



MATTERS OF PROCEDURAL INTEREST

No. 21 — July to December 2021

Prepared by Chamber and Procedural Services Office

QUEENSLAND LEGISLATIVE ASSEMBLY PROCEDURAL BULLETIN

WORK OF THE HOUSE

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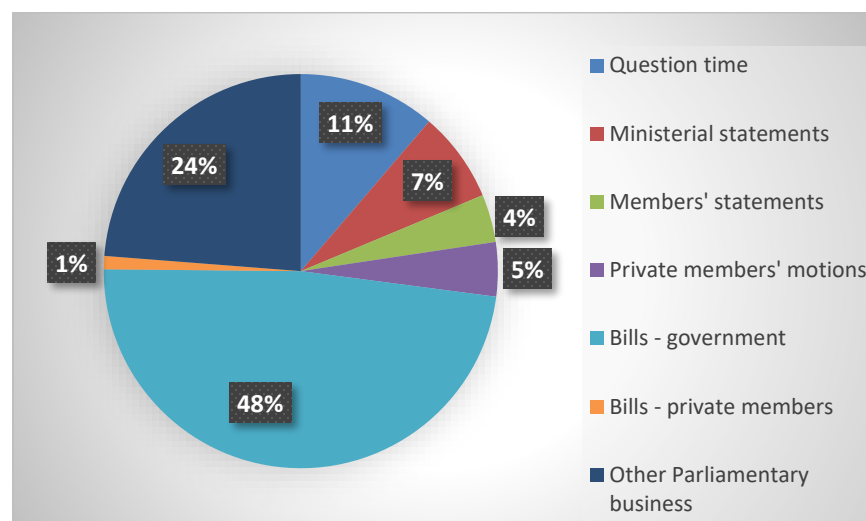
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Overview comparison

	1 Jul to 31 Dec 2021			1 Jan to 30 Jun 2021		
Sittings						
Sitting days	18			22		
Average duration per sitting day [hrs:mins]	9:55			9:43		
Legislation						
	1 Jul to 31 Dec 2021			1 Jan to 30 Jun 2021		
	Govt	PMB	Total	Govt	PMB	Total
Bills introduced	15	4	19	11	2	13
Bills passed	12	0	12	13	0	13
Bills referred to committees	15	4	19	11	2	13
Bills reported on by committees	16	2	18	14	0	14

Business conducted

The following chart shows a breakdown of the business conducted during the period 1 July to 31 December 2021.





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MEMBERS

Warnings and suspension of members

On 25 occasions between July and December, the Speaker followed up warnings to members with an order to withdraw from the Chamber.

Record of Proceedings: 31 August 2021, p2232 and p2241
1 September 2021, p2402 and p2411
2 September 2021, p2445
16 September 2021, p2799
12 October 2021, p2884, p2890 and p2910
13 October 2021, p2984, p3038, p3044 and p3046
26 October 2021, p3173, p3177, p3181
27 October 2021, p3281
16 November 2021, p3471
17 November 2021, p3575, p3627, p3630
1 December 2021, p3940
2 December 2021, p3975
Standing Order 253A

Masks in the chamber and parliamentary precinct

On 14 September 2021 the Speaker made a statement with respect to the requirement for members to wear masks in the chamber and on the precinct due to COVID-19. The Speaker noted the longstanding practice that members, in observing general decorum, are not to wear badges or display signs or other insignia such as T-shirts, stickers or any form of protest. Whilst wearing a badge to support a charitable purpose is in order, badges or logos supporting political parties, groups or campaigns are not to be worn and will be considered disorderly. The Speaker stated that the same general rules of the chamber applied to masks – namely, masks should not have badges or logos on them that relate to political parties, peak bodies, unions, groups or campaigns nor should they ostensibly display sporting logos.

Record of Proceedings: 14 September 2021, p2613
Standing Order 8

TABLED PAPERS

Tabled papers out of order

Once a document has been tabled it cannot be altered or otherwise interfered with unless the House otherwise orders, as the document is in the possession of the House.

