

NOTES ON PARLIAMENTARY PROCEDURE

Forms of Procedure are determined by functions of a body. The important functions of a Parliamentary Body are :

(1) Power to express an opinion on and criticize any executive action.

(2) Power to have Laws.

(3) Power to provide money for carrying on the administration.

I. Power to express an opinion on or criticize any action taken by the Executive. Rules of Business permit:

1. to ask Questions.

2. to move Resolutions.

3. to move an adjournment of the House.

4. to move a motion of want of confidence in the Government.

(1) Power to ask Questions.

Rule 7

This is subject to the following restrictions.

Arrangement of Business

I. Order of precedence.

1. Questions 1 hour : 1/2 hour during voting of demands.

2. Bills.

3. Motions to amend Standing Orders.

4. Resolutions.

President may give priority to any item.

II. Priority with regard to Bills, Motions and Resolutions.

(i) Bills and Motions

The most advanced have priority over the less advanced.

(ii) Resolutions

Priority is determined by Ballot.

Quorum

25 members in Bombay.

President shall adjourn to next day if there is no Quorum.

Rule 27. The Budget is dealt with in two stages.

(i) a general discussion ; and

(ii) the voting of demands for grants.

Governor may allot as many days as he likes for general discussion.

No motion is to be made Nor the Budget to be submitted to the vote of the Council when the General discussion is going on.

Rule 29. Voting of Grants.

Not more than twelve days shall be allotted by the Governor for the voting of the demands. Not more than 2 days for any demand. On the last appointed day the President shall forthwith put every Question necessary to dispose of all outstanding matters in connection with the demands for grants.

Rule 30.

No motion for appropriation can be made except on the recommendation of the Governor communicated to the Council. Motions may be moved to reduce any grant or to omit or reduce any item in a grant, but not to increase or alter the destination of the grant.

Rule 31. Excess Grants

(Left blank by the author—ed.)

Rule 32. Supplementary or additional grant.

When the amount falls short

When need arises of provision of new source.

Public Accounts Committee

Rule 33. Constitution of Public Accounts Committee.

(Left blank by the author—ed.)

Rule 34. Duties of the Public Accounts Committee :

(1) To satisfy itself that money is spent within the scope of the demand and to bring to the notice.

Conduct of Business

This is regulated by the Standing Orders.

I. Council Session

1. The Council can meet only at a time or place appointed by the Governor by notification.

2. Session is prorogued by the order of the Governor.

3. The Council shall sit on such days and at such times as the President shall direct.

Effect of Prorogation

On prorogation all pending notices shall lapse and fresh notices must be given for the next Session except in the following cases :

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| <ul style="list-style-type: none"> (1) Question (2) Statutory motions (3) Bills introduced (4) Motion to amend Standing Orders which have been referred to a Select Committee. | <div style="font-size: 4em; line-height: 1; padding: 0 10px;">}</div> <p>These are carried over to the list of Business for the next Session.</p> |
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Procedure

With regard to

I. Question

Shall be put and answers given in such manner as the President may, in his discretion, determine.

II. Motion for Adjournment

30 members to rise

4 O'clock for the purpose of discussing the motion. Debate shall terminate at 6 p.m. and thereafter no question respecting the motion shall be put.

III. Bills

(1) Four Stages

1. Introduction. Asking the leave of the House.
2. First Reading
3. Second Reading
4. Third Reading

(1) Constitution of Australia. Sec. 49.

(2) Constitution of Canada. Sec. 18.

(3) Constitution of South Africa. Sec. 57.

There is no Section in the Government of India Act which gives any privilege to the Legislature.

The Government of India Act confers only two privileges upon members of the Legislature.

I. Freedom of Speech.

Sep. 67(7).

There shall be freedom of speech in both chambers of the Indian Legislature. No person shall be liable to any proceedings in any Court by reason of his speech or vote in either chamber or by anything contained in any **official** report of the proceedings of either chamber.

Sec. 72 D (7).

There shall be freedom of speech in the Governor's Legislative Council. No person shall be liable to any proceedings in any Court by reason of his speech or vote in any such Council, or by reason of anything contained in any **official** report of the proceedings of any such Council.

This privilege of Freedom of Speech is subject to two restrictions.

- (1) Standing orders.
- (2) Official report.

II. Freedom from Arrest.

This privilege is not granted by the Government of India Act. It is granted by an Act of the Indian Legislature. It is called

Legislative Members Exemption Act, 1925. [No. 23 of 1925]

UNDER THIS ACT

1. Members of the legislative bodies constituted under the Government of India Act are exempt from liability to serve as jurors or assessors.

