



## **LEGISLATIVE COUNCIL**

# **A concise guide to Rulings of the President and the Chair of Committees**

**March 2021**



## **FOREWORD**

The standing orders of the Legislative Council regulate procedure, debate and the conduct of members. When doubt arises as to the application or interpretation of standing orders, or where a particular circumstance is not provided for, it is the duty of the President (or the Deputy President or other member occupying the chair at the time) to give a ruling. Rulings generally arise from points of order, however, the President may intervene and give a ruling to uphold the practices of the House without a point of order being taken.

A number of principles tend to guide the making of rulings. Order must be preserved in order to enable business to be conducted properly. The plain or ordinary meaning of words is generally ascribed to terms used in the standing orders. Most importantly, where there is any doubt as to interpretation of a rule or order, the President leans towards a ruling which preserves or strengthens the powers of the House and the rights of all members rather than an interpretation that may weaken or lessen those powers and rights. Likewise, it is the President's duty to see that the powers and immunities of the House are observed.

Whilst rulings are not strictly binding, Presidents tend to follow the decisions of their predecessors, unless rules or orders of the House have changed or particularly important new factors or considerations arise.

The aim of this concise guide is to highlight those matters upon which the President or Chair is most commonly requested to rule and which reflect contemporary practice in the House. To that end this volume had been particularly designed as an accessible guide for members newly taking the chair and for all members with an interest in the practice and operation of the House.

Many new sessional orders and procedures were introduced at the start of the 57<sup>th</sup> Parliament, some of which evolved over time as the House determined how they should best operate. These new procedures gave rise to a number of important rulings given by the President. During the course of this Parliament, the President has also made some significant rulings concerning the House's powers to order the production of documents. The Department of the Legislative Council will periodically update this document to ensure it reflects current Legislative Council practice.

David Blunt  
Clerk of the Parliaments  
March 2021

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## ADJOURNMENT OF THE HOUSE

### Adjournment of House to next sitting day

***Sitting after midnight:*** In view of the precedents that have been established over the years, when the House is adjourned after midnight and meets again that same day at a later hour, it is considered to be the next sitting day, and items set down for consideration on the next sitting day may be proceeded with.

JOHNSON, 1/7/1982, p. 205.

### Adjournment debate

SO 31

***Speaking on more than one subject:*** Members may speak on more than one subject in the adjournment debate, but may only speak once to the motion.

SAFFIN (Deputy), 26/6/2001, p. 15323.

***Wide latitude:*** Members are extended wide latitude during the adjournment debate.

GARDINER (Deputy), 14/2/2012 p. 8082.

***Presence of Minister or parliamentary secretary:*** When the motion to adjourn the House is moved by a Minister who subsequently leaves the Chamber, the presence of a Parliamentary Secretary is sufficient to satisfy the standing orders, notwithstanding that they have spoken during the adjournment debate.

FAZIO (Deputy), 05/4/2006, p. 22100.

***When parliamentary secretary speaking closes debate:*** Parliamentary Secretaries have the right to speak to the adjournment motion as private members. However, if they wish to take part in the debate as private members, a Minister or another Parliamentary Secretary must be in the Chamber. I take this opportunity to clarify that if a Parliamentary Secretary moves the adjournment motion and later in the debate speaks again the Parliamentary Secretary will be speaking in reply and will close the debate, regardless of whether there is another Parliamentary Secretary or Minister in the Chamber.

HARWIN, 27/3/2012, p. 9829.

***No further business once question put:*** Once the question on the adjournment of the House has been put and agreed to, no further business can take place.

SYMONDS (Deputy), 7/6/1995, p. 773.

### Ministerial reply to adjournment matters

SO 33

***No debate permitted:*** No debate is permitted on a ministerial reply made in response to a matter raised in an adjournment debate.

JOHNSON, 19/4/1989, p. 6663.

## Special adjournment

***Does not alter right to recall House on request of members:*** The provisions in the standing orders to enable the President to recall the House at the request of an absolute majority of members is not altered by the usual resolution for special adjournment adopted at the conclusion of a parliamentary session which fixes the day and time of the next meeting of the House unless the President, or if the President is unable to act on account of illness or other cause the Deputy President, fixes an alternative day or hour of meeting.

FAZIO, 03/12/2009, p. 20548.

## AMENDMENTS

### Amendments to motions

SO 109

***Direct negative:*** The standing orders do not provide clear guidance on what constitutes a direct negative. *New South Wales Legislative Council Practice* states:

“... an amendment is only a direct negative if agreeing to it would have exactly the same effect as negating the motion”.

If the amendment proposes an alternative proposition, parliamentary practice dictates that a vote in favour of the amendment does not in itself express a decision against the original motion but only a preference for the alternative proposition.

HARWIN, 31/5/2012, p. 12380.

### Speaking to amendments

SO 87

***Member may canvass both the substantive motion and any amendments moved:*** It is in order for a member's contribution to a motion to canvass both the substantive motion and any amendments moved by other members during the course of debate.

HARWIN, 28/5/2015, p. 973.

***Member may speak a second time to debate amendments moved after their first contribution:*** When a member moves an amendment to a motion, members who have previously spoken in the debate are able to speak again to the amendment only. However, members who have not yet contributed to the debate will not be able to speak twice – they must address the amendment in their contributions.

HARWIN, 31/5/2012, p. 12375.

***Being given the call to speak to an amendment to a private member's motion considered in short form format:*** In order that all members get maximum opportunity to speak in debate, when an amendment to a motion being considered in short form format is before the House, before giving the call, the Chair may take into consideration whether a member has already spoken, the number of members who wish to speak for a first time, and the time remaining in debate.

AJAKA, 21/11/2019, p. 9.

## ANTICIPATION

SO 92

**Note:** The anticipation rule is rarely applied, and is liberally interpreted, as to do otherwise could unnecessarily restrict the rights of members to debate important matters.

When anticipation is applied, it is a well-established principle that it is not anticipation if debate is on a more effective form of proceeding. For example, a bill is a more effective form of proceeding than a motion which is more effective than a question without notice. See pp 310-11 of the *Annotated Standing Orders of the NSW Legislative Council*.

**General rule:** It is contrary to the rules, customs and practices of the House to anticipate debate. If members restrict remarks to a general discussion without any anticipation or reference to the bill that is expected to come before the House, they are entitled to proceed. Otherwise, they are out of order.

JOHNSON, 11/9/1980, p. 726.

**Must not anticipate debate on a matter contained in a more effective form:** A motion is out of order if it anticipates debate on a matter contained in a more effective form of proceedings, such as a bill.

BURGMAN, 4/4/2001, p. 18675.  
*Cited:* GREEN, 16/9/2015, p3712.

## BILLS

### Notice of motion

**Short title not to include slogans:** A notice of motion for a bill may not include words in the short title that are argumentative or sloganistic.

HARWIN, 05/3/2014, p. 27017.

### Leave to introduce

SO 136

**Circulated copies required if bill is to be declared urgent:** There is no requirement under the standing orders for a bill to be circulated unless the member is proposing to declare the bill an urgent bill.

HARWIN, 11/10/2011, p. 5877.

**What constitutes a money bill:** A bill which does not specify the appropriation of any amount of public revenue but which may in the future result in some expenditure by the Government is not a money bill and can be introduced in this Chamber.

FAZIO (Deputy), 18/9/2003, p. 3566.

## Second reading – motion to stand as an order of the day

**Limited debate allowed:** Debate on the motion for the second reading of the bill to stand an order of the day for next sitting day is severely limited and it is out of order to engage in what might be called a full-scale second reading speech at this stage.

BUDD, 10/1/1978, p. 10955.

## Second reading – latitude of debate

**Wide latitude allowed:** This chamber has always allowed wide latitude to members making speeches on the second reading of bills but comments should generally be within the leave of the long title of the bill.

FAZIO, 1/12/2009, p. 20179; HARWIN, 11/9/2014, p. 311; AJAKA, 16/5/2018, p. 16.

**Contribution must be relevant to long title:** With regard to debate on bills, the contributions of members must be more than generally relevant; they must be relevant. A determinant of what is relevant is the long title of the bill. Some degree of latitude is given to permit wide-ranging debate on bills, but only if the contributions of members remain relevant to the long title of the bill.

PRIMROSE, 2/12/2008, p. 12187.

*Cited:* AJAKA, 23/5/2018, p. 90.

**Individual words in long title:** Although, by tradition, debates in this House may be wide-ranging, because the bill before the Chair has in its title the words “education”, “school” and “attendance” does not mean that members are free to range over anything to do with education, school and attendance.

PRIMROSE, 27/10/2009, p. 18696.

**Members may explore alternatives to bill:** It is a tradition in this House for the contributions of members to debate on bills and motions to be wide-ranging. I will not make a ruling the effect of which would prescribe discussion in this House in a way that would make it impossible for members to refer to alternatives to those proposed by a bill or motion.

BURGMANN, 31/10/2002, p. 6311.

## Referring to proposed amendments during second reading debate

**Reference to proposed amendments allowed:** The anticipation rule does not come into play when one is referring to proposed amendments. However during a second reading debate it is not in order for members to make detailed comments about amendments to be moved in committee.

HARWIN, 15/08/2012, p. 13715.

## Third reading

SO 148

***Last opportunity to state position, not opportunity to give second reading speech:*** The third reading is not an opportunity to give a second reading speech. It is the last opportunity for a member to state why they are voting for or against the bill.

HARWIN, 27/11/2013, p. 26512.

*See also:* FORSYTHE (Deputy), 18/11/2003, p. 5108.

***Opportunity to advise of change in position following the outcome of the committee stage:*** Brief comments advising of a change of position can be made on the motion for the third reading but with limited latitude. The member should confine comments to why the position is now different as a result of the outcome of the committee stage of the bill.

HARWIN, 13/11/2013, p. 25502.

## Restoration to Notice Paper

SO 103

***Does not contravene same question rule:*** A motion to restore a bill to the Business Paper after it has been defeated on the second reading does not contravene the same question rule under standing order 113 [now SO 103].

WILLIS, 16/9/1993, pp. 3240-41.

## COMMITTEE OF THE WHOLE

### Resolving into committee

SO 141

***No debate on motion allowed:*** The motion that the House resolve itself into a Committee of the Whole is a purely formal motion on which no debate is allowed.

JOHNSON, 29/10/1986, p. 5668.

### Instructions to committee

SO 179

***Instructions authorising consideration of amendments outside subject matter of the bill:*** An instruction to the committee of the whole authorising the introduction of amendments which are outside the subject matter of the bill should be cognate with the general purposes of the bill; it is for the House to decide whether an instruction should be carried and for the committee to decide whether it agrees to any amendment moved.

JOHNSON, 30/11/1988, p. 3917-8.

***Not for President to constrain the House:*** If the House agrees to an instruction, it is a matter for the Committee of the Whole to consider the wisdom or the merits of the proposed amendment. If the bill is amended and read a third time by this House it will return to the Legislative Assembly and will be a matter for that House to determine its response, which is the way in which these matters have tended to be resolved between the two Houses for more than 160 years. I do not believe it would be appropriate for me to constrain the House by ruling the

instruction out of order.

AJAKA, 5/6/2019, p. 39.

***Committee must consider an instruction from the House:*** If the House has agreed to an instruction motion the committee is obliged to consider the matter and does not have the capacity to overturn that instruction.

FAZIO, 07/06/2006, p. 742.

## Lodging amendments

***Once in committee amendments accepted at discretion of the Chair:*** Amendments received after the House has resolved into committee of the whole will only be accepted at the discretion of the Chair.

FAZIO, 10/11/2015, p. 5498.

## Content of amendments

***Amendments cannot be tendered in a spirit of mockery:*** The terms of an amendment may not be trifling, or tended in a spirit of mockery.

KHAN, 10/11/2015, p. 5498.

## Amendments must be within leave of long title

***Within leave of long title:*** An amendment that is outside the leave of the long title of the bill will be ruled out of order.

GAY, 18/06/1996, p. 3018; GARDINER, 26/06/2013, p. 22036; KHAN, 10/11/2015, p. 5498.

***Within leave of long title and objects of bill:*** In determining relevancy of an amendment, recourse must be had to the long title and objects of the bill.

GAY, 18/09/1996, p. 4264; KELLY, 10/11/1999, p. 2574; GRIFFIN, 01/07/2003, p. 2414; MALLARD, 25/9/2019, p47.

***Chair to determine whether amendment within leave of long title:*** It is not the decision of Parliamentary Counsel whether an amendment is within the scope of a bill. That is a matter for the Chair of Committees to determine.

FAZIO, 23/05/2006, p. 78.

## Amendments to money bills

**May be amended by the Legislative Council:** Bills which impose any rate, tax or impost must originate in the Legislative Assembly, but they may be amended in the Legislative Council.

SYMONDS, 27/11/1996, pp. 6675-76.

**May be amended by the Legislative Council:** *[On a point of order being taken, pursuant to section 5 of the Constitution Act 1902, that certain amendments were out of order because they purport to have material effect on a money bill].* Since 1856 there has been disagreement between the two Houses on the question of the Council's powers with respect to money bills. The Council adopts a much narrower interpretation of the relevant sections of the Constitution Act 1902 – sections 5, 5A, 5B and 46 – than does the Assembly.

I agree with the position taken by the Hon John Fuller and the Hon Reg Downing in 1969 during debate on the Consumer Protection Bill that the Legislative Council can amend in any way any bill covered by section 5B of the Constitution Act.

KHAN, 24/06/2015, pp. 1727-28.

*See also:* New South Wales Legislative Council Practice, pp. 401-412.