On 26 October 2021 the Deputy Premier sought to table a document. The Speaker ruled the document out of order as it would have offended Standing Order 211 if tabled. The document was returned to the Deputy Premier.

Record of Proceedings: 26 October 2021, p3167
Standing Order 26

On 2 December 2021 the member for Condamine sought to table correspondence relating to a proposed parliamentary committee inquiry. The Speaker ruled the document out of order as it would have offended Standing Order 211 if tabled. The document was returned to the member.

Record of Proceedings: 2 December 2021, p3961
Standing Order 26



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MOTIONS

Dissent from Speaker's ruling

On 17 November 2021 the Speaker ruled that the Big Bank Levy (COVID-19 Health Response) Bill 2021, a private member's bill introduced on 28 October 2021 by the member for South Brisbane, was out of order as it sought to impose revenue, breaching the fundamental constitutional convention of the financial imperative of the Crown. The bill was discharged from the Notice Paper and the committee which it was referred to.

On 1 December 2021, the member for South Brisbane moved a motion of dissent from the Speaker's ruling. The motion was debated by several members. A division was called and the question was resolved in the negative.

Amendment ruled out of order

On 17 November 2021 the member for Kawana moved a private member's motion about the Labor government's plan to build a youth remand centre in Caloundra close to a school, retirement village, RSL, early learning centre, hospital and an ambulance station. The motion called on the member for Caloundra to oppose the youth remand centre and the Labor government to abandon its plans to build the centre. The Minister for Police moved an amendment omitting most of the wording of the motion and endorsing the Labor government's strong youth justice reforms including the toughest youth bail laws in the country. The Deputy Speaker ruled the amendment out of order for being contrary to Standing Order 94, which provides that every amendment must be relevant to the question which it is proposed to amend.

Record of Proceedings: 17 November 2021, pp 3626
Standing Order 94

PRIVILEGE

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

On 26 October 2021 the Ethics Committee reported on one matter of privilege concerning the unauthorised disclosure of committee proceedings (Report No. 208).

In its Report No. 208, the Ethics Committee made a finding of contempt concerning the unauthorised disclosure of committee proceedings by a member. The Ethics Committee recommended:

- that the House make a finding of contempt against the member for the unauthorised disclosure of committee proceedings
- that the member take it upon himself as soon as practicable to unreservedly apologise to the House, on the floor of the House, for the unauthorised disclosure of committee proceedings, and



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- if the House considers the apology tendered is adequate, that the House accept the member's apology as the appropriate and final penalty in accordance with section 39 of the *Parliament of Queensland Act 2001*.

The member in question apologised to the House on the same day. On the motion of the Leader of the House on 27 October, the House accepted the recommendations and noted the members' apology.

LEGISLATION

Bills declared urgent

A Bill may be declared urgent and pass through all stages in a very short timeframe, e.g. an urgent 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.

Between July and December 2021, the House declared one bill urgent. The bill was referred to a portfolio committee.

Urgent bills referred to a portfolio committee

Brisbane Olympic and Paralympic Games Arrangements Bill

On 27 October 2021 the Brisbane Olympic and Paralympic Games Arrangements Bill was declared urgent upon its introduction and referred to a committee for examination with a report date of 26 November 2021.

Record of Proceedings: 27 October 2021, p3290
Standing Order 137

Amendment to second reading

Voluntary Assisted Dying Bill

On 14 September 2021 the member for Traeger moved a reasoned amendment to the question that the Voluntary Assisted Dying Bill 2021 be read a second time, moving to omit the words 'now read a second time' and insert 'considered further after the state government has committed to provide the required additional funding of \$275 million per year to palliative care delivery.' A division was called and the amendment was negated.

