and not referred to a committee for examination. The bill was passed on the same day and provided additional expenditure required to implement a COVID-19 relief package announced by the Queensland government to protect jobs and safeguard the Queensland economy.

Record of Proceedings: 22 April 2020, p756
Standing Order 137

COVID-19 Emergency Response Bill

On 22 April 2020, the COVID-19 Emergency Response Bill was declared urgent upon its introduction and not referred to a committee for examination. The bill was passed on the same day and implemented another stage of reforms to address the COVID-19 emergency. Outcomes of the legislation include but are not limited to:

- amending the *Parliament of Queensland Act 2001* to enable meetings of the Legislative Assembly to take place, by whole or in part, via technology such as teleconferencing or videoconferencing during the current COVID-19 emergency;
- establishing a power to make emergency regulations for the residential tenancy and rooming accommodation sectors to address the impacts of the COVID-19 emergency;
- facilitating implementation of the National Cabinet decision in relation to good faith leasing principles for relevant non-residential leases in Queensland;
- providing for the establishment of a temporary Queensland Small Business Commissioner to deliver expanded advocacy functions for Queensland small business and administer mediation services in relation to small business tenancy disputes; and



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- including a framework for the making of secondary instruments under the following broad global heads of power: reducing physical contact between persons; statutory timeframes; proceedings of courts/tribunals; and authorisation to take actions or do things electronically.

Record of Proceedings: 22 April 2020, p803
Standing Order 137

Justice and Other Legislation (COVID-19 Emergency Response) Amendment Bill 2020

On 19 May 2020, the Justice and Other Legislation (COVID-19 Emergency Response) Amendment Bill 2020 was declared urgent upon its introduction and not referred to a committee for examination. The bill was passed as an urgent bill on 21 May to amend 20 different acts to address those issues which could not be addressed under the COVID-19 Emergency Response Act's modification framework. Outcomes of the legislation include but are not limited to:

- allowing affected registered workers to apply for payment of all or part of their long service leave;
- providing particular measures to assist Queensland businesses and individuals suffering financial and operational stress caused by the public health emergency;
- ensuring there is an ability for COVID-19 testing of persons suspected of committing particular offences;
- assisting Queensland's adult corrective services and youth detention sectors to operate safely and effectively; and
- clarifying the operation of the provisions for the modification of statutory time limits across the statute book relating to COVID-19.

Record of Proceedings: 19 May 2020, p888
Standing Order 137

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.

Standing Order 150 also provides that no amendment, new clause or schedule to a bill shall be moved which is substantially the same as one already negatived by the House unless there has been an order of the House to reconsider the Bill.

Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill

The Local Government Electoral (Implementing Stage 1 of Belcarra) and Other Legislation Amendment Bill 2018 passed through the House on 17 May 2018. The member for Maiwar introduced the Electoral Legislation (Political Donations) Amendment Bill on 16 May 2018. Both the act and bill dealt with the issue of the prohibition of political donations. The Speaker ruled on 27 March 2019 that the member for Maiwar's bill did not offend the same question rule.



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On 16 October 2019, the House passed the Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Bill 2019 with amendment. The bill received assent on 30 October 2019. The act primarily deals with real-time disclosure of electoral expenditure; the management of councillors' conflicts of interest and requirements relating to registers of interests to align with the requirements that apply to state members of parliament; mandated full preferential voting for mayoral and single councillor elections; councillor complaints framework; and electoral funding and financial disclosure, amongst other matters.

On 4 February 2020, the Speaker ruled that the same question rule was not enlivened as a result of the House's decision with respect to the *Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Act*.

Record of Proceedings: 4 February 2020, p84
Standing Order 137

Electoral Legislation (Political Donations) Amendment Bill

On 28 November 2019, the Attorney-General introduced the Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019. The bill was very wide ranging and amended a number of acts and a regulation in relation to electoral funding and expenditure.

Chapter 2 of the bill sought to improve the integrity and public accountability of state elections by, amongst other things: capping political donations to registered political parties and their associated entities, candidates and third parties; capping electoral expenditure for registered political parties and their associated entities, candidates and third parties involved in electoral campaigning; requiring registered political parties, candidates and registered third parties to maintain dedicated state campaign accounts; increasing public funding for parties; and introducing other arrangements to support the election funding and disclosure reforms.

The member for Maiwar's bill, the Electoral Legislation (Political Donations) Amendment Bill 2018, was much narrower and sought to prohibit corporate donations to candidates and political parties. It proposed to amend two acts, the *Electoral Act 1992* and the *Local Government Electoral Act 2011*.

