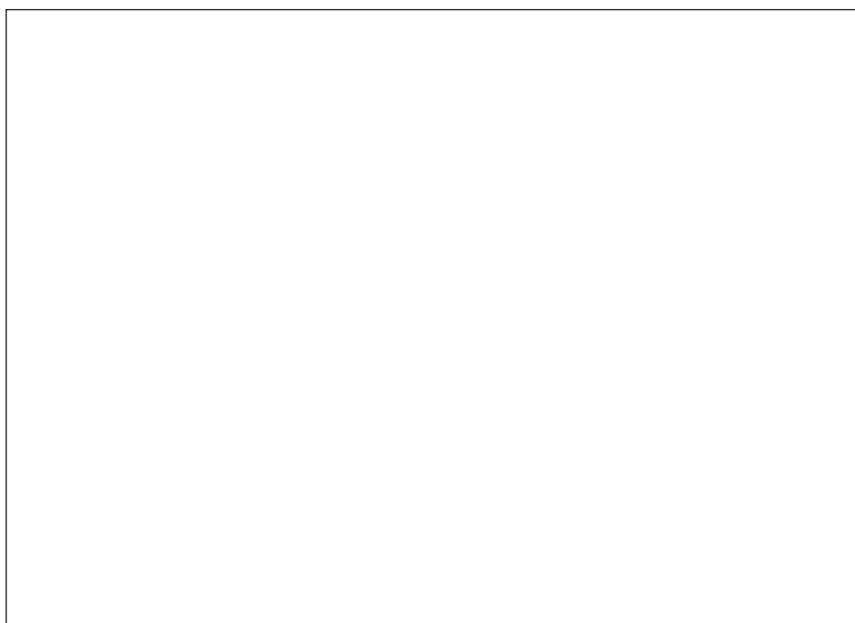




**RAJYA SABHA**  
**PRACTICE & PROCEDURE SERIES**

**POINTS OF ORDER**

**20**



## POINTS OF ORDER



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## **PREFACE**

This booklet is part of the Rajya Sabha Practice and Procedure Series which seeks to present, in brief, various aspects of the well-known parliamentary practice of raising a Point of Order. It is based on the Rules of Procedure and Conduct of Business in Rajya Sabha and rulings given by the Chair. The booklet is intended to serve only as a handy guide for ready reference. For full and authentic information original sources may be referred to and relied upon.

New Delhi  
February, 2005

DR. YOGENDRA NARAIN  
*Secretary-General*

## **POINTS OF ORDER**

### **Introduction**

One of the most vexatious parliamentary practices which confronts a Presiding Officer is a point of order raised during the debate. The practice raises real problems for the Chair and causes exasperation amongst members who are prepared to abide by the rules and do not raise matters of argument or debate under the cloak of point of order. The problem for the Chair lies in the fact that, until he hears at least a substantial part of a member's submission, he (the Chair) is not in a position to rule that it is not a point of order. The Chair may, of course, rebuke a member who blatantly and frequently raises a 'bogus' or unwarranted point of order. But at the same time, the Chair cannot, in general, refuse to hear points of order. However, there are some situations in which the Chair may refuse to entertain the points straightaway so that at least in those situations the members who raise points of order do not have things all their own way and the time of the House is not wasted in making or hearing submissions on points which are clearly not points of order.

### **What is a point of order**

Any member can and should bring to the Chair's immediate notice any instance of what he considers a breach of order or a transgression of any written or unwritten law of the House which the Chair has not

perceived, and he may also ask for the guidance and assistance of the Chair regarding any obscurities in procedure. A member is entitled, in such cases only, to interrupt proceedings of the House by rising and saying, 'On a point of order, Mr. Chairman' and then to state the point in question concisely before him. However, there is often some doubt amongst members as to what exactly constitutes a point of order, and the Presiding Officer often replies that the point in question is not a point of order.

A point of order should, relate to the interpretation or enforcement of the Rules of Procedure and Conduct of Business in Rajya Sabha or conventions or such articles of the Constitution as to regulate the business of the House and must raise a question which is within the cognizance of the Chair. The test whether a point raised is a point of order or not is not whether the Chair can give any relief but whether it involves such interpretation or enforcement of the rules, etc. and whether it raises a point which the Chair alone can decide.

**Provision in the Rajya Sabha Rules regarding points of order**

Rule 258 of the Rules of Procedure and Conduct of Business in Rajya Sabha makes a provision to enable a member to raise a point of order. It provides as follows:

- (1) Any member may at any time submit a point of order for the decision of the Chairman, but in

doing so, shall confine himself to stating the point.

- (2) The Chairman shall decide all points of order which may arise, and his decision shall be final.

#### **How a point of order is raised**

A member who has a point of order should stand up and say, "Point of Order", and should not proceed to formulate it until he is identified by the Chair. Only after he has been identified, he should proceed to speak on his point of order. While formulating his point of order, a member should quote the specific rule or the provision of the Constitution relating to the procedure or neglected or violated. No member should rise or speak, when the Chair is on his feet. The Chair should be heard in silence and any member wishing to speak should rise only after the Chair has sat down and has called the member to speak. Matters on which the Chair cannot give any relief should not be the subject of a point of order. Should a member desire to have a clarification from a Minister or object to any statement which a Minister might have made, he should say so in the House with the permission of the Chair and should not raise it in the garb of a point of order.

#### **Procedure after a point of order is raised**

The right to raise and formulate a point of order is a valuable right of a member and can be exercised by

him at any time on a matter or any business under discussion. The point of order, when raised, has the effect of suspending the proceedings before the House. On a point of order being raised, the member who is speaking at that time must give way and resume his seat. No debate is allowed on a point of order. A point of order can be raised only in relation to the business before the House at the moment. The term 'business before the House' means business included in the list of business for the day.