*Note for readers:* The position expressed in *New South Wales Legislative Council Practice* is as follows:

While the financial prerogative undoubtedly rests with the executive government in the Assembly, the Council does not admit any limitations on its powers in relation to money bills other than that such bills must originate in the Assembly under section 5 of the Constitution Act 1902, that it may only suggest by message to the Assembly amendment to a bill 'appropriating revenue or moneys for the ordinary annual services of the Government' under section 5A, and that such a bill may be presented by the Assembly to the Governor for assent under section 5A, notwithstanding that the Council has not consented to the bill. The Council may amend any bill to which section 5B of the Constitution Act applies, including all money bills other than a bill 'appropriating revenue or moneys for the ordinary annual services of the Government', with deadlocks between the Houses such bills to be dealt with under section 5B of the Constitution Act 1902.

## Rules of debate in committee

**Should avoid making a second reading speech:** When speaking to amendments a member should avoid moving to a speech on the second reading, particularly by the use of excessive examples.

KHAN, 21/10/2015, p. 4724.

*See also:* FAZIO, 30/11/2015, p. 20302.

***May draw on examples, but avoid providing great detail:*** It is reasonable to draw on examples to show why any amendment should be supported. However, members must not go into the level of detail that would be appropriate in either a second reading speech or in debate on a private members' motion.

FAZIO, 22/11/2006, p. 4566.

***May address misrepresentation during debate:*** If misrepresentation has occurred it should be dealt with not by point of order, but by way of explanation under standing order 89. However, when in committee of the whole, a misrepresentation can be addressed by way of the member addressing the chamber during debate.

KHAN, 12/8/2015, p 2433.

## COMMITTEES

### Anticipation

***Cannot debate committee proceedings, but may refer to matters on the public record:*** It is not appropriate to debate committee proceedings and the substantive issues before a standing committee before the committee has reported. Issues which are on the public record and which have been stated outside the committee can be referred to.

BURGMANN, 7/3/2001, p. 12286.

### Disclosure of evidence

SO 224

***Disclosure of information possessed by member prior to it being received as evidence by committee:*** Evidence taken by a select committee which has not been reported to the House is privileged and should not be disclosed. However, information that came into the possession of a member prior to it being the property of the committee may be disclosed.

JOHNSON, 20/10/1988, p. 2677.

***Accepting the word of members:*** Unless there is overwhelming evidence to the contrary, the Chair is obliged to accept the advice of the member that they are not reading on to the record in-camera evidence of a committee not reported to the House. However, members should exercise restraint where there is a likelihood that their speech could interfere with the workings of a committee appointed by this House.

PRIMROSE, 8/05/2008, pp. 7187, 7209.

### Debate on committee reports

***Latitude of debate:*** Although traditionally a degree of latitude is extended to members contributing to debate on committee reports they should nevertheless confine their remarks to the report being debated.

GRIFFIN (Deputy), 6/4/2005, p. 15042.



***All members have a right to speak:*** Members of a committee have no more right than any other member of the chamber to express a view on committee reports, and do not have precedence over other members in relation to receiving the call from the Chair.

PEZZUTTI (Deputy), 23/10/2002, p. 5684.

***All members have right to speak on motion to adopt report on Citizen's right of reply:*** Any member is entitled to contribute to a motion to adopt a report on a citizen's right of reply.

BURGMANN, 26/6/2002, p. 3746.

## COMITY

### Relations between the Houses

***Council committee should not inquire into former employee of Assembly:*** A notice of motion for a select committee to inquire into and report on the effectiveness of current laws, practices and procedures in protecting Government employees who make allegations against government officials or parliamentarians, with particular reference to the treatment by the Legislative Assembly of a former employee, is in contravention of the principle of sole cognisance of the Houses, and the principles of comity and mutual respect between the Houses, and is out of order.

PRIMROSE, 4/6/2008, pp. 8100-1; PRIMROSE, 18/6/2008, pp. 8620-1.

***Notice of motion calling for member of the Assembly to take action:*** A notice of motion given by a member of Legislative Council which calls on a member of the Legislative Assembly to undertake certain actions does not contravene the principle of comity between the Houses.

HARWIN, 3/6/2015, p. 1241.

## DIVISIONS

SO 112-113

### Calling for a division

***Must be in Chamber:*** A member outside the Chamber cannot participate in a vote. The only voice calling for a division was that of a member who was not in the Chamber, and is therefore not in order.

FAZIO, 23/11/2010, p. 27844.

### Voting in a division

***May speak against, then vote for motion:*** A member may speak against a motion and then vote for the motion. Standing Order 125 [now SO 113] only prevents a member voicing with the ayes or noes and then voting the reverse in division.

JOHNSON, 2/3/1989, p. 5568.

***Point at which members must be seated:*** The requirement for members to be seated when a division is called takes effect when the Chair gives the call as to what side of the Chamber the ayes will pass and what side of the Chamber the noes will pass. Until that moment members are not required to take their seats.

AJAKA, 22/11/2017, p. 74.

## Conduct of tellers

***Chair may replace tellers:*** When the Chair appoints tellers, they are acting under the direction and instruction of the Chair. It is always open to the Chair to replace the tellers first chosen if the Chair considers that the tellers are unable or unwilling to perform the task to which they are appointed.

AJAKA, 15/11/2018, p. 49.

## FORMAL BUSINESS

SO 44

***Leave for motion to be moved cannot be withdrawn:*** Leave granted for a motion to be moved under standing order 44 cannot be withdrawn. When objection is taken, it is not to the substance of the motion, but to whether the matter can proceed as formal business. If no objection is taken, and the motion moved, it is within the rights of members to vote against the motion.

HARWIN, 8/5/2013, p. 20096.

***Members cannot give reasons for objection:*** Members have a right to object to a matter proceeding as formal business, but not to give a reason for their objection.

AJAKA, 21/11/2017, p. 13.

## INTERJECTIONS

SO 95

### Interjections are disorderly

***Should not interject to prevent member from expressing views:*** Members should allow the free flow of debate in this Chamber. The prime privilege of members in this place is the ability to be heard. Members should not interject solely for the purpose of preventing another member from expressing a point of view.

PRIMROSE, 24/9/2009, p. 18093.

*See also:* HARWIN, 3/6/2015, p. 1246.

***Should seek call at appropriate time, not interject:*** If members want to contribute to the debate, they should seek the call at the appropriate time rather than interject on the member who has the call.

FAZIO, 26/10/2010, p. 26741.

***Interjections should not be solicited:*** It is disorderly to solicit an interjection from another member.

HARWIN, 27/5/2014, p. 29021.

***Continual interjecting with aim of upsetting concentration of speaker:*** There is a stark difference between occasional interjections and sledging, which seeks to upset the concentration of a speaker by way of a continual barrage of insults. Sledging is disorderly.

AJAKA, 3/5/2018, p. 9.

***Disorderly whether intended to be heard by broader Chamber or not:*** The sledging of members during question time, whether it was intended that the sledging be heard or not, is unparliamentary and unhelpful. Members should resist the temptation to engage in that sort of behaviour.

HARWIN, 11/11/2011, p. 7421; HARWIN, 23/11/2011, p. 7630.

## Interjections particularly disorderly during certain items of business

***During condolence motions:*** Members should refrain from making interjections during debate on a condolence motion.

KHAN (Deputy), 15/5/2014, p. 28876.

***During inaugural speech:*** The tradition is that members do not interject during an inaugural speech.

JOHNSON, 23/11/1982, p. 2731.

***During personal explanations:*** Personal explanations are serious matters and are generally heard in silence. Members should honour tradition and listen to the member in silence.

WILLIS, 23/10/1996, p. 5205; WILLIS, 30/10/1996, p. 5513.

## Interjections can be ruled offensive

***Can be subject to points of order:*** Although interjections are disorderly they can be offensive and the subject of points of order.

HARWIN, 30/5/2012, p. 1297.

## Acknowledgement of interjections

***Member speaking may choose to acknowledge:*** Although interjections are disorderly, a member who is making a contribution may choose to acknowledge an interjection because he or she may think it adds to the debate.

HARWIN, 15/8/2012, p. 13711.

***Chair will tolerate if facilitates debate:*** A practice has developed in this House of members acknowledging interjections, which are disorderly at all times. In accordance with tradition the

Chair tolerates interjections that facilitate debate and argument. However, the fundamental privilege of the member with the call to speak freely and be heard is breached when other members continually interject. The Chair will not interfere so long as the interjections facilitate debate and do not cause disruption and infringe on a member's fundamental privilege to be heard.

PRIMROSE, 24/6/2009, p. 16631.

See also: AJAKA, 14/11/2017, p. 15; PRIMROSE, 23/10/2008, p. 10459.

## Responding to interjections

**Responding is disorderly:** Interjections are disorderly at all times, as are responses to them by the member with the call.

HARWIN, 22/8/2012, p. 14156; HARWIN, 20/3/2014, p. 27592; Khan (Deputy), 25/8/2015, p. 2714; Green (Deputy), 14/10/2015, p. 4174.

## MATTERS OF PUBLIC IMPORTANCE

SO 200

**Debate on whether matter should be discussed based on urgency or public interest:** [A matter of public importance] ... is not an urgency motion in which we look solely at why one matter is more urgent than any other. This debate is about a matter of public importance. The mover of the motion must establish within his or her ten minutes whether the matter of public importance should be discussed ... Both speakers need to delve into aspect of the motion in order to determine whether it should be discussed. However, the whole contribution should not be based on the subject matter of the motion. There must be a nexus between what is being said and why the matter is or is not of public importance. Members should not simply state why a matter is urgent but also base the urgency on the public interest.

AJAKA, 11/04/2018, p. 11.

See also: WILLIS, 15/9/1993, p. 3123.

## MATTERS OF URGENCY

SO 201

**Opportunity to discuss an urgent matter without expression of a decision by the House:** The motion to adjourn the House under standing order 13 [now SO 201] is a procedural motion on which debate may take place to ventilate the matter contained in the notice but it is not a substantive motion which allows the expression of a decision by the House. The essential character of the procedure under standing order 13 is that no issue can be determined, but an opportunity is afforded to spotlight some specific matter which, in the opinion of the House, is of sufficient urgency to warrant immediate consideration.

[Note: This ruling applies equally to Matters of Public Importance]

JOHNSON, 3/6/1987, p. 13451.

**Debate on whether matter should be discussed restricted to urgency, not substance of the matter:** When speaking to any motion, including one seeking urgency, members should bear in mind the comments of President Johnson, who ruled on 26 February and 19 November 1987:

In debating a procedural motion, members should restrict their comments to the terms of the motion and not the substance of the matter.

PRIMROSE, 23/9/2008, p. 9720.

***Amendment cannot be moved to procedural motion:*** The motion for adjournment under standing order 13 [now SO 201] is merely a procedural device to provide an opportunity to discuss a matter of urgency. The moving of an amendment to that motion is outside the standing orders.

GAY (Deputy), 19/5/1993, p. 2250.

## MEMBERS

### Conduct – general

***Good sense and courtesy:*** Members of Parliament occupy a very special and privileged position in our society, and nowhere more so than within the precincts of the Parliament. Parliament is not a school: there are no prefects; there are no schoolmasters; and the good and orderly conduct of the Parliament depends on the common sense, courtesy and observation of propriety by members. If that were not the case it would be open to any member to do things which may be found to be excessive by his or her colleagues. This line of propriety is very fine and completely ill defined. It relies entirely upon the good sense and courtesy of members.

WILLIS, 14/10/1992, p. 6793.

*Cited:* AJAKA, 18/10/2018, p. 7.

***Props are unparliamentary:*** It is unparliamentary to use props in Parliament.

BURGMANN, 21/9/2005, p. 18012; PRIMROSE, 13/11/2007, p. 3892; FAZIO, 25/2/2010, p. 20908; HARWIN, 27/5/2015, p. 843.

***Newspapers cannot be used as props:*** Members are not permitted to use newspapers as props.

HARWIN, 8/5/2012, p. 11183.

### Conduct – noise or interruption in chamber

SO 84

***Audible private conversations:*** Audible private conversations make it difficult for the Chair and members to hear contributions to debate. Such behaviour is disrespectful not only to the member with the call but to the Chamber as a whole.

FAZIO (Deputy), 24/9/2009, p. 18114.

*See also:* PRIMROSE, 25/3/2009, p. 13659, 66; FAZIO, 22/9/2010, p. 25818; HARWIN, 2/6/2011, p. 1832, 86, 88.

***Members conversing in President's gallery:*** The attention of members listening to debate should not be distracted by constant interruption from other members in the President's gallery.

PRIMROSE, 29/11/2007, p. 4646; PRIMROSE, 4/12/2007, p. 4827.

***Clapping is disorderly:*** It is not appropriate to clap in the Chamber.

FAZIO, 25/2/2010, p. 20928.

## Conduct – encouragement of disorder in public gallery

***House may proceed against member for conduct committed outside chamber:*** The House has the inherent power to proceed against a member for conduct unworthy of a member committed inside or outside this House if such action is necessary to protect the House and the performance of its functions. For example, if a member was to do something outside the Chamber which encouraged or incited members of the public to act in this Chamber in a disorderly manner, then the House could take action against that member.

Any deliberate encouragement of members of the public to protest in this Chamber or to obstruct the Legislative Council in the performance of its functions will be treated extremely seriously and would likely be dealt with as contempt.

AJAKA, 16/8/2018, p. 18.

## Conduct – called to order

SO 192

***Remain on call/s for entire sitting day:*** Members who have been called to order remain on those calls to order until the conclusion of the sitting day, even if the sitting day continues for more than one calendar day.

HARWIN, 2/6/2011, p. 1966.

## Conduct – when suspended under standing orders

SO 192

***Must be silent while being removed:*** When a member is suspended under the standing orders, the member being removed from the Chamber by the Usher of the Black Rod should be silent. For the member being escorted from the Chamber to continue the argument is disrespectful to the Chair, to members and to the House.

AJAKA, 18/10/2018, p. 6.

## Suspension of member for gross disorder

SO 192

***Refusing to withdraw offensive remarks:*** A member, in refusing to withdraw remarks ruled offensive by the Chair, is guilty of gross disorder.