Record of Proceedings: 14 September 2021, p 2594
Standing Order 141

Housing Legislation Amendment Bill

On 13 October 2021 the member for South Brisbane moved an amendment to the question that the Housing Legislation Amendment Bill be read a second time, moving to omit the words 'now read a second time' and insert 'considered further once all members of parliament who are landlords excuse themselves from voting on this legislation due to a conflict of interest.' A division was called and the amendment was negated.

On 14 October 2021 the Speaker ruled the amendment out of order for the following reasons. The procedure of the Legislative Assembly comes from many sources including the Constitution, statute, standing orders, sessional orders



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and Speakers' rulings. Procedures derived from the Constitution and statute cannot be set aside by the Assembly. Procedures derived from standing orders and sessional orders can be set aside by a substantive motion expressing that intention.

Section 13 of the Parliament of Queensland Act provides that a question in the Assembly is decided by a majority of the members present and voting and that the Speaker has no deliberative vote unless the votes are equal, in which case the Speaker has the casting vote. Section 11 of the Act provides that the Assembly may adopt standing rules and orders that deal with, amongst other things, the declaration and registration of interests of members. Chapter 40 of the standing orders deals with declarations of interest. That chapter regulates when declarations must be made and when a member cannot vote on a matter in which they are interested.

The Speaker noted that there is no difficulty in members moving reasoned amendments to the second reading question and that this is contemplated by standing order 141. He further noted that there are precedents for amendments including to refer bills to committees, to refer bills back to committee and to forestall the second reading until a matter occurs.

However, the Speaker stated that the member for South Brisbane's amendment sought to remove the voting rights of some members granted by section 13 of the Act and in a way not contemplated by the rules of conflict of interest set out in chapter 40 of the standing orders. Only a substantive motion can set aside standing orders.

Record of Proceedings: 14 October 2021, pp 3065-3066
Standing Order 141

Bill ruled out of order and discharged

On 28 October 2021 the member for South Brisbane introduced the Big Bank Levy (COVID-19 Health Response) Bill 2021. The bill was referred to the Economics and Governance Committee.

The bill sought to enact a 0.05 per cent levy on the five biggest banks operating in Queensland. The Speaker ruled that the bill was a revenue bill. The Speaker noted that, while neither statute nor current standing orders prevent a private member's bill proposing revenue measures, our system of government comprises many conventions not expressed in statute or standing orders.

Section 68 of the Constitution of Queensland Act 2001 provides that the Legislative Assembly must not originate or pass a vote, resolution or bill for the appropriation of (a) an amount from the consolidated fund or (b) an amount required to be paid to the consolidated fund that has not first been recommended by a message of the Governor. Standing Order 174 provides that a message is required for an appropriation bill (not a revenue bill).

Standing Order 2(1) provides that the standing orders are to be read in conjunction with the sessional orders and the practices of the House. Standing Order 2(2) provides that, where statute, standing orders, sessional orders or practice of the House do not provide for a matter, the Speaker in determining the correct procedure may make reference to the rules, forms and practices of other parliaments operating under the Westminster system.



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The Speaker noted that the system of government in Queensland and the Queensland Parliament is guided by a number of constitutional conventions, one being the 'financial initiative of the Executive' which is the principle that only the government may initiate or increase appropriations or taxes. The Speaker advised that to allow a private member's bill to increase or impose revenue would breach a fundamental constitutional convention and that the absence of a specific standing order does not mean that the Speaker cannot, and should not, rule out of order a bill which breaches such a fundamental convention and principle.

The Speaker ruled that the private member's bill sought to impose revenue in breach of the fundamental constitutional convention of the financial imperative of the Crown. The Bill was therefore ruled out of order and discharged from the committee and the Notice Paper.

(Note that the private member subsequently moved a motion of dissent from the Speaker's ruling – see 'Motions' above).

Record of Proceedings: 17 November 2021, pp 3553-3554
Standing Order 2

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.