The government's bill sought to amend the *Electoral Act 1992* by capping donations and expenditure whereas the member for Maiwar's bill sought to amend the *Electoral Act 1992* by prohibiting donations from corporate entities.

On 18 February 2020, the Speaker ruled that the objectives of the government's bill and the objectives of the member for Maiwar's bill could be viewed as alternative approaches. On another view, he noted that they could be seen as complementary approaches—that is, it is possible to place caps on donations and at the same time prohibit a class of entities from making donations. The difficulty was that clauses 3 and 13 of the government's bill and clauses 3, 4 and 5 of the member for Maiwar's bill inserted alternative definitions of political donations and new sections at the same point in the *Electoral Act 1992* and, as drafted, these clauses could not stand together.

The member for Maiwar's bill also proposed to amend the *Local Government Electoral Act 2011* by prohibiting donations from corporate entities. The government's bill also sought to amend the *Local Government Electoral Act 2011*, but the government's proposed amendments have no relationship to those



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proposed by the member for Maiwar.

The Speaker ruled that neither bill would offend the same question rule for the purpose of their second reading. However, in accordance with previous rulings he noted that, should both bills pass their second reading stage, when these clauses were considered in consideration in detail the same question rule would be enlivened to the clauses in the second bill considered.

Record of Proceedings: 18 February 2020, p325
Standing Order 87

Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill

On 16 October 2019, the House passed the Local Government Electoral (Implementing Stage 2 of Belcarra) and Other Legislation Amendment Bill (the Belcarra Bill) with amendment. The Belcarra Bill received royal assent on 30 October 2019. During consideration in detail on the Belcarra Bill the House agreed to amendments to omit clauses.

On 28 November 2019, the Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill (the Electoral Bill) was introduced by the Attorney-General and Minister for Justice.

The Electoral Bill included substantially the same clauses that were omitted from the Belcarra Bill. The Electoral Bill also included a range of other matters.

The Speaker ruled that, whilst the same question rule was not enlivened with respect to the Electoral Bill's second reading, the same question rule would be enlivened with respect to clauses. Accordingly, he ruled clauses 81, 89, 91, 100, 103, 104, 113, 119, 123 to 125, 128 and 129 out of order.

Record of Proceedings: 18 February 2020, p326
Standing Order 87

Criminal Code and Other Legislation Amendment Bill

On 28 November 2019, the Attorney-General introduced the Electoral and Other Legislation (Accountability, Integrity and Other Matters) Amendment Bill 2019 (the Electoral Bill).

Chapter 4 of the Electoral Bill proposed to give effect to recommendations of the Crime and Corruption Commission relating to ministerial accountability. The bill sought to amend the *Integrity Act 2009* to create a criminal offence for a minister who knowingly fails to disclose a conflict of interest with the intent to dishonestly gain a benefit to themselves or another person, or cause detriment to another person. The bill also proposed to amend the *Parliament of Queensland Act 2001* to create a new offence where a minister intentionally failed to register their interests with the Clerk of Parliament with dishonest intent to obtain a benefit for themselves or another person, or cause detriment to another.

On 23 October 2019, the Leader of the Opposition introduced the Criminal Code and Other Legislation Amendment Bill 2019 which also sought to give effect to recommendations of the Crime and Corruption Commission relating to ministerial accountability. The Leader of the Opposition's bill proposed to achieve this outcome by different mechanisms. The bill proposed an amendment to the Criminal Code by creating a criminal offence for occasions when a member of cabinet was aware, or ought reasonably to have been aware, the minister had a declarable conflict of interest in a matter to be discussed at a meeting of cabinet or a cabinet committee but failed to declare the conflict. The bill also sought to



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amend the *Parliament of Queensland Act 2001* by creating a criminal offence to apply to a member of Cabinet who fails to comply with the requirements of the statement of interests by not informing the Clerk of the Parliament of the particulars of an interest or the change to an interest within one month after the interest arises or the change happens.

On 18 February 2020, the Speaker ruled that the amendments contained in both bills to the *Parliament of Queensland Act 2001* were more appropriately classified as alternative rather than complementary and that the same question rule would apply. Clause 73 of the government's bill and clause 6 of the Leader of the Opposition's bill both sought to insert a new offence within section 69. One offence is grounded in the key element of dishonest intention; the other imposes a strict criminal liability. If the House made a decision to accept one, it could not accept the other.

In relation to the Leader of the Opposition's amendment to the Criminal Code and the government's amendment to the *Integrity Act 2009*, the Speaker noted that the situation was more complex. He stated that it was not uncommon for offences dealing with the same or similar subject matter to be found in different acts, especially if the elements and penalties were different. It was entirely possible to classify these amendments as complementary, rather than alternative, and the same question rule would not apply.