PRIMROSE, 21/6/2007, pp. 1464, 67.

***Intoxication:*** Grossly disorderly conduct includes inappropriate behaviour the result of intoxication by alcohol or some other substance. Any member who displays such behaviour should therefore expect to be summarily dealt with under the standing orders.

HARWIN, 4/3/2014, p. 26911.

***Reflecting on impartiality of the Chair:*** The suggestion that the President was “running interference for the Government” ruled grossly disorderly.

HARWIN, 19/6/2014, p. 29883.

## Conflict of interest

SO 113, 210

***Relatives standing for election not conflict of interest:*** The Code of Conduct states that members of Parliament must take all reasonable steps to declare any conflict of interest between their private financial interests and decisions in which they participate in the execution of their office. It states further that this may be done through declaring their interests on the Register of Disclosures or through declaring their interest by speaking on the matter in the House or in committee proceedings. The fact that a member's spouse, child, mother, grandparent, nephew or cousin is standing for election to another Parliament does not amount to a conflict of interest and does not require disclosure in the pecuniary interests register.

PRIMROSE, 17/10/2007, p. 2679.

## Courtesy to the Chair

SO 84

***All comments made through the Chair:*** The Chair should be recognised and addressed. All comments should be made through the Chair and not the opposite side of the chamber. A member cannot expect the protection of the Chair if that member does not acknowledge and address the Chair. Replies to interjections should, by courtesy, be made through the Chair otherwise cross-talk between individuals can develop into a morass of interruptions and that debases the debate.

WILLIS, 13/6/1990, p. 5426.

***Must not turn back on Chair:*** Members should not turn their backs on the Chair.

JOHNSON, 5/4/1989, p. 5850; BURGMANN, 30/5/2001, p. 13920; FAZIO (Deputy), 10/5/2007, p. 187.

***Must be silent when Chair is speaking:*** Members must show due respect for the Chair, and be silent when the Chair is speaking. It is not the role of a member to tell other members to sit down. When taking a point of order, the member must wait until they are given the call before speaking.

FAZIO (Deputy), 3/7/2003, p. 2819.

***Must remain silent during ruling:*** Members must not interrupt the President while they are ruling.

HARWIN, 20/8/2013, p. 22367.

***Must remain silent during ruling:*** Members must not address members across the Chamber while the Chair is ruling on a point of order.

FAZIO, 28/10/2010, p. 27065; FAZIO, 11/11/2010, p. 27645.

## Canvassing the Chair's ruling

***Must not cavil with Chair's ruling:*** If a member wishes to take a point of order regarding my ruling, they have every right to do so. However, I do not wish to enter into a discussion with members about my rulings.

AJAKA, 19/6/2019, p. 19.



***Must not canvass or flout rulings:*** Members may not canvass or flout rulings of the Chair.

BUDD, 10/3/1977, p. 5047; JOHNSON, 1/12/1982, p. 3629; BURGMANN, 14/11/2006, p. 3709; FAZIO, 10/11/2010, p. 27425.

## Inaugural (first) speeches

***Customary courtesies expected:*** The customary courtesies are expected during the inaugural speech of a member.

BURGMANN, 19/11/2001, p. 16801.

***Making a personal explanation does not preclude giving of first speech:*** The making of a personal explanation does not preclude a new member from making what would be his or her maiden speech at some later stage.

JOHNSON, 27/2/1986, p. 521.

***Members re-elected to the Legislative Council:*** Members who are re-elected to the Council and have during previous service made a maiden speech, are not accorded, a second time, the courtesies usually accorded to a maiden speaker.

JOHNSON, 27/2/1986, p. 821.

## Attire

***Badges, commemorative ribbons and other emblems:*** There is nothing in the standing orders in relation to the wearing of badges. There is a body of precedence that members may not wear badges that are larger than the Legislative Council badge. However, a number of members in this Chamber have clearly worn badges larger than the Legislative Council badge and members have not been directed to remove those badges as no point of order has been taken.

I am also uncomfortable with the distinction that has sometime been drawn between badges and commemorative ribbons and other emblems, which are worn by many members at the same time on a regular basis.

If members choose to wear a badge which appears contrary to past rulings, and a point of order is taken, the President or Chair may rule on the appropriateness of the badge based not only on the size of the badge but also whether in essence it is modest, inoffensive and maintains the dignity of the House.

AJAKA, 20/9/2017, p. 27.

***Neatness, cleanliness and decency:*** The attire of members should conform to standards of neatness, cleanliness and decency, but the call cannot be denied to a member simply because he or she is dressed in a manner that departs from tradition in some way. To prevent a member from speaking or voting would be to interfere unnecessarily with the right of a member to represent his or her constituents.

BURGMANN, 10/4/2001, p. 13377.



## Reading hard copy documents in the chamber

***Reading newspapers is disorderly:*** Reading a newspaper in the chamber is not acceptable and is disorderly.

WILLIS, 8/6/1995, p. 899; CHADWICK, 21/5/1998, p. 4990; BURGMANN, 7/6/2006, p. 683; HARWIN, 27/6/2013, p. 22048; AJAKA, 20/9/2017, p. 17.

***May read books:*** There is no prohibition in either the standing orders or previous rulings on the reading of books by members.

FAZIO (Deputy), 20/10/2004, p. 11650.

***May read photocopies of documents related to debate:*** The reading of documents that are the subject of debate is not out of order.

BURGMANN, 31/8/2006, p. 1221.

## Use of electronic devices and cameras

***General rule:*** The principle to be observed in relation to the use of electronic devices in the Chamber is that their use should not interrupt or disturb proceedings. Members can bring electronic devices into the Chamber provided they are set on silent mode, and can use them to send messages and emails. The use of laptops in the Chamber is acceptable, including the reading of newspapers online, provided that their use does not interrupt the proceedings of the House. The use of cameras by members in the House when the House is sitting is not acceptable, this includes the use of camera phones.

PRIMROSE, 5/3/2009, p. 13014.

***Mobile phone use:*** Members must not use mobile phones to take or receive calls and the taking of photographs in the Chamber with a mobile phone is prohibited.

FAZIO, 10/11/2010, p. 27415.

***Selfies are disorderly:*** Selfies in the Chamber are completely inappropriate.

HARWIN, 15/10/2015, p. 4329.

## NOTICES OF MOTIONS

### Content

***Notices containing unparliamentary language amended before appearing on Notice Paper:*** Where notices of motions contain unparliamentary language and when they go beyond the bounds of good taste, notwithstanding a member's intention to illustrate a point, notices will be amended before they appear in the Notice Paper.

AJAKA, 12/4/2018, p. 41.

*See also:* HARWIN, 13/3/2013, pp. 18435.

***Not to contain images:*** Notice of motions containing images are contrary to precedent and are to be removed from the motion.

HARWIN, 9/3/2016, p. 7087.

***Not to contain offensive language:*** As long as the language used in a motion is not in itself offensive, members are free to use words of their choosing and to take responsibility for them. It is a matter for the House to agree to a motion, amend it or, where offensive, reject it.

KHAN (Deputy), 25/02/2020, pp 54-55, AJAKA 22/09/2020, p 22.

***Not to contain voluminous material:*** Members of the House in drafting notices of motion should reflect on what is best parliamentary practice. Notices are an opportunity to put a question or proposition to the House, which may be debated and amended before being decided by the House. They are not an opportunity to put voluminous material on the Notice Paper except as necessary to facilitate debate and elicit a decision of the House.

AJAKA 15/09/2020, p 36.

***Argument:*** There is no rule that notices of motions must not contain argument.

AJAKA 15/09/2020, p 36.

## Giving of

## SO 71

***Order of giving notices:*** By convention the President gives priority to Ministers and the Leader of the Opposition then the order is one each on rotation, beginning with the Opposition.

HARWIN, 27/8/2013, p. 22721.

***May read full notice:*** Members have the right to read notices of motions in their entirety, even if they are lengthy.

BURGMANN, 5/5/2004, p. 8263.

***Anticipation does not apply:*** There is no application of the rule of anticipation in regard to notices as it is not until a motion has been moved and is before the House that the rule is invoked.

HARWIN, 9/11/2011, p. 7083, 7110.

## Giving of – standing order 71 (6)

***Leave cannot be withdrawn once member has commenced giving notice:*** Once leave has been granted for a notice of motion to be given after the House has proceeded to business on the Notice Paper, and the member has commenced giving the notice, leave cannot be withdrawn.

HARWIN, 12/9/2013, p. 23374.

## OFFENSIVE EXPRESSIONS

SO 91

**General practice:** It is for the Chair to determine whether the words complained of are offensive or disorderly and should be withdrawn.

Offensive words must be offensive in the generally accepted meaning of that word. Whether particular words are offensive or disorderly may often depend on the context in which they are used. If the Chair is of the opinion that words complained of are offensive or disorderly, the Member concerned will be called upon to conform to the rules of the House and retract the offensive expression and, in a serious case, make an apology to the House if required by the Chair. When ordered to withdraw a statement, a Member must withdraw without qualification or reservation. The request for withdrawal of an offensive expression must come from the Member reflected upon and must be made at the time the remark was made and cannot be raised some time later.

JOHNSON, 31/3/1987, p. 9586.

*Cited:* AJAKA, 18/10/2018, p. 6.

**Chair to determine if words are offensive:** It is for the Chair to determine whether the words complained of are offensive or disorderly and should be withdrawn. The Chair should put himself in the place of the member who claims to be offended. If the Chair consequently believes the words to be offensive they should be then withdrawn.

JOHNSON, 18/10/1989, p. 11371.

*Cited:* AJAKA, 18/10/2018, p. 6.

**Withdrawing not conditional:** The withdrawal of offensive remarks is not conditional; either the member withdraws or does not withdraw.

WILLIS, 5/12/1994, p. 6376; MITCHELL (Deputy), 24/5/2012, p. 11908.

### Applies to individuals, not groups

**Only offensive if made about individual:** Remarks must apply to individuals. A remark is offensive only if it was made with respect to an individual and not to a group.

JOHNSON, 20/10/1988, p. 2684; PRIMROSE, 23/10/2007, p. 3010; FAZIO, 3/12/2009, p. 20526; GARDINER (Deputy), 12/8/2011, p. 4326; HARWIN, 14/3/2012, p. 9556.

**Must be offensive in a personal way to be ruled offensive:** Offensive words must be offensive in some personal way. When a person is in political life it is not offensive that things are said about him or her politically. There may be occasions on which remarks offensive to an identifiable member may not be regarded as unparliamentary when applied to a group where members cannot be identified.

JOHNSON, 31/3/1987, p. 9586.

*Cited:* AJAKA, 11/4/2018, p. 35.

**Only offensive if made about individual, but should not reflect upon members:** A remark is offensive only if it is made with respect to an individual and not to a group. However, the right of free speech in this Chamber with the protection of privilege is an important right that members

need to do their jobs effectively. Orderly debate is the basis of the right to free speech. The long tradition of rulings in relation to groups should not be taken as license to flout other provisions relating to reflections upon members.

HARWIN, 20/10/2011, p. 6817.

*See also:* PRIMROSE, 29/10/2009, p. 18989.

## Quotation of offensive words

***Quoting offensive words may be permissible if pertinent:*** The quotation of offensive words, if pertinent to a question, are in order subject to the enforcement of standards of good taste by the House. A Member who goes beyond the bounds of good taste must accept the consequences.

JOHNSON, 24/10/1989, pp. 11593-4.

## PAPERS

### Orders for the production of documents

SO 52

***Statutory secrecy provisions do not preclude a public servant complying with an order:*** It is for the House to consider how it uses its extensive powers to order the production of documents. Statutory secrecy provisions do not preclude a public servant from co-operating with the Legislative Council's exercise of its power to order the production of state papers.

KHAN (Deputy), 25/2/2020, pp 14-15.

***Police investigations are not part of the administration of justice:*** Police investigations of an actual or suspected offence are not part of the administration of justice. The administration of justice begins with the filing or issue of proceedings invoking the jurisdiction of a court or tribunal or the taking of a step that marks the commencement of judicial proceedings. Documents that are not sufficiently related to identifiable court proceedings can be ordered under standing order 52.

AJAKA, 24/3/2020, pp 67-68.

***Documents prepared for government decision making that are later used in the Industrial Relations Commission may be ordered under SO 52:*** The question as to whether the Industrial Relations Commission (IRC) is involved in the administration of justice is far from settled at law. The administration of justice begins with the filing or issue of proceedings invoking the jurisdiction of a court or tribunal or the taking of a step that marks the commencement of judicial proceedings. Where documents brought into existence to assist in decision-making and the development of public policy of the New South Wales Government, are later used in proceedings before the IRC, such documents cannot be said to have been created for the purpose of proceedings in the IRC. Documents that are not sufficiently related to identifiable court proceedings can be ordered under standing order 52.

AJAKA, 3/6/2020, pp 67-68; and AJAKA, 15/9/2020, pp 57-58.

***Motions seeking the production of electronic documents should use the words 'if possible':*** While the power of the House to order the production of electronic documents has been contested from time to time, the Legislative Council has made no concession as to its powers to order the production of electronic data. However, it is suggested that motions seeking electronic documents use the words "if possible" so as to offer departments some latitude in preparing returns.

AJAKA, 5/8/2020, p 45. .

## Tabled documents

SO 54

***Only tabled documents made public may be quoted from or have contents revealed:*** When documents are tabled in this Parliament for members of this chamber only to peruse, members may not quote from them or reveal any of their contents until and unless the House has resolved to make the documents public.

BURGMANN, 5/12/2002, p. 7750.

## Tabling of documents quoted in debate

SO 56

***Not responsibility of Chair to judge provenance of document tabled:*** The Chair has no responsibility to judge the accuracy or correctness of a document tabled.