When two or more points of order are raised on a subject-matter, the Chairman may take them one by one and give his ruling.

A member wishing to raise a point of order has the right to be heard before a ruling is given by the Chair. On his formulating a point of order, the Chair decides whether the point raised is a point of order and, if so, gives his ruling thereon. Members cannot protest against the Chair's ruling. To do so is regarded as contempt of the House and the rulings given by the Chair cannot be discussed in the House nor can any clarification or explanation sought thereon.

It is perfectly in order if the Chair does not take cognizance of a point of order raised by a member. The Chair may reserve his ruling on a point of order and may deliver it on a later date. Similarly, the Deputy

Chairman or a member occupying the Chair may reserve a point of order for the decision of the Chairman.

When a point of order relating to the particular business before the House is raised, the time taken in the disposal of the point of order is accounted towards the total time allotted for that business.

**What is not a point of order or when a point of order should not be raised**

It is for the Chair to decide whether in given circumstances there is a point of order or there is no point of order. It is not possible to visualize all situations in which the Chair may rule on a point of order either upholding it or ruling it out. However, from the rulings given by the Presiding Officers and the precedents, some situations may be indicated when there is definitely no point of order or when a point of order cannot be raised. They are given below and are illustrative and not exhaustive.

**(1) During Question Hour**

It has now become an accepted practice that no point of order can be raised during the Question Hour, perhaps because of the general desire to make progress during the limited time available for questions. The Presiding Officers in Rajya Sabha have refused to allow raising of points of order during the Question Hour.

## **(2) During the division**

When the Chair is engaged in collecting the voices in the course of putting the question, or during the course of a division that follows the putting of a question, he will not hear a point of order; for, if he does, the division and the consequent determination of the House on a question, might last several hours.

## **(3) When the Chair is required to bring proceedings to a close at a certain time**

If a rule or the decision of the House provides that a question should be put, or the House should be adjourned, at a fixed hour, the Chair would do so irrespective of the fact that he is being addressed on a point of order. Such a situation may arise when a Bill or a motion or a resolution has been time-tabled, and members are expressing anger at the shortage of time for debate.

## **(4) Asking for procedural advice**

On occasions, members ask the Chair for advice as to what procedural remedy exists for what they consider to be an unsatisfactory situation. This advice is generally asked on a point of order. The Chair in such cases may interrupt the member by telling him that he should not ask for advice on a procedural matter by way of raising a point of order.

## **(5) Other instances or situations**

- (1) A point of order is not a point of privilege.

- (2) A member shall not raise a point of order—
  - (a) to ask for information; or
  - (b) to explain his position; or
  - (c) when a question on any motion is being put to the House; or
  - (d) which may be hypothetical; or
  - (e) that Division Bells did not ring or were not heard.
- (3) A point of order cannot be raised in respect of an item of business after that time has been disposed of. In other words, there can be no point of order in vacuum.
- (4) No point of order can be raised on contradictory statements alleged to have been made by Ministers or members or regarding disqualification of a member.
- (5) A point of order must refer to procedure and not substantive arguments on a motion, etc.
- (6) There cannot be a point of order on a point of order.
- (7) Points of order relating to the same matter cannot be raised by a member more than once.

- (8) A point of order cannot be raised while the Chairman is placing a motion before the House or delivering his ruling or making observation or otherwise speaking.
- (9) Matters on which the Chair cannot give any relief should not be made the subject-matter of a point of order.
- (10) Points of order already decided cannot be reopened.
- (11) A point of order on a Bill or a resolution cannot be raised unless the motion in respect of the Bill or the resolution entered in the list of business has been moved and placed before the House. Similarly, a point of order regarding the admissibility of a resolution or a motion or urging that a motion or a resolution should not be allowed to be moved, can be raised only after the resolution or the motion has been moved and placed before the House.
- (12) The test whether a point raised is a point of order or not is not whether the Chair can give any relief but whether it involves interpretation of the rules, directions and various provisions of the Constitution which regulate the business of the House and whether it raises a point which the Chair alone can decide.

- (13) The Chair does not give any ruling on a point of order which raises the question whether a Bill is constitutionally within the legislative competence of the House or about the constitutionality of any declaration/agreement/treaty under discussion on a motion/resolution. It is for the House to deal with such matters.
- (14) A point of order regarding arrangement of business should relate to arrangement of items already included in the list of business for the day; it may not be raised for inserting any new item which is not in the list of business.
- (15) A point of order may not be raised regarding proceedings of an earlier sitting.
- (16) There cannot be any point of order on rulings given by the Chair.
- (17) No point of order may be raised when the subject is already under the consideration of the Chair.
- (18) A point of order can be raised during the conduct of proceedings of the House or the business that is included in the list of business for the day and not on a business that is not before the House.

## **Conclusion**

The rulings of the Chair merely indicate, illustrate and elucidate the concept of point of order. No rule or standing order, however elaborate it may be, could possibly avoid fictitious points of order or put an end to the raising of unwarranted points of order.

The points of order tend to increase at times of acute political tension, and it may be that they are linked to general standards of parliamentary behaviour. It is certain that they will continue to be one of the most irksome problems for the occupants of the Chair.

Members should raise points of order only when there are real points of order, otherwise they should take recourse to other provisions under the rules, which will ensure regular proceedings in the House as well as redressing the grievances of the members. Raising of points of order which are not real points of order may lead to disturbances and waste of time in the House which should at all times be avoided so that the proceedings of the House run smoothly and in an orderly manner.