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MEMBERS' ETHICS AND PARLIAMENTARY PRIVILEGES COMMITTEE INFORMATION PAPER NO. 1, VERSION 2—CITIZEN'S RIGHT OF REPLY

Members of Parliament enjoy a unique privilege of freedom of speech, derived from Article 9 of the *Bill of Rights 1688*. Article 9 states:

That the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament.

Effectively, this means that in the interests of public and open debate, Members can speak in Parliament about matters without fear of any legal proceedings, such as defamation, being brought against them.

Whilst Members of Parliament are able to say anything they think fit in debate, until recently individuals or corporations have had no means of redress against adverse comments made about them under parliamentary privilege.

On 18 October 1995, the Queensland Parliament became the first State Parliament to afford citizens a right of reply.

The resolution of the Legislative Assembly on 18 October 1995 (reintroduced on 11 October 1996) provides for a procedure whereby persons or corporations, who are the subject of adverse comment or attack made in Parliament and which affects their reputations, may seek a right of reply. The right of reply is not an automatic right to have a response published, but a procedure by which a person or corporation may seek to do so.

Statements made by Members in the Legislative Assembly are still absolutely privileged and therefore defamation or other legal proceedings still cannot be brought against them. However, the citizen's right of reply allows aggrieved persons to put their 'side of the story' on the parliamentary record.

The right of reply relates to statements made by members in the Legislative Assembly which (a) refer to a person or corporation either by name, or in such a way as to allow them to be readily identified, and (b) which, had they been made outside Parliament, could reasonably be considered actionable in a court of law.

Procedure relating to submissions

- The right of reply process applies to statements made in the Legislative Assembly after 18 October 1995.
- The Members' Ethics and Parliamentary Privileges Committee has the responsibility of advising the Legislative Assembly as to individual requests for a right of reply.

- Submissions for a right of reply are required to be made in writing to:

The Speaker – Queensland Parliament
Parliament House
George Street
Brisbane Qld 4000

- The Speaker must be satisfied that the matter is sufficiently serious and is not frivolous, vexatious or offensive in character, and that it is practicable for the committee to consider the matter.
- Should a matter be referred by the Speaker, the committee is required to consider the matter and to either recommend that no further action be taken, or that a response by the aggrieved person be published by the Legislative Assembly or incorporated in *Hansard*.
- It is not the role of the committee to determine the truth or otherwise of the initial allegation and subsequent response. However, it is incumbent upon a citizen to ensure the accuracy of their response. A deliberately misleading statement to the committee may be treated as a contempt.

Supplementary guidelines

1. An application must be received within the term of the parliament within which the statements to which the person or corporation wishes to respond were made.
2. A time limit of 3 months applies to any request for further submission from the person or corporation by the committee. (Should the person or corporation not respond to the committee's communication within 3 months, the committee will consider the matter to be closed.)
3. Public servants seeking a right of reply must do so as private citizens. (Submissions made on departmental letterhead will not be considered.)
4. Citizens making their submission through a representative must personally sign the agreed response.

The resolution is reproduced on page 2 of this information paper.

MEMBERS' ETHICS AND PARLIAMENTARY PRIVILEGES COMMITTEE – CONTACT DETAILS

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RESOLUTION OF THE QUEENSLAND LEGISLATIVE ASSEMBLY 11 OCTOBER 1996 CITIZEN'S RIGHT OF REPLY

- (a) The following requirements and provisions set out in this motion relating to a citizen's right of reply be adopted;
 - (b) the provisions take effect from the passing of this resolution;
 - (c) the provisions continue in force unless and until amended or revoked by the Legislative Assembly in this or a subsequent Parliament.
- (1) Where a submission is made in writing to the Speaker by a person who has been referred to in the Legislative Assembly by name, or in such a way as to be readily identified—
- (a) claiming that the person or corporation has been adversely affected in reputation or in respect of dealings or associations with others, or injured in occupation, trade, office or financial credit, or that the person's privacy has been unreasonably invaded, by reason of that reference to the person or corporation; and
 - (b) requesting that the person be able to incorporate an appropriate response in Hansard, and the Speaker is satisfied—
 - (c) that the subject of the submission is not so obviously trivial or the submission so frivolous, vexatious or offensive in character as to make it inappropriate that it be considered by the Members' Ethics and Parliamentary Privileges Committee; and
 - (d) that it is practicable for the Members' Ethics and Parliamentary Privileges Committee to consider the submission under this resolution,
- the Speaker shall refer the submission to that Committee.
- (2) The Committee may decide not to consider a submission referred to it under this resolution if the Committee considers that the subject of the submission is not sufficiently serious or the submission is frivolous, vexatious or offensive in character, and such a decision shall be reported to the Legislative Assembly.
- (3) If the Committee decides to consider a submission under this resolution, the Committee may confer with the person who made the submission and any Member who referred in the Legislative Assembly to that person or corporation.
- (4) In considering a submission under this resolution, the Committee shall meet in private session.
- (5) The Committee shall not publish a submission referred to it under this resolution or its proceedings in relation to such a submission, but may present minutes of its proceedings and all or part of such submission to the Legislative Assembly.
- (6) In considering a submission under this resolution and reporting to the Legislative Assembly the Committee shall not consider or judge the truth of any statements made in the Legislative Assembly or the submission.
- (7) In its report to the Legislative Assembly on a submission under this resolution, the Committee may make either of the following recommendations:
- (a) that no further action be taken by the Committee or the Legislative Assembly in relation to the submission; or
 - (b) that a response by the person who made the submission, in terms specified in the report and agreed to by the person or corporation and the Committee, be published by the Legislative Assembly or incorporated in Hansard,
- and shall not make any other recommendations.
- (8) A document presented to the Legislative Assembly under paragraph (5) or (7)—
- (a) in the case of a response by a person or corporation who made a submission, shall be succinct and strictly relevant to the questions in issue and shall not contain anything offensive in character; and
 - (b) shall not contain any matter the publication of which would have the effect of—
 - (i) unreasonably adversely affecting or injuring a person or corporation, or unreasonably invading a person's privacy, in the manner referred to in paragraph (1); or
 - (ii) unreasonably adding to or aggravating any such adverse effect, injury or invasion of privacy suffered by a person
- (9) A corporation making a submission under this resolution is required to make it under their common seal.