DONNELLY (Deputy), 7/9/2006, p. 1620.

***Minister may table document at the end of Question Time or following an answer:*** A Minister, in response to an order of the House under standing order 56, can table a document quoted in an answer either at the end of question time or following the answer.

HARWIN, 16/2/2012, p. 8392; HARWIN, 22/11/2012, p. 17364.

***Copious notes do not constitute a document for the purposes of standing order 56:*** If a Minister is quoting from a specific document as part of their answer, the document can be the subject of a motion under the standing order. However, if the Minister is quoting from copious notes in answer to a question it does not fall into the same category.

HARWIN, 23/2/2012, p. 8823.

***House to accept assurance of Minister that a document is confidential for the purposes of standing order 56:*** Under Standing Order 56 a document relating to public affairs quoted by a Minister may be ordered to be laid on the table, unless the Minister states that the document is of a confidential nature.

HARWIN, 19/3/2014, p. 27431.

## PERSONAL EXPLANATIONS

SO 88

**Purpose:** Personal explanations should allow the member concerned to explain a matter reflecting on the honour, character or integrity of that member, or to explain any matter which reflects upon the member in a personal way. They should not be used to explain matters on behalf of any other person. The matter which is the subject of the personal explanation should not be amplified or debated. Provocative or disputative language should not be used. The use of personal explanation to reply to or explain a matter upon which a member has been misquoted or misunderstood is outside the scope of Standing Order 70 [now SO 88]. That type of explanation is covered by the provisions of Standing Order 71 [now SO 89].

JOHNSON, 27/2/1986, p. 521.

*Cited:* WILLIS, 18/11/1992, pp. 9095-7; HARWIN, 12/10/2011, pp. 5999-6000; AJAKA, 26/9/2018, p. 33.

**To address misleading statements:** A ruling of President Willis made it clear that an implication by one member against another member is offensive if it is of a personal nature rather than of a political nature. If a member is of the view that misleading statements have been made about his or her behaviour, the member may, in accordance with the standing orders, seek to make a personal explanation.

BURGMANN, 3/7/2003, p. 2730.

**Not be used to make debating points:** Personal explanations must not be used to make debating points.

HARWIN, 23/6/2015, p. 1596.

**Not to explain conduct of other person:** A personal explanation should not contain an explanation of the conduct of another person.

SOLOMONS (Deputy), 12/10/1988, p. 2057.

**Leave may be withdrawn at any time:** A member may, with the leave of the House, explain how his or her honour, character or integrity has been reflected upon but must not debate the subject matter of the explanation. Leave may be withdrawn at any time if the member contravenes the standing order.

PRIMROSE, 23/10/2008, p. 10468.

*Cited:* AJAKA, 26/9/2018, p. 33.

**May not immediately seek leave again once leave has been withdrawn:** When leave is withdrawn while a member is giving a personal explanation, for a member to then immediately seek leave to continue their personal explanation is trifling with the House.

AJAKA, 26/9/2018, p. 33.

**Not be used to explain speeches:** A personal explanation can be used to explain a matter that reflects upon a member in a personal way. It should not be used to explain matters on behalf of any other person and cannot be utilised to explain or reply to a matter upon which a member has been misquoted or misunderstood in a debate – that type of explanation is covered by standing order 89.

AJAKA, 6/8/2020, p. 69.

## PETITIONS

SO 69

***Content of petitions and Legislative Council crest:*** Petitions must conform with the rules of practice. The wording of a petition should be confined to facts or material allegations to support the prayer of the petition. Further, the use of the Legislative Council crest on the printed form of a petition is inappropriate as it could imply that the petition has the endorsement of the House.

JOHNSON, 2/8/1989, p. 9112.

***Voting against motion to receive petition:*** Members may vote against the motion that a petition be presented if they are of the opinion that it has not been presented in a suitable form.

BURGMANN, 26/10/2006, p. 3507.

### Irregular petitions

***Members should not assume that leave to present irregular petition will be granted:*** The standing orders provide in what form a petition should be presented. Members should not assume that leave to suspend standing orders [in order to present an irregular petition] will be granted. That in itself is grossly discourteous to other members.

HARWIN, 27/11/2013, p. 26449.

## POINTS OF ORDER

SO 95

***General process:*** When members take points of order they should direct attention to the breach of order, where possible citing the relevant standing order. Members should desist from taking unnecessary or frivolous points of order merely to disagree with something, to contradict a statement or to correct an apparent error in debate.

BURGMANN, 11/4/2002, p. 1372; FAZIO (Deputy), 2/12/2008, p. 12193; PRIMROSE, 3/12/2008, p. 12359.

***Must wait until given call:*** Members who wish to take a point of order must wait until they are given the call before they speak.

FAZIO, 20/10/2010, p. 26359.

*See also:* AJAKA: 29/5/2019, p. 13.

***Other members must take their seats:*** When a point of order is being taken all members except the member taking the point of order must resume their seats.

BURGMANN, 26/9/2006, p. 2154.

***Members should make points of order succinctly, without argument:*** When members take a point of order they should state succinctly how the standing orders have been breached and not engage in argument.

HARWIN, 20/9/2012, p. 15520.



**Members should make points of order succinctly, particularly during debate on a motion considered in short form format:** When points of order are taken during short timed debates, members should make their point succinctly and contributions to the point of order should also be brief.

AJAKA, 21/11/2019, p. 9.

**Deputy President or Temporary Chair may take point of order:** There is nothing to prevent the Assistant President, the Deputy President or a Temporary Chair of Committees, when not presiding, from fully participating in debate, including taking a point of order. Regardless of the office held by the member taking the point of order, it is for the Chair to rule on the point of order without fear or favour and without in any way being influenced by the office held by the member taking the point of order.

AJAKA, 19/9/2019, p2.

## Where no basis for point of order

**Debating point:** Members may not use points of order to make a debating point.

BURGMANN, 7/9/2000, p. 8741; FAZIO (Deputy), 1/4/2004, p. 7941; KHAN (Deputy), 29/5/2014, p. 29385; HARWIN, 10/9/2015, p. 3447.

**Being misrepresented:** It is not a point of order for a member to claim that he or she has been misrepresented.

BURGMANN, 3/6/2004, p. 9512; BURGMANN, 25/10/2006, p. 3314; FAZIO, 20/10/2010, p. 26289.

**Misleading the House:** There is no point of order on misleading the House.

PRIMROSE, 30/10/2008, p. 10903; FAZIO, 2/9/2010, p. 25100; HARWIN, 8/5/2014, p. 28427.

**To solely erode another member's time:** It is disorderly for members to take points of order for the sole purpose of eroding another member's time.

BURGMANN, 30/6/1999, p. 1782.

*Cited:* AJAKA, 19/6/2018, p. 2.

**Personal explanation:** Members may not seek to make personal explanations by way of points of order.

HARWIN, 22/11/2012, p. 17359.

**Reflecting on members:** Points of order should not be used to reflect on members.

HARWIN, 8/5/2014, p. 28421.

**While Chair is ruling:** Members must not take points of order while the President is giving a ruling.

HARWIN, 20/11/2014, p. 3185.



## Speaking to

***Cannot introduce new material:*** When speaking on a point of order, a member cannot introduce material into the debate that is to do with the substantive issue.

BURGMANN, 26/9/2002, p. 5486; FAZIO (Deputy), 21/10/2009, p. 18397.

***Must wait until member has finished speaking, unless taking a new point of order:*** A member wishing to speak to a point of order must wait until the member with the call has finished speaking, unless they wish to object and take a point of order on the member with the call.

BURGMANN, 3/12/2003, p. 5659.

## Rulings on

***Chair not obliged to rule immediately:*** The President is under no obligation to rule on matters immediately. It is appropriate that careful consideration be given to certain matters, particularly when a matter arises for the first time in the term of a President.

AJAKA, 20/9/2017, p. 1.

***Ruling based on current point of order:*** The fact that a point of order was or was not taken to earlier matter of a similar nature is not relevant. My ruling will be based on the matters raised in this point of order.

AJAKA, 17/5/2018, p. 39.

***Chair may rule, even if time for debate has expired:*** When a member takes a point of order it must be dealt with, even if the time for debate expires while the matter is being dealt with.

BURGMANN, 21/3/2002, p. 911; BURGMANN, 5/6/2001, p. 14279.

## PRESIDENT

### Role of the Chair

SO 83

***Authority of President:*** The President is not only the Master of the House, but the Servant of the House. As the Servant of the House, the President usually intervenes when asked by members. The Chair does not intervene very often. However, if something is right outside the standing orders the President will intervene.

JOHNSON, 1/8/1989, p. 8737.

***Not practice to intervene in debate, but will do so to uphold standing orders:*** It is not the practice of the Chair to seek to intervene in debate. However, it is the practice of the Chair to seek to uphold the standing orders of the House.

PRIMROSE, 13/11/2007, p. 3895.

***Only person who can direct members:*** The only person in the Chamber able to direct members what to do is the Chair.

BURGMANN, 17/10/2006, p. 2595.

*Cited:* AJAKA, 10/4/2018, p. 21.

***Determining points of law not the role of the President:*** Determining questions of law is not the role of the President.

AJAKA, 5/6/2019, p. 39.

## Making rulings

***Past rulings not binding:*** Past rulings of the President are not strictly binding. There are circumstances in which past rulings are to be observed and circumstances where practice and precedent has evolved over time.

AJAKA, 20/9/2017, p. 2.

***May rule on matter even when there is no point of order:*** It is open to the President to rule as to whether a matter is within the standing orders, regardless of whether there is a point of order before the Chair.

HARWIN, 27/3/2014, p. 28018; HARWIN, 14/8/2014, p. 30627.

*See also:* PRIMROSE, 15/5/2008, p. 7647; AJAKA, 4/6/2019, p. 21.

## Casting vote

SO 116

***Allow further debate where possible, if not possible taken by the majority:*** The Chair should always vote for further discussion where this is possible. Where no further discussion is possible, the decision should be taken by the majority. The casting vote on an amendment to a bill should leave the bill in its existing form.

Applying these principles to the stages in the passage of a bill, the Chair should give their casting vote in favour of the first and second readings of the bills and in favour of motions that the bill be considered in committee. The Chair would oppose the third reading of a bill on the basis that it would limit discussion.

In relation to subordinate legislation, the practice of the House is governed by the principle that no proposal to reject or amend a bill or instrument in the form in which it is before the House shall be agreed to unless there is a majority in favour of such rejection or amendments.

JOHNSON, 30/5/1990, pp. 4756-7.

***Allow further debate:*** According to tradition, the Chair casts its vote to allow further debate.

BURGMANN, 18/9/2001, p. 16620.

***Maintain status quo:*** When there is an equality of votes the Chair casts their vote so as to maintain the status quo.

BURGMANN, 28/11/2001, p. 18945.

## Participation in debate

SO 86

***President may take part in debate:*** The fact that a member becomes President does not deny the member the right to participate in debate. As the same standing orders apply to other Presiding Officers who assume the Chair in my absence, that does not deny them the right to participate in debate should they wish to do so. I am sure that anyone who occupies the Chair would take full cognisance of the standing orders and not contravene them.

JOHNSON, 11/5/1989, pp. 8039-40.

***Deputy President or Temporary Chair may take point of order:*** There is nothing to prevent the Assistant President, the Deputy President or a Temporary Chair of Committees, when not presiding, from fully participating in debate, including taking a point of order. Regardless of the office held by the member taking the point of order, it is for the Chair to rule on the point of order without fear or favour and without in any way being influenced by the office held by the member taking the point of order.

AJAKA, 19/9/2019, p2.

## PRIVILEGE

### Contempt

SO 190

***Intimidation of member:*** Demands and threats by individuals calculated to intimidate a member into an undesirable course of action is a contempt of Parliament.

WILLIS, 26/11/1997, p. 2494.

### Matter of privilege

***Member prevented from entering the Chamber:*** A matter of privilege arises if a member who intends to speak in debate is physically prevented from entering the Chamber.

PRIMROSE, 23/6/2009, p. 16468.

## QUESTIONS AND ANSWERS

SO 64-67

***Principal object of questions is to seek information or press for action by a Minister:*** For a question to be admissible it must comply, inter alia, with Standing Orders 29 and 32A [now SO 64 & 65]. Those standing orders provide, first, that to be in order a question addressed to a Minister must relate to public affairs. This implies that a question must relate to a matter within the government's responsibility or which could be dealt with by an administrative or legislative action. Second, a question should not give more information than is necessary to explain the question itself and should not contain argument or express opinions. Questions should be concise and not contain any material, quotations or statements of fact unless it is strictly necessary to the asking of the question. Third, questions should be interrogatory in nature and should not be used as a means of indulging in debate on an issue. Apart from these rules there are a number of other rules concerning the content of questions which need to be brought to the attention of members. A

question should not, in effect, be a short speech or mainly limited to giving information. Questions may not contain inferences or imputations, epithets, ironical or offensive expressions. In addition, a question may not contain hypothetical matter and may not ask for an expression of opinion or a legal opinion. Lengthy or involved questions and questions outside the immediate knowledge of Ministers should be placed on the Notice Paper. All members should appreciate that the principal object of questions is to seek information, or press for action by a Minister.

JOHNSON, 22/10/1986, pp. 5094-95.

*Cited:* AJAKA, 19/10/2018, p. 23; 16/10/2019, p4.

*See also:* HARWIN, 26/5/2015, p. 719.

## Government to determine length of time for Questions

***Government entitled to end Question Time at any time:*** The standing orders do not stipulate the duration of question time. The Leader of the Government is entitled to draw question time to a close at any time the Leader of the Government wishes.

HARWIN, 10/11/2015, p. 5432.

***Minister given the call when the time for questions has expired:*** When the time has expired for questions the Minister has the right to indicate that any further questions be put on notice. That includes first and second supplementary questions. I will always give the Minister the call first.