Public Health and Other Legislation (Further Extension of Expiring Provisions) Amendment Bill 2021

On 1 September 2021 the Speaker made a ruling on the Public Health and Other Legislation (Further Extension of Expiring Provisions) Amendment Bill 2021 with respect to the same question rule. The Speaker noted that most clauses of the bill were amendments to, or renewals of, sunset provisions and, therefore, in accordance with his earlier ruling on 20 April 2021, the same question rule was not enlivened with respect to those clauses.

The Speaker further noted, however, that four clauses in the bill proposed to amend the commencement clauses of two pieces of legislation which have previously been agreed to by the House in this session. The Speaker ruled that the same question rule was enlivened by those four clauses of the bill contrary to Standing Order 87.

The House agreed to suspend Standing Order 87 to allow the consideration of the bill in its current form.

Record of Proceedings: 1 September 2021, p2319
Standing Order 87

Residential Tenancies and Rooming Accommodation (Tenants' Rights) and Other Legislation Amendment Bill

On 14 September 2021 the Speaker made a ruling with respect to the Residential Tenancies and Rooming Accommodation (Tenants' Rights) and Other Legislation Amendment Bill (a private member's bill) and the Housing Legislation Amendment Bill (a government bill). Approximately 24 clauses in the private



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member's bill sought to amend sections of the Residential Tenancies and Rooming Accommodation Act 2008, which were also dealt with by the government bill. The Speaker noted that if the government bill received its second reading before the private member's bill, those clauses would be inconsistent with those clauses in the government bill, contrary to standing order 87, and therefore the same question rule would apply.

The Speaker further noted that, whilst the bills differed with respect to some matters, he was satisfied that when the private member's bill was viewed in its entirety it was seeking to implement an alternative or different scheme or policy to that contained within the government's bill. Accordingly, the Speaker ruled that, if the government bill passed its second reading, the private member's bill could not proceed and would be discharged from the Notice Paper.

The government bill was read a second time on 14 October 2021 and, in accordance with the Speaker's ruling, the private member's bill was discharged from the Notice Paper.

Record of Proceedings: 14 September 2021, pp2524-2525
14 October 2021, p3129
Standing Order 87

Resources and Other Legislation Amendment Bill

On 14 September 2021 the Speaker made a ruling with respect to the Resources and Other Legislation Amendment Bill and the Public Health and Other Legislation (Further Extension of Expiring Provisions) Amendment Act. The Speaker ruled that the same question rule was enlivened with respect to clauses 15, 16 and 21 of the Resources and Other Legislation Amendment Bill and that these clauses are ruled out of order. The Speaker also noted that the long title of the bill would need to be addressed.

Record of Proceedings: 14 September 2021, p2525
Standing Order 87

QUESTIONS WITHOUT NOTICE

Inferences in questions

Under Standing Order 115, questions without notice shall not contain inferences.

On 15 September 2021 a member asked the Premier to guarantee that the independent Integrity Commissioner could properly perform her statutory functions and obligations when there appeared to be interference by other government agencies. The Speaker ruled that any inference in the question did not relate to a member of the House and allowed the Premier some latitude in answering.

Record of Proceedings: 15 September 2021, p2663
Standing Order 115

Asking for an expression of opinion

Under Standing Order 115, questions without notice shall not ask for an expression of opinion.

On 15 September 2021 a member asked the Premier why the Public Service Commission removed information from devices confiscated from the independent Integrity Commissioner. The Speaker ruled that an opinion was not being sought



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and advised that it was a matter for the Premier as to how she wished to respond to the question.

Record of Proceedings: 15 September 2021, pp2659-2660
Standing Order 115

PETITIONS

On 16 November 2021 the Speaker advised that there was an error in posting an e-petition to the parliament's website resulting in two e-petitions inadvertently containing the same wording, rather than two petitions with different wording. Both petitions had closed and the Speaker ruled that that both petitions may be tabled. The Speaker noted that the principal petitioner had been advised and that a new e-petition had commenced.

Record of Proceedings: 16 November 2021, p3452
Standing Order 123