The Speaker ruled that the same question rule did not apply with respect to the Leader of the Opposition's amendments to the Criminal Code and the government's amendment to the *Integrity Act 2009*. In accordance with previous rulings, the Speaker noted that should both bills pass their second reading stage when these clauses were considered in consideration in detail the same question rule would be enlivened to the second bill considered.

Record of Proceedings: 18 February 2020, p326
Standing Order 87

Transport Legislation (Disability Parking Permit Scheme) Amendment Bill

On 16 October 2019, the member for Hinchinbrook introduced the Transport Legislation (Disability Parking Permit Scheme) Amendment Bill 2019. The bill sought to amend the *Traffic Regulation 1962* and the *Transport Operations (Road Use Management) Act 1995* to expand the eligibility criteria for a disability parking permit to include vision impaired people.

On 26 November 2019, the Minister for Transport and Main Roads introduced the Transport Legislation (Disability Parking and Other Matters) Amendment Bill 2019 which also sought to amend the *Traffic Regulation 1962* and the *Transport Operations (Road Use Management) Act 1995* to expand the eligibility criteria for a disability parking permit to include vision impaired people who are legally blind, amongst other matters.

On 18 February, the Speaker stated that both the government amendments and the member for Hinchinbrook's amendments to the *Traffic Regulation 1962* and the *Transport Operations (Road Use Management) Act 1995* were similar in nature and the same question rule applied. If the House made a decision to accept one, it could not accept the other. The Speaker ruled that the same question rule applied to the member for Hinchinbrook's bill. Should the



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government's bill pass its second reading stage, the member for Hinchinbrook's bill could not proceed and would be discharged from the Notice Paper.

Record of Proceedings: 18 February 2020, p326-327
Standing Order 87

Civil Liability (Institutional Child Abuse) Amendment Bill

On 12 June 2018, the Minister for Child Safety, Youth and Women and Minister for the Prevention of Domestic and Family Violence, Hon. Farmer, introduced the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018. The bill was passed on 19 September 2018. The *National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Act 2018* (the Act) received Royal Assent on 28 September 2018.

On 31 October 2018, the member for Maiwar introduced the Civil Liability (Institutional Child Abuse) Amendment Bill 2018 (the private member's bill).

On 15 November 2018, the Attorney-General and Minister for Justice introduced the Civil Liability and Other Legislation Amendment Bill (the government bill). The bill was passed on 23 October 2019 and received Royal Assent on 30 October 2019.

The act implemented a key recommendation of the Royal Commission Report by enabling the Commonwealth's National Redress Scheme for Institutional Child Sexual Abuse (the National Redress Scheme) to operate in Queensland. Under the National Redress Scheme, redress may consist of three components: a monetary payment (up to \$150,000); a counselling and psychological component; and a direct response from the responsible institution.

The government bill sought to implement the Royal Commission Report's recommendations by amending the *Civil Liability Act 2003* to:

- place a duty of care, and associated civil liability, on institutions to take all reasonable steps to prevent not only child sexual abuse but also serious child physical abuse and psychological abuse connected with child abuse and serious child physical abuse of a child by a person associated with the institution while the child is under the care, supervision, control or authority of the institution;
- introduce a reverse onus (applied prospectively) under which an institution must prove it took reasonable steps to prevent the sexual abuse of a child to avoid legal liability for the abuse; and
- establish a statutory framework for the nomination of a proper defendant by an unincorporated institution to meet any liability incurred by the institution.

The government bill also amended the *Civil Proceedings Act 2011* to ensure a person under a legal incapacity may recover the cost of trustee management fees in the award of damages for wrongful death of a member of the person's family.

The private member's bill, similar to the government bill, sought to amend the *Civil Liability Act 2003* to implement the Royal Commission Report's recommendations to place a duty of care, and associated civil liability, on institutions to protect children from child abuse. The bill also proposed to amend the *Limitations of Actions Act 1974* and *Personal Injuries Proceedings Act 2002* to broaden the exemption on time limits for civil action for damages from sexual abuse to child abuse.



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The term 'child abuse' is defined as sexual abuse, serious physical abuse and any other abuse perpetrated in connection with sexual abuse or serious physical abuse.

On 18 February 2020, the Speaker noted that both bills sought to insert very similar definitions for child abuse in the *Civil Liability Act 2003*; to amend the *Limitation of Actions Act 1974* to remove the word 'sexual' from the heading of section 11A and insert alternative definitions of child abuse; and to insert transitional provisions in a new section 49—all decisions on which the House has already made in amendments in consideration in detail to the government bill.