AJAKA, 18/6/2019, p. 21

## Questions to Ministers

SO 64(1)

***Must relate to public affairs with which Minister is officially connected:*** Questions may be put to Ministers relating to public affairs with which the Minister is officially connected, to proceedings pending in the House or to any matter of administration for which the Minister is responsible.

BURGMANN, 25/5/2006, p. 384; BURGMANN, 23/11/2006, p. 4709; PRIMROSE, 6/5/2009, p. 6950; FAZIO, 20/10/2010, p. 26296; HARWIN 16/9/2014, p. 455.

*Cited:* AJAKA, 17/9/2019, p. 21.

***Must relate to public affairs within Government's responsibility:*** Questions must relate to the conduct of public affairs within the government's responsibility which could be dealt with by legislative or administrative action.

BURGMANN, 31/8/2000, p. 8551.

*Cited:* AJAKA, 22/11/2018, p. 40.

***Question not relating to public affairs of the State not in order:*** A question not affecting the public affairs of New South Wales is out of order.

WILLIS, 28/5/1997, p. 9329.

*Cited:* AJAKA, 25/9/2018, p. 24339.

***Leader of the Government may be asked questions relating to any area of Government responsibility:*** It is in order for members to ask any question of the Leader of the Government

as they represent the Premier in the Legislative Council.

HARWIN, 25/8/2015, p. 2698.

***Matters relating to a foreign government do not fall within area of a Minister's responsibility:*** Questions may be put to Ministers relating to public affairs with which the Minister is officially connected. Matters relating to a foreign government do not come under the purview of a Minister in this House.

PRIMROSE, 31/3/2009, p. 14025.

***Questions regarding affairs of a political party not in order:*** Questions relating to the affairs of a Minister's department or office are in order, however references in a question to the affairs of a political party are not in order.

BURGMANN 2/11/2000, p. 9589.

*Cited:* HARWIN, 22/10/2013, p. 24339; HARWIN, 18/3/2014, p. 27317; AJAKA, 25/9/2018, p. 28135.

***Administration or management of whips not matters of Government responsibility:*** In cases where Government whips are elected by their respective party rooms and are not appointed by the Executive, then questions regarding the administration or management of the whips directed to the Leader of the Government are out of order as they are not matters of Government responsibility.

AJAKA, 19/09/2018, pp. 27-28.

## Questions to members other than Ministers

SO 64(2)

***May be directed to private members relating to items on the Notice Paper of which they have charge:*** Members other than ministers may have questions asked of them relating to a matter connected with the business on the Notice Paper of which that member has charge. Otherwise, it is not in order for members to ask other members questions.

HARWIN, 27/5/2015, p. 844.

## Questions to Parliamentary Secretaries

For a question to a Parliamentary Secretary to be a valid question it needs to either be related to her position regarding her official responsibilities or be shown to be officially connected to a Minister to whom the Parliamentary Secretary is connected.

AJAKA, 30/05/2019, p. 29.

## Questions to committee chairs

SO 64(3)

***May ask committee Chair question relating to administrative operations of the committee:*** It is not competent under standing order 29 [now SO 64] for members to canvass the findings of a committee in relation to a matter upon which it has not reported. It is, however, competent for a member to ask of a committee Chair questions relating to the administrative operations of the committee.

WILLIS, 30/5/1996, p. 1776; BURGMANN, 28/6/2001, p. 15625;  
*See also:* PRIMROSE, 29/10/2009, pp. 18949-50.

***Answer from committee Chair must be confined to the administrative operations of the committee:*** A question to a Chair must be about the administrative operations of the committee, and so must the response. The latitude given to Ministers in answering a question is not extended to other members of the House. If the response moves beyond the administrative operations of the committee and draws conclusions, it is arguably anticipating the report of the committee. If the response is confined to the administrative operations it is in order.

HARWIN, 28/8/2013, p. 22851.

## Questions concerning the administration of Parliament

***Questions may not be directed to the President during Question Time:*** Questions regarding matters of parliamentary administration are out of order during Question Time. Members wishing to discuss such matters should consult the President privately.

HARWIN, 12/5/2015, p. 347.  
*See also:* WILLIS, 11/10/1995, p. 1541.

***Questions may not be directed to the President during Question Time:*** There is no capacity within the standing orders for a question seeking information to be directed to the President during Question Time.

KHAN (Acting), 25/10/2018, p. 39.

## Questions concerning members' entitlements

***Questions relating to parliamentary entitlements of a member not in order during Question Time:*** Questions concerning parliamentary entitlements of a member should properly be put either to the Presiding Officer privately or to the Parliamentary Remuneration Tribunal.

BURGMANN, 10/5/2006, p. 22843.

## Questions concerning pecuniary interest disclosures

***Questions relating to a members' pecuniary interest disclosures are in order:*** It is in order for members to ask questions to do with the pecuniary interests disclosed in the Pecuniary Interest Register by members and Ministers, but it is not in order to ask questions about a member's background unless it is connected with something in the Pecuniary Interest Register.

BURGMANN, 10/11/1999, p. 2547.

## Questions asked by Ministers

***Minister may ask question:*** There is nothing in the standing or sessional orders that precludes a Minister from asking a question.

BURGMANN, 24/10/2002, p. 5855.

## Questions asked on behalf of another member

***Question may be asked on behalf of member not present in the chamber:*** A question may be asked on behalf of another member who is not present in the chamber.

BURGMANN, 22/9/2005, p. 18145.

## Content of questions

***Questions seeking detailed information better asked on notice:*** Questions that demand technical answers and numerous figures would be better placed on the Questions and Answers Paper.

GAY (Deputy), 22/9/1994, p. 3508; WILLIS, 14/9/1994, p. 2931.

*See also:* Gay (Deputy), 27/8/1991, p. 507; Evans (Deputy), 6/3/1991, p. 680; WILLIS, 11/5/1994, p. 2237.

***Some preamble allowed:*** The purpose of questions without notice is to elicit information from Ministers concerning the public administration of the State. Although it is customary for members to preface questions with a setting for their questions, such prefaces should be contained and not made a feature providing information that is otherwise publicly available.

WILLIS, 21/9/1995, p. 1258.

***Not for Chair to determine veracity of facts in preamble to question:*** It is not possible for the Chair to determine the veracity of facts presented by members in questions. The standing orders require that any facts presented should be limited to those that will make the question understandable. Any member who makes an assertion thereby attests to the veracity of that assertion.

PRIMROSE, 15/11/2007, pp. 4214-5.

## Rules for Questions

SO 65

### Must not contain argument

***Chair may afford some tolerance:*** The Chair will generally be tolerant of members who include argument within their question for dramatic effect. Ministers are expected to answer that part of the question that does not contain argument. However, members should be mindful of the standing orders and endeavour not to include argument in their questions.

HARWIN, 22/10/2015, p. 4881.

### Must not ask for expression of opinion

***Question seeking explanation of rationale behind a decision allowed:*** It is out of order for members to ask for expressions of opinion. However, a question requesting that a Minister explain the rationale behind a decision is in order.

PRIMROSE, 18/6/2009, p. 16279.



## Must not ask for announcement of Government policy

***Questions relating to Government policy, other than the announcement of policy, allowed:*** Questions must not ask for a statement of government policy, but a question may seek an explanation of government policy; ask a Minister about the effects of a proposal on the Minister's portfolio; ask about the government's intentions and the reasons for those intentions; and seek clarification of a statement made by a Minister.

PRIMROSE, 12/3/2009, p. 13358.

***Question may ask for an undertaking from Minister:*** Questions must not ask for a statement of government policy, but may ask for an undertaking from the Minister.

FAZIO, 20/5/2010, p. 23162.

***Minister may announce Government policy in response to a question:*** It is not disorderly for a Minister to announce Government policy in response to a question.

BURGMANN, 7/5/2002, p. 1537.

## Anticipation

SO 65(4)

***Chair to have regard to probability of matter being brought before House:*** When considering whether a question without notice will anticipate debate on a bill which is currently the subject of a notice of motion, the Chair must have regard to the probability of the matter anticipated being brought before the House within a reasonable time. If it was unlikely that the matter would be before House until the distant future, then it does not fall within the ambit of anticipation.

WILLIS, 28/4/1993, p. 1660.

***Discussion of matter in public domain not constrained by existence of committee inquiring into the same matter:*** Where a matter is in the public domain, it would be nonsense to constrain members' discussion of it just because the House has established a committee to inquire into the matter.

HARWIN, 22/5/2012, p. 11616.

***Simple naming of a matter does not equate to anticipating debate:*** Naming a piece of legislation within an answer, does not constitute anticipation of debate.

HARWIN, 14/11/2012, p. 16753.

***Minister's answer must not contain anticipation:*** If a Minister's response to a question anticipates debate on a bill that is currently before the House, the response is out of order, even if the response is relevant to the question asked.

PRIMROSE, 25/6/2008, p. 9220.



## Taking point of order

***Once answer commenced, time for taking point of order on question has passed:***

Longstanding practice and rulings made by successive Presidents make clear that once an answer has commenced, the time for challenging whether a question is in order has passed.

HARWIN, 27/5/2015, p. 849.

*See also:* HARWIN, 28/2/2013, p. 18208; HARWIN, 18/9/2013, p. 23630; BURGMANN, 19/3/2002, p. 616; HARWIN, 12/10/2011, p. 5991; AJAKA, 28/5/2019, p. 21.

## Time Limits

SO 64(5)

***Stopping the clock for points of order:*** I will order the Clerk to stop the clock if a point of order is taken during a question or answer. This will address the practice in question time of members taking points of order to prevent a member completing their question or a Minister from completing their answer. The clock will resume once the debate on the point of order has concluded and I have ruled on the matter.

HARWIN, 12/5/2015, p. 338.

***Debate on point of order on question not constrained by time limit:*** A question must be successfully asked within the time limit prescribed. Debate on a point of order, and a ruling on it, may go on past the time limit.

BURGMANN, 5/6/2001, p. 14279.

***Rephrasing of question must occur within time limit for asking question:*** A member is allowed to rephrase a question only when the time for asking the question has not lapsed.

BURGMANN, 18/10/2001, p. 17548.

## Supplementary questions

SO 64(4)

### General

***Member must seek call immediately after Minister concludes answer:*** Members who wish to ask supplementary questions must rise and seek the call immediately after the Minister concludes the answer.

BURGMANN, 24/6/2003, p. 1843.

***Must not be a new question:*** A supplementary question which is a new question is out of order.

HARWIN, 21/10/2015, p. 4657; HARWIN, 10/11/2015, p. 5422.

***May not be used to make debating points:*** Members may not use supplementary questions to make debating points.

HARWIN, 28/10/2015, p. 5156.

***Not in order when only formal response given to original question:*** It is not in order for a member to ask a supplementary question when a purely formal answer has been given, such as referring the matter to another Minister. A supplementary question must be based on part of the substantive answer given in response to a question.

WILLIS, 21/11/1995, p. 3531.

*See also:* FAZIO, 28/10/2010, p. 27066; HARWIN, 16/10/2012, p. 15636; HARWIN, 21/11/2012, p. 17167; FAZIO, 20/10/2010, p. 26291; HARWIN, 26/6/2013, p. 22017; AJAKA, 22/11/2017, p. 34; AJAKA, 19/6/2019, p. 22.

***Cannot be asked when original question ruled out of order:*** A supplementary question cannot be asked if the original question has been ruled out of order.

BURGMANN, 28/6/2001, p. 15623.

***When ruled out of order no opportunity to ask another supplementary:*** When a supplementary question has been ruled out of order, it is not in order for the member who asked the question to then seek to ask another supplementary question.

FAZIO, 11/3/2010, p. 21264.

### **Must seek to elucidate answer**

***Must satisfy three aspects to be in order:*** For a supplementary question to be in order it must satisfy three aspects: It must be actually and accurately related to the original question; it must relate to or arise from the answer given by the Minister; and it must seek to elucidate a part of the answer given.

AJAKA, 28/5/2019, p. 21; AJAKA, 29/5/2019, p. 12.

***Must relate to the answer given:*** Supplementary questions must be directly related to the answer given by the Minister and must seek to elucidate, that is, make the answer clearer.

BURGMANN, 20/5/2003, p. 638; PRIMRSOE, 12/11/2009, p. 19470; FAZIO, 31/8/2010, p. 24849; HARWIN, 14/3/2013, p. 18625; AJAKA, 8/3/2017, p. 6.

***May elucidate a one-word answer, such as "No":*** A supplementary seeking elucidation of a one-word answer of "No." is allowed. But if such supplementary questions are extensive and probe new areas they will be ruled out of order.

AJAKA, 8/5/2019, p. 41.

***Supplementary question must relate to or arise from the answer given to original question:*** Supplementary questions are allowed in order to elucidate further information on a question which a member feels has not been effectively answered. They must be actually and accurately related to the original question and must relate to or arise from the answer given to the original question. They are not an opportunity to ask another question.

BURGMANN, 4/4/2000, p. 3970.

*Cited:* AJAKA, 14/8/2018, p. 19.

***Inclusion of word "elucidate" alone not sufficient:*** Using the word "elucidate" in a question that contains additional information is not sufficient to make it a supplementary question.

PRIMROSE, 15/5/2008, p. 7650; AJAKA, 8/3/2017, p. 6.

**"Can the Minister elucidate?" not consistent with purpose of supplementary questions:** Concerning the 'general elucidation question'. There is a body of Presidents' Rulings dating back to 1988 which assist in defining the scope of appropriate supplementary questions. The general elucidation question is not consistent with the purpose of supplementary questions, which should relate to the principle subject matter of the original question and must relate to or arise from the answer originally provided. To be ruled in order, a supplementary answer must seek an elucidation of an answer that has been given by a minister.

HARWIN, 12/5/2015, p. 338.