2. No person is liable to arrest or detention in prison under civil process—

(a) If he is a member of a legislative body constituted under the Government of India Act, during the continuance of any meeting of such body.

(b) If he is a member of any Committee of such body, during the continuance of any meeting of such body.

(c) If he is a member of either chamber of Indian Legislature, during the continuance of a joint sitting of the chambers, or of a meeting of a conference or joint Committee of the chambers of which he is a member, and during 14 days before and after such meeting or sitting.

Points to note.

(1) Freedom is only from Civil Arrest.

(2) Liable to re-arrest after the period.

Procedure of the Legislatures

I. The Procedure of the Indian Legislature is regulated by

(1) Rules of Business and

(2) Standing Orders.

Section 67 (1)		permit Rules and Standing Orders to be made
Section 67 (6)		for the Central Legislature.

Section 72 D (6)		permit Rules and Standing Orders to be made
Section 72 D (7)		for the Local Legislature.

II. Legislatures have no authority to make rules and standing orders.—

The Dominions have it.

In India the matter is governed by Section 129A.

Governor General in Council to make rules and Standing Orders.

Difference between Standing Orders and Rules

1. Rules are not subject to alteration or repeal by the Indian Legislature, Local or Central.

2. Subject to certain conditions Standing Orders may be amended.

Different purposes of Rules and Standing Orders

Two Questions:

1. What matters a Legislature can discuss and what is within its competence and what is not?

2. Assuming any particular matter is within its competence, How is that matter to be discussed? How is it to be brought to an issue? In what order are members to speak? Has anybody priority in speaking? How are votes recorded? How are they counted? How are they valued.

The first Question is settled by the Rules of Business. The second is settled by the standing orders. To use the language of the Act:

Rules of Business Regulate the **Course of business**.

Standing Orders regulate the **Conduct of business**.

Rules of Business and Freedom of Action

Do the Rules of Business give the Legislators the necessary freedom to discharge their functions?

* **Rule 8.**—A Question may be asked for the purpose of obtaining information on a matter of public concern within the special cognizance of the member to whom it is addressed.

Period of Notice.

(a) The President may disallow a question if it does relate to a matter which is not primarily the concern of the Local Government.

(b) A Question which is allowed by the President may be disallowd by the Governor if it relates to

(i) any matter affecting the relations of H. M's Government or of the Government of India, or of the Governor or the Governor in Council, with any foreign State.

(ii) any matter affecting the relations of any of the foregoing authorities with any Prince or Chief under the suzerainty of His Majesty, or relating to the affairs of any such Prince or Chief or to the administration of the territory of any such Prince or Chief.

(iii) any matter which is under adjudication by a Court of Law having jurisdiction in any part of His Majesty's Dominions.

N. B.—If any doubt arises the Governor shall decide the point and his decision shall be final.

(c) In a controversy between the Governor General in Council or the Secretary of State and Local Government no question shall be asked except as to matters of fact, and the answer shall be confined to a statement of fact.

(ii) Right to move Resolutions.

Rules 22-23.

Rule 23. (1) Every resolution shall be in the form of a specific recommendation addressed to the Government.

Statutory Restrictions

Resolution cannot be moved regarding a matter relating to which a question cannot be asked.

Rule 22. Apart from the Statutory restrictions on the right to move resolutions, the Governor has the power **within the period of notice** to disallow any resolution, on the ground that it cannot be moved without detriment to the public interest or on the ground that it relates to a matter which is not primarily the concern of the Local Government.

Prohibitions against Resolutions

Rule 24A. No discussion of a matter of general public interest shall take place **otherwise** than on a resolution moved in accordance with rules governing the moving of resolutions except with the consent of the President & the member of the Government to whose department the motion relates.

2. It shall not be permissible to the President or to the member of the Government concerned to give his consent to the moving of any motion in regard to any of the subjects in regard to which a resolution cannot be moved.

(iii) Motion for adjournment

Rules 11 and 12

Rule 11. A motion for an adjournment of the business of the Council for the purpose of discussing a definite matter of urgent public importance may be made.

Rule 12. This is subject to the following restrictions.

(i) Only one such motion shall be made at the same sitting.

(ii) Not more than **one matter** can be discussed. It must be restricted to **specific matter** of **recent** occurrence.

(iii) Motion must not raise a matter already disposed of: must not revive.

(iv) Motion must not anticipate a matter already on the agenda or of which notice is given.

1. A motion must not deal with a matter on which a resolution could not be moved.

2. The President must give his consent.

(iv) Motion of Want of Confidence

Rule 12A. A motion expressing want of confidence in a minister or a motion disapproving the policy of the minister in a particular.