The Speaker stated that the private member's bill contained provisions which were substantially the same as those contained in the government bill which the House had passed. The Speaker ruled that, under Standing Order 87, the private member's bill could not proceed and was discharged from the Notice Paper.

Record of Proceedings: 18 February 2020, p327-328

Standing Order 87

Community Services Industry (Portable Long Service Leave) Bill

On 22 August 2019, the House passed the Youth Justice and Other Legislation Amendment Bill, with amendment. The bill received royal assent on 5 September 2019.

During consideration in detail on the Youth Justice and Other Legislation Amendment Bill the House agreed to the insertion and replacement of a number of clauses in the *Youth Justice Act 1992*.

The Minister for Education and Minister for Industrial Relations circulated amendments to the Community Services Industry (Portable Long Service Leave) Bill. An amendment to the bill proposed amendments to the *Youth Justice Act 1992* and were outside the long title.

On the whole, the provisions which the government were seeking to amend were either provisions on which the House had already made a decision on in its consideration and passage of the Youth Justice and Other Legislation Amendment Bill or were consequential references.

Standing Order 87 provides the general rule of Westminster parliamentary practice that, once the House has resolved a matter in the affirmative or negative, the same question shall not again be proposed in the same session. Similarly, standing order 150 provides for the application of the same question rule in relation to amendments, new clauses or schedules of a bill. As previous Speakers have noted, the matters do not have to be identical but merely the same in substance as the previous matter. In other words, it is a question of substance, not form.

On 17 June 2020, the Speaker ruled that the same question rule was enlivened with respect to the amendment containing proposed amendments to the *Youth Justice Act 1992*. Prior to consideration in detail on the bill, the House agreed to a motion suspending standing orders 87 and 150 to enable the Minister to move the amendment.

Relevance to second reading debate

The relevance of debate to a bill is determined by (a) the long title of the bill and (b) standing order 139 which states that debate on the second reading may address the principles of the bill, the portfolio committee's examination and



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report and any amendments recommended by the committee. Speakers have given some leniency to opposition members in debate on the second reading when the government has authorised for circulation amendments that are outside the long title and are therefore strictly not relevant to the bill under consideration. This approach has been based on the overarching principle of fairness.

However, an increasing trend has been for opposition members to foreshadow or circulate amendments that are outside the long title of the bill and then seek to canvass matters relevant to the foreshadowed or circulated amendments. The latitude previously given to opposition members when the government has authorised for circulation amendments that are outside the long title cannot be extended to the opposition's own amendments that are outside the long title. If this were permitted, the opposition could always construct their own framework for relevance. Members must ensure that their contributions are within the long title of the bill or otherwise in accordance with standing order 139.

Record of Proceedings: 21 May 2020, pp1073-74
Standing Order 139

Human Rights Act 2019

Under the *Human Rights Act 2019* the House must be informed of the compatibility of a bill with the *Human Rights Act*. From 1 January 2020 all bills introduced must be accompanied by a statement of compatibility in which the minister (or member) introducing the bill sets out how the bill is compatible with the human rights set out in the act (see *Human Rights Act*, section 38). Portfolio committees must also consider both the compatibility of bills with these human rights, and the statement of compatibility; and report to the House accordingly.

Additionally, where a bill seeks to override a human right, the minister (or member) must advise the House of the override in an override declaration explaining exceptional circumstances which justify the overriding of human rights. This must also be tabled (see *Human Rights Act*, sections 43 and 44).

On application by a party or referral from a lower court or tribunal, the Supreme Court may decide declare that a provision or provisions of an act of parliament are incompatible with the *Human Rights Act* and issue a declaration of incompatibility to the Attorney-General. The Minister responsible for the relevant statutory provision/s must table the declaration of incompatibility within six sitting days of receipt and it automatically stands referred to the relevant portfolio committee for consideration and report within three months (see *Human Rights Act*, sections 53 and 57). A declaration of incompatibility by the Supreme Court does not affect the validity of the statutory provision.

MOTIONS

Motion with unauthenticated facts and unparliamentary language altered

On 20 May 2020, the Leader of the Opposition gave notice of a motion to be moved during the time allocated for debate on a private member's motion later that evening. The notice of motion related to integrity within the government and sought to condemn the Premier, Ministers and other government members.



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Prior to the motion being moved, the Speaker made a ruling after receiving objections from members regarding factual inaccuracies and personal reflections contained in the motion. The Speaker referred to previous rulings by former Speaker Mickel that a notice of motion is merely an incomplete motion and that it is for the House to determine whether it will agree to the proposition. He also referred to another ruling by former Speaker Mickel that a Speaker can remove words from a motion which are unbecoming or unparliamentary or which assert facts that cannot be authenticated.