**Requesting Minister to table document not a supplementary question:** A question which asks a Minister to elucidate an answer by committing to table a document is not a supplementary question.

HARWIN, 20/2/2013, p. 17644.

**May ask Minister to elucidate aspect of answer even if not within scope of original question:** It is in order to ask for the elucidation of an aspect of the answer that was raised, even if the aspect of the answer was not directly within the scope of the original question.

HARWIN, 13/8/2015, p. 2584.

**Cannot relate to part of original question that was not answered:** Supplementary questions must ask for an elucidation of an aspect of an answer given. It is out of order to ask a Minister to address a part of a question that was not answered.

AJAKA, 15/9/2016, p. 35.

### **Must not restate original question**

**Must not repeat original question in full or part:** Members wishing to ask supplementary questions must not ask the same question or part of the same question again, even if the Minister has failed to answer the initial question or only partially answered it.

WILLIS, 20/11/1997, p. 2175.

*See also:* HARWIN, 24/6/2015, p. 1715.

### **Second supplementary questions**

**Member to indicate they are asking a second supplementary:** Members seeking the call to ask a second supplementary question should indicate this to the Chair.

AJAKA, 28/5/2019, p. 14.

**Must be asked by a different member:** At the discretion of the President one supplementary question asking for elucidation of an answer may be put immediately by the member who asked the question. One further supplementary question asking for elucidation of the same answer may then be put immediately by another non-Government member. In my view, the word "another" means that the person asking the first supplementary question is not in a position to ask a second supplementary question.

AJAKA, 29/5/2019, p. 11.

***A second supplementary can only be asked if a first supplementary has been asked:*** A second supplementary question can only be asked if the first supplementary question has been asked by the member who asked the original question.

AJAKA, 30/5/2019, p. 28.

***A second supplementary cannot be asked if the first is ruled out of order:*** If a first supplementary question is asked and it is ruled out of order, then no second supplementary question can be asked.

AJAKA, 20/11/2020, p. 28.

## Supplementary questions for written answer

The rules that apply to first and second supplementary questions also apply to supplementary questions for written answers given at the end of Question Time.

AJAKA, 4/6/2019, p. 21.

## Answers

SO 65

***Answer may not be given to question ruled out of order:*** A Minister cannot provide an answer to a question that has been ruled out of order.

BURGMANN, 26/9/2006, p. 2177.

## Must be directly relevant

***General rule:*** Answers have always been required to be relevant; that is, they have been required to bear upon or be connected to or pertinent to the subject or parts of the question asked. Now they also are required to be directly relevant; that is, they are required to go straight to the point in a direct manner without ambiguity.

I believe that the meaning of direct relevance is just as subjective as the meaning of generally relevant, which is the test that has been applied for the past 20 years. Applying the new test should mean that some answers given in the past will not meet the test of direct relevance. A specific question requires a specific answer. A very broad question, or a question framed in terms of political point scoring, does not require a more specific answer.

The specific question should always be the focus of the Minister's answer. A Minister should not add material to their answers that is not, according to past rulings, generally relevant to the question asked and requires an even more stringent answer to be directly relevant as opposed to being merely relevant. A Minister should resume his or her seat if they do not have the information to answer the question.

AJAKA, 28/5/2019, pp. 17-18.

***Must be directly relevant to at least a part of a question:*** The Chair cannot compel a Minister to answer a question in a certain way or direct what part of the question a Minister should answer,

but the answer must be directly relevant. The Minister was being directly relevant to a part of the question that she was asked.

AJAKA, 5/6/2019, p. 13.

***Minister to demonstrate nexus between comments made in answer and original question:*** When answering a question the Minister must demonstrate a nexus between comments made and the original question.

HARWIN, 8/3/2016, p. 6953; AJAKA, 28/5/2019, pp. 17-18.

***Answer must focus on question:*** The specific question should always be the focus of the Minister's answer.

HARWIN, 13/11/2012, p. 16626.

***Answer must focus on question:*** Question time is an opportunity for members to seek information, it is not the time for the minister to answer a question that they think another member might ask.

HARWIN, 21/6/2011, p. 2890.

***Brief preamble allowed:*** In answering a question, a brief preamble is possible but debating the question is not in order.

HARWIN, 18/6/2013, p. 21412.

*See also:* AJAKA, 20/6/2019, p. 25.

***Chair not to direct Minister on how to answer:*** It is not for the Chair to direct how a Minister should answer the question. Nor is it for the Chair to direct what part of a question a Minister should answer and again how a Minister should answer that.

AJAKA, 15/8/2018, p. 38.

***Minister should resume seat if they do not have relevant information:*** The Minister should resume their seat if they do not have that information, in order to allow question time to proceed.

HARWIN, 4/5/2011, p. 80.

### **Must not debate the question**

***Must not criticise the question:*** The Minister has to be directly relevant. It is not directly relevant to comment on or criticise the question itself.

AJAKA, 29/5/2019, p. 13.

***May debate subject of the question:*** Although a Minister may not debate a question, he or she is not restricted from debating the issue to which the question refers.

PRIMROSE, 13/11/2008, p. 11341; PRIMROSE, 29/10/2009, p. 18948.

*See also:* HARWIN, 13/10/2011, p. 6140; HARWIN, 18/9/2013, p. 23627.

***Must not compare question with another question:*** Comparing the question with another question is debating the question and is out of order.

BURGMANN, 21/10/2004, p. 11774.

### **Given by a different Minister**

***Leader of the Government may elect to answer any question directed to a Minister:*** It is in order for the Leader of the Government to answer any question that is directed to Ministers.

BURGMANN, 16/9/2003, p. 3282.

*See also:* BURGMANN, 17/11/2004, p. 12957.

***Deputy Leader of the Government:*** There is no convention or previous ruling which provides that the Deputy Leader of the Government can answer a question directed to another Minister. The Minister to whom the question was directed should answer the question.

HARWIN, 22/8/2013, p. 22621.

***Minister may elect to transfer a question to another Minister:*** Ministers may transfer a question to another Minister.

BURGMANN, 9/12/2004, p. 13652.

***When question directed to wrong Minister:*** Based on rulings that have been made by previous Presidents, it would be in order, if a point of order was taken, to declare a question out of order if it was asked of the wrong minister. However, it would be quite in order to allow another minister to answer if the minister to whom the question was directed chose to do so. It is a matter for each minister to make his or her own decision where such a situation arises.

HARWIN, 25/8/2015, p. 2698.

### **Minister not compelled to answer all or part of a question**

***Chair cannot compel Minister to answer question:*** Past Presidents' rulings indicate that a Minister does not have to answer a question. A Minister may indicate they do not wish to answer the question. The Minister may also answer the question partially or in their own manner. One would hope that Ministers would conform to past precedents and the standing orders. However, the Chair cannot compel the Minister to answer a question other than in the way he or she wishes.

JOHNSON, 20/10/1988, p. 2704; HARWIN, 5/5/2011, p. 183; HARWIN, 11/11/2011, p. 7423.

***No obligation for Minister to respond to supplementary question:*** Under the standing orders, there is no obligation on the Minister to respond to a supplementary question.

HARWIN, 25/3/2013, p. 19175.

***Minister may choose to answer only part of a question:*** The Chair cannot direct a minister how to answer a question. If a minister chooses to not answer part of a question and answer only another part, that is a matter for the minister. The person who has asked the question has ample opportunity to ask a supplementary question, to ask another question or to put a further question on notice.

HARWIN, 27/8/2015, p. 3003.

***Chair cannot direct Minister to answer parts of a question in a particular order:*** The particular order in which a minister chooses to answer a question or whether the minister chooses to answer a question at all is not a matter on which the President can intervene. As long as the minister is providing relevant information and is not debating the question the minister is in order.

HARWIN, 25/8/2015, p. 2700.

### **Minister can express opinion**

***Minister may express an opinion in an answer:*** Although a question must not seek an opinion of a Minister, a Minister can give an opinion in his or her response to a question.

PRIMROSE, 14/11/2007, p. 4016.

*See also:* BURGMANN, 17/10/2001, p. 17377.

### **Minister can announce Government policy**

***Minister may announce Government policy in an answer:*** The standing and sessional orders do not prohibit answers from containing an announcement of Government policy. However, the standing orders do provide that questions may not ask for such an announcement.

HARWIN, 2/6/2011, p. 1778; HARWIN, 13/9/2011, p. 5479.

### **Providing information related to earlier question**

***Should be done at end of Question Time:*** If a Minister subsequently receives information that is relevant to a previous question, the Minister should give a supplementary answer at the end of question time and not when answering another question.

HARWIN, 25/10/2012, p. 16492.

*See also:* HARWIN, 30/5/2012, p. 12207; HARWIN, 18/10/2012, p. 15995; AJAKA, 28/5/2019, p. 20.

### **Answers by Chairs of committees**

***Answer to be confined to the administrative operations of the committee:*** A member asked a question in their capacity as Chair of a committee may only answer the question so far as it pertains to their involvement as Chair. The member may make remarks as to how the committee may conduct their inquiry, but may not canvass broader substantive issues regarding, for example, the subject of the inquiry.

HARWIN, 11/9/2012, p. 14856.

## **Take note of answers to questions**

***Purpose of debate and what members may canvass:*** Previously under the sessional order for the take note of answers, debate may have canvassed any answers to oral questions asked that day and any answers to written questions received since the last sitting of the House. Subsequently, an amendment by the House has resulted in the words "since the last sitting of the House" being deleted. The sessional order was then further amended by clearly stating that **a speaker will be in order as long as the contribution is relevant to the subject matter of the question asked and the answer given.** Therefore, the previous rulings made prior to the House amending the

sessional order were very strict interpretations of what was then in order. In effect, those rulings are no longer relevant.

AJAKA, 22/8/2019, p. 32.

*See also:* AJAKA, 17/9/2019, p 25; AJAKA, 16/10/2019, p 24.

***Other rules of debate still apply:*** A member is in order as long as the contribution is relevant to the subject matter of the question asked and the answer given by the Minister. However, for a member to start to bring in imputations as to what the member believes the Minister did or did not do is unacceptable and out of order.

AJAKA, 17/9/2019, p. 25.

***Not an opportunity to reflect on make imputations on another member:*** Simply reflecting on and making imputations against another member, particularly a minister, does not come within what is allowed in a take-note debate. A member can clearly talk about the subject matter and can clearly talk about the answer given, but it cannot be used as an opportunity to attack a minister.

AJAKA, 15/9/2020, p. 24.

***Cannot debate the subject matter of a question that has been ruled out of order:*** It is not in order to debate the subject matter of a question that has been ruled out of order. If a question is ruled out of order there is no question or answer to take note of. The debate to take note of answers to questions is just that: a debate about the questions asked and the answers provided.

AJAKA, 24/9/2020, pp 3-4.

## REFLECTIONS

## SO 91

***Personal reflections reduce standard of debate:*** Allegations of a personal nature against Members can only be made upon a direct and substantive motion. Members must exercise their privilege of free speech with good sense and good taste, so as to maintain courtesy of language towards other Members in debate. Personal references not only reduce the standard of debate, provoke retaliation and lead to disorder in the House, but degrade the Parliament in the estimation of the people.

JOHNSON, 31/3/1987, p. 9586.

*Cited:* AJAKA, 11/4/2018, p. 35.

***Substantive motion:*** Members must not cast aspersions or imputations on another member except by way of a substantive motion.

BURGMANN, 27/3/2001, p. 12538; FAZIO, 3/6/2010, p. 23639; HARWIN, 22/10/2014, p. 1603.

*See also:* WILLIS, 15/9/1993, p. 3126.

***Must not make imputations during last seconds of speech:*** The Chair has the discretion to give a member the call. I have noticed that during debate on the take-note motion, the adjournment and, on at least one occasion, a private member's statement, a member will wait until the last few seconds before their time expires to throw in an imputation because they have already said what they wanted. If that practice continues it will be difficult for the Chair to give such members the call. Members should take that into account.



AJAKA, 6/6/2019, p. 31.

## Reflections and imputations of improper motives

SO 91

***Highly disorderly, unless by substantive motion:*** There is no doubt, calling upon the standard reference books on offensive words, etcetera, that according to the practices normally followed in this House offensive words may not be used against any member and all imputations of improper motives and all personal reflections upon members are considered to be highly disorderly. Standing Order 81 [now standing order 91] accords with what these reference volumes say on the matter. The practice of the House, based on the practice of the House of Commons, is that members can direct a charge against other members upon their character or conduct only upon a substantive motion that admits the distinct vote of the House.

JOHNSON, 20/3/1991, p. 1287.

***May reflect on statements but not on individuals:*** A member may speak about statements made by another member, but not about the member.

BURGMANN, 7/3/2006, p. 21050.

## Quotation of documents that reflect on a member

***Inferences drawn from quotations can be offensive:*** Although no offence can be taken to remarks which are quotations from a report, inferences drawn from such remarks may be offensive.

JOHNSON, 15/8/1990, p. 5730.

***Member may quote, but not associate themselves with remarks:*** A member is entitled to quote from an article which is part of the print media, provided that the member does not associate with an accusation that is disparaging or reflecting on a member of another House. The member is restricted to doing so only by way of substantive motion.

WILLIS, 19/6/1997, p. 10680.

*Cited:* AJAKA, 24/5/2018, p. 39.

## Reflections on votes of the House

SO 91

***May state a vote was wrong, a reflection involves 'gross abuse of a past decision':*** There are various other rulings of past Presidents that state members may not reflect on any vote of the House except for the purposes of moving that such a vote should be rescinded. *Odgers' Australian Senate Practice* indicates that the rule against reflecting on a vote of the House is to be invoked against "gross abuse of a past decision of the Senate", which would amount to reflections on the Senate itself. *Odgers* also states that "senators are not prevented in practice from saying that a decision of the Senate was wrong".

AJAKA, 28/3/2017, p. 23.

*See also:* AJAKA, 29/5/2019, p. 54.

***Adverse or critical reference to a vote of the House:*** The word "reflect" in standing order 91(1) means reflect in a poor way, rather than simply making a reference. To simply make a reference to

a resolution or a vote of the House is in order. Any adverse or critical reference to a vote of the House would contravene standing order 91(1).

BURGMANN, 5/12/2003, p. 6029.

**May outline chain of events leading to the outcome of a vote:** It is out of order for any member at any time to reflect upon a vote of the House. However, a member is entitled to outline the chain of events that led him or her to a decision.

HARWIN, 8/11/2011, p. 6989.

## Reflections on the Chair

**Must not reflect on ability of Chair to control Chamber:** Members must not make reflections on the ability of the Chair to control behaviour within the House.

FAZIO, 22/9/2010, p. 25815.

See also: JOHNSON, 1/3/1979, pp. 2655-6.

**Substantive motion:** Reflections on the President cannot be made unless by way of substantive motion.

FORSYTHE (Deputy), 21/9/2006, p. 2064.

**Use of social media to reflect on ruling of the Chair is disorderly:** Any use of social media by members reflecting on any ruling of an occupant of the Chair will be dealt with as any other comment that reflects on the Chair, that is, as an important matter of order. Reflections on the Chair are disorderly, unless done by substantive motion or by dissent.

AJAKA, 21/8/20019, p. 3.

## Reflections on the Monarch

## SO 91

**Questions relating to Monarch to be asked in a respectful manner:** Members may not cast reflections upon the sovereign nor refer to the sovereign in a disrespectful manner. Furthermore, a member may not use the name of the Queen for the purpose of influencing the House in its deliberations. It is in order however, for a member to question a Minister about matters relating to the Queen or her representatives, provided that such questions are phrased in a respectful manner.

JOHNSON, 31/5/1990, p. 4850.

**Address-in-reply:** A motion to amend the Address-in-Reply motion does not constitute an irreverent use of the name of Her Majesty or the Governor.

WILLIS, 2/3/1994, p. 46.

**Applies to monarch, not position of monarch:** Standing order 91 prohibits members from making disrespectful references to the person in the position of the Queen, not to the position itself.

BURGMANN, 7/3/2006, p. 21091.

**Family of monarch:** The requirement that members not refer to the Queen for the purposes of influencing the House in its deliberations applies only to the Queen or the Governor. It does not extend to his Royal Highness the Duke of Edinburgh.  
HARWIN, 23/11/2011, p. 7631.

## Reflections on the Governor

SO 91

**Substantive motion:** A member cannot criticise the Governor except by way of substantive motion.

BURGMANN, 9/12/2004, p. 13746.

**Address-in-reply:** To suggest that His Excellency was placed in an embarrassing situation by being required to make untrue comments in his Opening Speech to Parliament is a personal reflection on the Governor and must be withdrawn.

JOHNSON, 17/9/1980, p. 1040.

## Reflections on Judicial Officers

**Substantive motion:** A member may not attack a judicial officer other than by way of a substantive motion. This includes implying that there is any political motive or a connotation of interference in the actions of a judge.

CHADWICK, 24/9/1998, p. 7965; WILLIS, 23/9/1997, p. 303; TSANG (Deputy), 21/6/2001, p. 15016.

**Does not apply to judiciary as group:** Previous Presidents have ruled that members may not reflect on members of the judiciary except by way of substantive motion. However, it is clear that those rulings relate to reflections on an individual member of the judiciary, rather than the judiciary as a group.

HARWIN, 1/6/2011, p. 1598.

*See also:* HARWIN, 6/3/2012, p. 8937.

## Reflections on members of the Assembly

SO 91

**Only member personally aggrieved can request withdrawal:** While imputations against members in the other Chamber are disorderly, only a member who is personally aggrieved by a statement can ask for the statement to be withdrawn.

FAZIO, 23/2/2010, p. 20704.

**Disorderly, unless by substantive motion:** Members must not cast aspersions or imputations on a member of either House except by way of a substantive motion.

HARWIN, 9/9/2011, p. 5347.

## Reflections on former members

**No prohibition on making imputations against former members:** There is no standing order relating to reflections on former members.

PRIMROSE, 24/8/2008, p. 9923.

***No prohibition, but members should be mindful of making imputations against individuals:*** There is no standing order relating to reflections on former members of either House. However, members are directed to be mindful of making imputations against another individual.

GREEN (Deputy), 16/9/2015, p. 3711.

## Reflections on members of other Parliaments

***No prohibition:*** The standing orders extend only to members of this Parliament. However, it is appropriate that members place themselves in the shoes of members of other parliaments when making their remarks.

HARWIN, 29/5/2013, p. 21051.

## Reflections on members of the public

***No prohibition on making imputations against members of the public:*** It is disorderly for members to make imputations against members of either chamber. However, members can make imputations against members of the public.

BURGMANN, 21/10/2004, p. 11807.

***Members' family:*** The standing orders are silent on comments made regarding the spouse of a member of Parliament.

MACLAREN-JONES (Deputy), 27/3/2013, p. 19460.

***Imputations against public institutions:*** There is no imputation or personal reflection where a member refers to an institution as racist.

BURGMANN, 1/7/1999, p. 1914.

## RELEVANCY

SO 92

***Obligation to be relevant to question before the House:*** Members have an obligation when contributing to debate to ensure that their comments are relevant to the question before the House.

C. ROBERTSON (Deputy), 3/3/2005, p. 14592; SHARPE (Deputy), 29/3/2006, p. 21647; BURGMANN, 15/11/2006, p. 3876.

***Relevancy interpreted in fairly general way:*** The standing orders require that a member's remarks be relevant to the subject matter of the debate. However, that provision has been interpreted in a fairly general way.

BURGMANN, 13/6/2002, p. 3067.

***Debate may be broad ranging, but must be relevant:*** The contributions of members must be relevant to the question before the House. However, by tradition, debate in this House may be broad ranging.

PRIMROSE, 20/10/2009, p. 18248.

***Same latitude extended to all members:*** When the debate has been wide ranging, members should receive the same latitude as has been extended to other members.

JOHNSON, 26/11/1980, p. 3538; JOHNSON, 1/7/1982, p. 239; JOHNSON, 1/12/1983, pp. 4143-45.

***Member in order if responding to comments made earlier in debate:*** Even though a matter may not be relevant to the motion before the Chair, if a member is responding to comments made earlier in debate the member is in order.

HARWIN, 7/3/2012, p. 9035.

## **RULES OF DEBATE**

***Right to be heard:*** The prime privilege of members is to be heard. All members must respect the right of members to exercise that privilege. Members should temper their emotions and respect the rights of other members when the House is dealing with emotional issues.

PRIMROSE, 12/11/2009, p. 19482.

***Debate in English:*** Debate must be conducted in English.

HARWIN, 22/10/2014, p. 1609.

***Acronyms:*** It is a convention of this House that members refrain from using acronyms.

BURGMANN, 25/5/2006, p. 375.

***Mispronunciation:*** It is a matter of common courtesy that if a mispronunciation is pointed out to a member he or she corrects it so that no offence is taken.

HARWIN, 14/3/2013, p. 18623.

***Imitating members:*** There are no previous President's rulings in this Parliament or the Senate relating to the correction of mispronunciation, or the imitation of a member's accent. This subject has received attention in the House of Representatives where it has been ruled disorderly to imitate the voice or manner of a member, or to make remarks in relation to a member's stature or physical attributes. I am reluctant to unduly stifle the robustness of debate in the House. However, the robustness of that debate should be about contested ideas, policies and public administration, not about the personal attributes of members.

AJAKA, 4/4/2017, p. 2.

## Seeking the call

SO 85

**General process:** When seeking the call, members should rise to their feet and address the Chair. Only when a member receives the call should they proceed to address the Chair and the House generally.

JOHNSON, 6/4/1982, p. 3449; JOHNSON, 22/11/1983, p. 3042; JOHNSON, 31/5/1988, p. 743.

## Address remarks through Chair

SO 85

**Address remarks through Chair:** Members should address the Chair and not engage in a protracted debate across the chamber.

JOHNSON, 16/9/1980, p. 930.

See also: PRIMROSE, 30/5/2007, p. 430; FAZIO, 17/3/2010, p. 21512; HARWIN, 29/10/2015, p. 5304.

**Should not address remarks to public gallery:** Members speaking should not address remarks to persons in the gallery who have no right of reply. Members should address their remarks to the Chair.

WILLIS, 31/3/1993, p. 1005; BURGMANN, 13/5/2004, p. 8965; FAZIO, 3/12/2009, p. 20540.

**Purpose is to depersonalise debate:** The rule that members must direct their remarks through the Chair was adopted for good reason, to depersonalise debate in the Chamber to ensure that members concentrate on playing the issue rather than the person.

HARWIN, 24/8/2011, p. 4527.

**No need to physically look at Chair:** Members are not required to physically look at the Chair while making a speech. However, they must address their comments to the Chair and not directly to another member. Members may make a general address to the Chamber provided that they do not engage in a private conversation or discussion with another member.

PRIMROSE, 30/10/2008, p. 10900.

## Manner of delivering speech

**Volume, speed and clarity of speech:** The purpose of members addressing the House is fundamentally to inform members of the House and not to have matters recorded in Hansard. It is therefore important that members deliver their speeches with appropriate volume, speed and clarity so that other members are readily able to understand.

WILLIS, 16/11/1993, p. 5376.

Cited: AJAKA, 22/5/2018, p. 23.

## Members to be referred to by their correct title

**Refer to members as 'Honourable member' or by correct title:** While the use of personal pronouns or a reference to a member as “this person” is not contrary to the standing orders it is common courtesy to use “honourable member” or the member’s title.

HARWIN, 7/5/2014, p. 28256; HARWIN, 27/5/2014, p. 29021.

See also: KHAN (Deputy), 17/3/2016, p. 7665.

**Refer to members by correct title:** The requirement that members refer to members of this place and the other place by their correct titles has a purpose. It maintains order and civility in the House and ensures a reasonable standard of debate.

HARWIN, 14/3/2012, p. 9506; HARWIN, 28/5/2015, p. 973.

**When member has declined the honorific:** That a member has declined the use of the honorific does not mean that the member is not honourable; such decisions should be respected. All members should use the honorific when referring to members who have not declined its use.

HARWIN, 15/6/2011, p. 2295.

## Assurances of Members

**House to accept assurance of member:** The House must accept the word of a member that a matter is in the public domain.

BURGMANN, 6/6/2001, p. 14404.

**House to accept assurance of member:** It is not appropriate for the Chair or other members of the House to question the member with the call when that member has assured the House that the matter being read onto the record is not material provided to the House under standing order 52 and subject to a claim of privilege.

PRIMROSE, 3/9/2009, p. 17266.

## Quotations / Reading extracts

SO 91

**General rules:** It is the practice and precedent of the House that when quoting from a document members should identify the document, précis its contents and quote selectively and briefly from that document.

HARWIN, 2/6/2011, p. 1898.

**May quote selectively:** Nothing in the standing orders says members must quote everything in the document from which they are quoting.

JOHNSON, 9/11/1988, p. 2918.

**Limit quotations and indicate when quoting:** While reasonable quotation is perfectly proper in order to emphasise a member’s argument, Members should generally curtail quotations as far as possible. Members should also clearly state when they are quoting and when they are not.

WILLIS (Deputy), 13/6/1990, p. 5530



**Quoting from public documents:** The House is more interested in the arguments of members than in those of other people. Where documents are a part of the public record, it is suggested that members would best serve the purpose of the House by giving a synopsis of these documents, rather than delivering lengthy quotations.

WILLIS (Deputy), 13/6/1990, p. 5533.  
*See also:* WILLIS, 17/11/1993, p. 5506.

**Sourcing document:** For the purpose of Hansard, members should source the document from which they are quoting and identify the beginning and end of quotations.

WILLIS, 24/3/1992, p. 1715; WILLIS, 22/9/1992, p. 6103.

**May not quote lengthy extracts:** While standing order 91(4) provides that a member may read reasonable extracts from books, newspapers, publications or documents, members should not read lengthy extracts.

C. ROBERTSON (Deputy), 18/10/2006, p. 2783; SHARPE (Deputy), 15/11/2006, p. 3939.

**Give precis of examples rather than comprehensive list:** Members should not attempt to read onto the record comprehensive lists but instead should give a precis of a number of examples. The member should make a statement about the comments of views of the individuals or organizations she is referring to, and the number of individuals or organizations, rather than simply listing them.

GARDINER (Deputy), 2/6/2011, p. 1769.

**Legislative Assembly Hansard:** It is not out of order for members to quote from Hansard of the other place. Reasonable quotations are permissible, however members should identify the document, précis its contents and quote selectively and briefly.

HARWIN, 2/6/2011, p. 1905.

**May quote from newspapers during debate, but not use as a prop:** Members are permitted to read from newspapers during their contributions to the House, however members are not permitted to use newspapers as props.

HARWIN, 8/5/2012, p. 11183.

## Incorporation of material into Hansard

**Generally undesirable, but can serve to assist understanding:** Incorporation of material in Hansard is generally undesirable unless it serves to assist the understanding of material that is used in debate such as graphs and tables that are difficult to comprehend unless they are in visual form. Hansard should be kept as near as possible to a true record.

JOHNSON, 30/3/1983, p. 5369.  
*See also:* JOHNSON, 15/8/1979, pp. 150-1.

**Incorporating material not previously seen:** There are no rules regarding requests for material to be incorporated in Hansard. However members should consider whether they want to grant leave for material to be incorporated in Hansard that they have not seen.

MITCHELL (Deputy), 9/5/2013, p. 20309.



***Members determine if leave is granted to incorporate material, not the Chair:*** It is not within the province of the Chair to determine what shall or shall not be incorporated in Hansard; it is within the province of the House to grant leave for the incorporation of material.