The Speaker utilised his powers under Standing Order 70 to alter the notice of motion by removing or altering those matters which could not be authenticated and by removing words which were unparliamentary. He noted that, while some members might still find the content of the motion offensive, there would be an opportunity for the statements and assertions included in the motion to be debated in the House. He further noted that there was no precedent for removing matters which could be authenticated.

The Speaker reminded the House that his role is to ensure proposed motions comply with the standing orders and not to assess the value of a motion; that is the role of members when the motion is debated.

Amendment to motion out of order

On 20 May 2020, the Premier gave notice of a motion in relation to the government's economic response to coronavirus. During debate on the motion, the Leader of the Opposition moved an amendment to delete almost all of the motion's wording and insert alternative wording calling on the government to implement the Opposition's plan. The Speaker ruled the amendment out of order on the basis that it was not relevant to the main motion. He noted that, as the government's motion was wide-ranging he would allow significant latitude in relation to relevance during the debate.

QUESTIONS WITHOUT NOTICE

Not relevant to ministerial portfolio

Standing Order 113 provides that a question without notice cannot be put to a minister if it is not relevant to their ministerial portfolio.

On 20 February 2020, the member for Everton asked a question without notice to the Deputy Premier asking why the Deputy Premier did not support the former member for Ipswich's allegations about corruption in Ipswich. The Speaker ruled the question out of order as it was not relevant to her ministerial portfolio.

Record of Proceedings: 20 February 2020, p513
Standing Order 113

On 20 February 2020, the Leader of the Opposition asked a question without notice to the Premier asking whether the Premier would investigate the former member for Ipswich's claims that Labor members forced her out of parliament. The Speaker ruled the question out of order as it was not relevant to her ministerial portfolio.

Record of Proceedings: 20 February 2020, p511
Standing Order 113



MATTERS OF PROCEDURAL INTEREST

No. 18 – January to June 2020

Inferences in question

Standing Order 115 provides that a question without notice shall not contain inferences.

On 20 February 2020, the member for Burleigh asked a question without notice to the Premier asking whether the Premier would direct the housing minister to restart proper consultation about his proposed rental changes and apologise to property investors for calling them slum lords. The Speaker ruled the question out of order as inferences were contained in the question.

Record of Proceedings: 20 February 2020, p518
Standing Order 115

Anticipating debate on a matter

Standing Order 115 provides that a question without notice must not anticipate debate on a matter on the Notice Paper.

On 20 May 2020, the member for Ninderry asked a question without notice to the Premier and Minister for Trade about a cabinet decision to release prisoners from jail early, a government decision to urgently introduce a bill and the Premier then claiming it was not a priority. The member asked how Queenslanders could trust the government when its priorities kept changing day by day.

The Speaker ruled that the question was out of order because it was anticipating debate on a matter which is on the Notice Paper.

Record of Proceedings: 20 May 2020, p967
Standing Order 115

Naming of persons

Standing Order 115 provides that questions shall not contain the names of persons unless they are strictly necessary to render the question intelligible and can be authenticated.

On 17 June 2020, a member asked a question without notice to the Minister for Child Safety about the promotion of two public servants and named the public servants in the question.

The Speaker ruled the question out of order as the question could have been asked by reference to the public sector officials' positions as opposed to naming those persons.

Record of Proceedings: 17 June 2020, p1260
Standing Order 115

SESSIONAL AND STANDING ORDERS

Sessional Orders

On 18 March 2020, the Sessional Orders were amended to insert Sessional Order 1B which allows the Speaker, upon advice from the government of the state, to set an alternative day or hour for the next sitting when the House is adjourned to a specific time and date. The Speaker is required to notify each member of any change. There is a sunset provision on the Sessional Order of six months.



MATTERS OF PROCEDURAL INTEREST

No. 18 – January to June 2020

The amendment to the Sessional Orders was in response to COVID-19. Without this amendment, there was no mechanism, other than the Governor proroguing the parliament, to alter the day or hour of the next sitting. If the Legislative Assembly were scheduled to sit on a given day when the state or nation was in lockdown due to COVID-19, the parliament would have to be recalled and adjourn to an alternative day or the Governor would have to prorogue the parliament.

PETITIONS AND E-PETITIONS

E-petition removed

On 18 February 2020 e-petition No. 3287 titled 'Noxious odours over Ripley' was posted to the parliament's petitions web page. On 20 February the Speaker advised that this e-petition was removed and replaced with e-petition No. 3291 on the grounds that the principal petitioner was unable to authenticate the grievance