JOHNSON, 22/8/1979, p. 444.

***Cannot give reasons for objecting:*** A member may not give reasons when objecting to the incorporation of material in Hansard.

JOHNSON, 27/11/1979, p. 3869.

***Public documents:*** It is not appropriate for members to incorporate documents in Hansard if they are publicly available.

WILLIS, 19/6/1997, p. 10715.

## Reference to advice received from the Clerks

***Advice becomes part of member's own statement:*** A member who uses written advice from the Clerk in a speech in the chamber is making that advice the member's own statement; it is not to be taken as a statement of the Clerk.

GAY (Deputy), 27/10/1994, p. 4782.

***Advice becomes part of member's own statement and is not to be used as both 'a sword and a shield':*** I would hope that all members would seek the advice of the Clerks prior to presenting material to the House. However, I remind members that they are responsible for any contributions they make to the House, just as I am responsible for any rulings that I make after seeking advice from the Clerks, whose learning and wisdom on such matters I respect. Therefore, members should not take and use advice from the Clerks as both a sword and a shield.

PRIMROSE, 5/6/2008, p. 8241.

***Should refrain from referring to confidential advice:*** Members should refrain from referring to advice given to them by the Clerk, as such advice is given in confidence.

NILE (Deputy), 17/3/2004, p. 7382.

## Repetition

SO 94

***Speech should not simply reiterate the same point:*** The Chair is reluctant to declare the contribution of any member boring, tedious or repetitious unless it is absolutely necessary to do so. However, members must ensure that their remarks do not simply reiterate the same points.

PRIMROSE, 19/6/2008, p. 8819.

***Identical speeches:*** A member is not entitled to present a speech which is identical to one delivered earlier by another member.

FORSYTHE (Deputy), 22/9/2004, p. 11255.

## Member excluded while speaking

***No right to continue speech after period of exclusion:*** A member who has been excluded from the House under standing order 192 is not able to continue speaking after the period of exclusion has expired. The termination of a member's speech is a consequence of the activation of standing order 192. If the member wishes to make an additional contribution to the debate after the period of exclusion has expired, the member may only do so with the leave of the House.

HARWIN, 8/5/2013, p. 20115.

## Speaking in reply

SO 90

***May reply to matters raised by other members:*** Traditionally, wide-ranging debate is encouraged in this place thus enabling members to speak as broadly as possible. However, members speaking in reply should endeavour to speak only to matters that have been raised in the debate by other members. President Johnson ruled that when speaking in reply a member is entitled to reply to assertions that have been made by other members during debate. He ruled also that when speaking in reply, members should relate their remarks as far as possible to the debate that has already taken place. Members should not introduce new material when speaking in reply but may reply to assertions made by members in their contributions, whether implied or specific.

PRIMROSE, 10/9/2009, p. 17686.

*See also:* JOHNSON, 25/3/1980, p. 5755; JOHNSON, 25/3/1981, p. 5137; BURKE (Deputy), 24/6/2003.

***Improper to introduce a new matter:*** It is highly improper for a member to introduce a new matter in reply.

JOHNSON, 17/9/1980, p. 1067; JOHNSON, 22/5/1990, p. 4056.

## Explanation of speeches

SO 89

***May speak a second time:*** A member may speak a second time if the remarks are strictly confined to matters upon which the member feels they have been misunderstood. The member may not introduce new matter.

HARWIN, 2/6/2011, p. 1735-36.

## Latitude of debate

***Debate may be broad ranging, but must be relevant:*** There is no distinction in the application of the rule of relevance to debate on motions or second reading debates.

KHAN (Deputy), 12/4/2018, p. 43.

***Address in reply:*** In the address in reply debate, members are entitled to great latitude in their contributions. Members should keep within the ambit of the Governor's speech and draw on matters outside that ambit only to support their contributions.

JOHNSON, 1/3/1990, p. 546; JOHNSON, 14/3/1991, p. 957.

**Budget debate:** It is standard practice for members speaking to the budget debate to be allowed wide latitude.

JOHNSON, 2/11/1983, p. 2214; JOHNSON, 14/11/1989, p. 12194.

**Procedural motion:** In debating a procedural motion, members should restrict their comments to the terms of the motion and not the substance of the matter.

JOHNSON, 26/2/1987, p. 8875; JOHNSON, 19/11/1987, p. 16385.  
*See also:* HARWIN, 11/9/2014, p. 315; HARWIN, 2/6/2011, p. 1735.

**Debate on motion to adjourn debate:** Debate on a motion to adjourn debate is confined to comments as to whether debate should or should not be adjourned. However, the substantive motion can be referred to.

PRIMROSE, 21/10/2009, pp. 18351-3.

## SUB JUDICE

**General rule:** Sub judice involves the good sense of members in not canvassing in the House matters that are before the courts. It also involves the absolute discretion of the Chair, subject to the collective will of the House. Sub judice should be treated as a convention, not a rule.

The onus falls on the Chair to weigh public interest and possible prejudice, so precise information is required. The Chair should be guided by a presumption for discussion. The likelihood of proceedings occurring in the reasonably foreseeable future is an important consideration.

Debate upon general background and related matters is permissible but there should be no reference to these specific issues before the court. Although it is unlikely that a judge will be influenced by what is said in the House, it is undesirable that the House should set itself up as an alternative forum.

JOHNSON, 16/5/1990, pp. 3364-69.  
*Cited:* PRIMROSE, 10/5/2007, p. 173; PRIMROSE, 2/4/2008, pp. 6250-1.

**Chair guided by presumption for discussion:** The Chair should be guided by a presumption for discussion rather than against it. If the Chair feels that the interests of individuals who are to appear before the court may be prejudiced, the Chair should intervene and warn the member seeking to temper his or her remarks. Because a matter is before a court it does not follow that every aspect of it must be sub judice and beyond the limits of permissible debate. This would be too restrictive of the rights of members.

JOHNSON, 22/5/1990, p. 4017.  
*Cited:* PRIMROSE, 10/5/2007, p. 173; PRIMROSE, 2/4/2008, pp. 6250-1.

**Only applies if debate would prejudice a trial:** The sub judice rule only applies if debate on the matter would in any way prejudice the trial of a particular person.

JOHNSON, 18/8/1988, p. 148.  
*See also:* JOHNSON, 19/10/1983, pp. 1841-1846.

***Only applies if debate would prejudice a trial:*** When considering whether a notice of motion breaches the sub judice convention, the Chair must determine whether debate on the matter would in any way prejudice the trial of a particular person currently before the courts.

HARWIN, 11/8/2011, p. 4212.

***Chair to curtail debate if trial would be prejudiced:*** If the Chair is of the view that the proceedings before the court will be prejudiced by the remarks of any member in this debate, it will exercise its discretionary power and curtail the debate.

JOHNSON, 22/5/1990, p. 4048.

***Matter not sub judice if generally discussed by the media:*** Parliament should not be precluded from discussing something which is generally being discussed in the media.

JOHNSON, 22/5/1990, p. 4023.

*See also:* JOHNSON, 28/2/1990, pp. 355-6.

***Matter not sub judice if no writs have been issued:*** If no writs have been issued or served, then a matter is not before the courts and therefore debate on the issue is not barred by the rule against sub judice.

JOHNSON, 2/6/1987, p. 13356.

***Matter not sub judice if it has not been set down for trial:*** A matter should not be curtailed in this House when there is no evidence before the Chair that the matter has been set down for trial.

JOHNSON, 3/4/1990, p. 1437.

***Matter generally not sub judice if being considered by a judge:*** A matter is not generally sub judice if it is being considered by a judge, since it is unlikely that a judge would be influenced by debate in this place.

FAZIO (Deputy), 3/3/2005, p. 14600; BURGMANN, 20/9/2005, pp. 17923-4.

***Criminal case may be debated with caution if only costs remain to be determined:*** If a case in the criminal jurisdiction has been determined and it remains only to determine the costs, the matter may be debated but with extreme caution.

JOHNSON, 30/11/1989, pp. 13912-3.

***Documents not part of court proceedings may be referred to:*** Documents which are not part of proceedings before a court but which may pertain to matters before a court may be referred to in Parliament, particularly if the documents have been the subject of newspaper reports.

JOHNSON, 22/5/1990, p. 4021.

***Independent Commission Against Corruption:*** The sub judice convention should be considered with respect to matters which have been referred by the Parliament of New South Wales to a judicial body such as the Independent Commission Against Corruption.

SOLOMONS (Deputy), 28/3/1990, p. 1126.

***Industrial Relations Commission:*** The House would not be precluded from discussing a matter

before the Industrial Relations Commission.

FAZIO, 7/9/2006, p. 1644.

## SUSPENSION OF STANDING AND SESSIONAL ORDERS

SO 198

### Debate on motion

***Must not debate substantive motion any more than necessary to justify suspension:*** When making a case for suspending standing and sessional orders, members should not address the substantive issues of the matter anymore than is necessary to justify the suspension of standing and sessional orders.

PRIMROSE, 28/10/2009, p. 18822.

*See also:* BURGMANN, 30/11/2005, p. 20238.

***Must not debate substantive motion:*** On a motion to suspend standing orders, members must confine their remarks to debating whether standing and sessional orders should be suspended, and not debate the substantive motion.

BURGMANN, 29/10/2003, p. 4267; PRIMROSE, 21/10/2009, p. 18349; FAZIO, 22/6/2010, p. 24400; HARWIN, 10/9/2014, p. 121.

***Must address why item is more urgent than other items on Notice Paper:*** When speaking to the motion for the suspension of standing orders members may only discuss whether standing and sessional orders should be suspended and whether the matter is more urgent than other business on the Notice Paper.

HARWIN, 6/11/2014, p. 2226.

***Importance is not urgency:*** Arguing the importance of the matter is not the same as arguing its urgency.

AJAKA, 22/11/2017, p. 8.

***Cannot merely repeat that matter is urgent:*** The case for urgency is not made by a member repeating the words, “This matter is urgent because” and then speaking on the substantive motion.

PRIMROSE, 5/6/2007, pp. 686-7.

***Must not speak about motives of member moving suspension:*** When speaking on the motion for the suspension of standing orders, members should speak only about the urgency of the matter, not about the motives of the member in moving the motion.

FAZIO, 21/10/2010, p. 26533; HARWIN, 12/8/2011, p. 4320.

## VISITORS

### Attendance in the House

SO 196

**General behaviour in public and President's galleries:** Visitors in the President's Gallery and the Visitor's Gallery must not engage in audible conversations and must not applaud or make any other gesture in response to proceedings. Visitors must not converse with members in the Chamber over the bar of the House. The use of mobile telephones, radios, iPads and other electronic equipment that create sound in the Chamber is not permitted. Photographs may not be taken unless permission has been granted. Visitors who do not abide by these rules will be removed from the President's Gallery.

HARWIN, 31/10/2013, pp. 25161, 25172.

### Behaviour in public gallery

SO 197

**Interjecting, applauding, electronic devices and messages:** Members of the public are welcome in this Chamber. However, it is expected that visitors in the public gallery will observe the normal courtesies that the House demands and not attempt to participate in or disrupt proceedings. Various Presidents' rulings have prescribed the behaviour expected of visitors. It is disorderly for a person in the public gallery to interject or make comments, or to attempt to communicate directly with members in the Chamber. Furthermore, visitors may not applaud, use mobile phones or cameras, or pass messages to members in the Chamber. Anyone in the gallery who does not abide by the standards of behaviour expected or who seeks to interfere with proceedings in the Chamber will be asked or directed to leave the gallery.

PRIMROSE, 4/6/2009, p. 15752.

**Interjecting, speaking to members, audible conversations, electronic devices, props:** No matter what they think about what is said, people in the public gallery need to listen to the debate quietly. Applause, jeering or any other gestures are not permitted. Visitors are also not to attempt to talk to members in the Chamber. If they have something to say to those who are seated next to them they should do so quietly. There should be no audible conversation. Photographs and filming are not permitted apart from the media photographers who have been authorised to do so. Visitors in the public gallery must follow any instructions by officers of Parliament. No signs or other props are to be utilised during the debate.

AJAKA, 16/11/2017, p. 44.

**Applauding:** People in the gallery are not permitted to applaud or to make any comment

WILLIS, 11/11/1997, p. 1415; HARWIN, 31/5/2012, p. 12382.

**Members speaking to visitors:** It is out of order for members to speak to people seated in the public gallery.

WESTWOOD (Deputy), 21/8/2012, p. 14041; HARWIN, 20/9/2012, p. 15527.

**Visitors speaking to members:** It is not in order for visitors in the public gallery to interject and converse with members.

HARWIN, 21/11/2012, p. 17144.

See also: JOHNSON, 22/11/1983, p. 3006; PRIMROSE, 13/11/2008, p. 11349.

**Passing notes to members:** It is out of order for a person in the public gallery to hand a member a note. It is also out of order for a member to accept that note. It is members' responsibility to educate members of the public about what is and what is not acceptable behaviour in the public gallery.

GREEN (Deputy), 14/10/2015, pp. 4207, 4209.

See also: JOHNSON, 2/8/1989, p. 8933.

## Behaviour in President's Gallery

SO 196

**Loud conversations:** People in the President's Gallery must show respect and desist from conversing loudly while members are speaking.

PRIMROSE, 28/6/2007, p. 2102; PRIMROSE, 30/10/2008, p. 10876; PRIMROSE, 5/5/2009, p. 14572.

**Remain silent, unless member is seeking advice:** People in the President's Gallery are to remain silent at all times, other than when members seek advice from them.

HARWIN, 26/5/2011, p. 1093; HARWIN, 20/11/2014, p. 3184.

**Provide advice quietly:** Members taking advice from staff in the President's gallery should do so quietly.

HARWIN, 30/5/2013, p. 21274.

See also: HARWIN, 21/6/2011, p. 2933.

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