



# POINTS OF ORDER

## DEFINITION AND PURPOSE

A point of order is “a complaint or question raised by a senator who believes the rules, practices or procedures of the Senate have been incorrectly applied or overlooked during the proceedings, either in the chamber or in committee.”<sup>1</sup> Any senator is entitled to raise a point of order to ensure that the *Rules of the Senate* and accepted Senate procedures are followed. A point of order should be raised as soon as a senator believes that proper procedure has not been followed or, at the very least, while the issue is still relevant.

The Speaker presides over sittings of the Senate with the responsibility of maintaining order and decorum, and is therefore tasked with ruling on points of order. However, senators themselves may agree to resolve a point of order without an intervention by the Speaker. Similarly, senators may ask to proceed in a manner other than provided by the Rules, with “leave of the Senate”. This means that no senator objects to the proposed manner of proceeding.

The *Rules of the Senate* are the primary reference tool when deciding on a point of order. Other authorities may be used as a reference or guide, particularly when the Rules are not explicit on a matter.<sup>2</sup> Useful procedural references include: *Senate Procedure in Practice*; *House of Commons Procedure and Practice*; *Erskine May’s Treatise on the Law, Privileges, Proceedings and Usage of Parliament*; *Beauchesne’s Parliamentary Rules and Forms*; and *Bourinot’s Parliamentary Procedure and Practice*.

## PROCESS FOR POINTS OF ORDER

### *RAISING A POINT OF ORDER*

When a senator believes that the Senate is proceeding contrary to the Rules or its normal practices, a point of order should be raised as soon as is reasonably possible, even if it interrupts proceedings. To do so, a senator rises while saying “point of order” to attract the Speaker’s attention and, once recognized by the Speaker, explains how proper procedure has not been followed. The senator may also suggest a remedy. The Speaker will usually allow other senators to express their views before ruling on whether the point of order is valid or not.

During these interventions, the normal rules regarding time limits on debate do not apply and the Speaker determines when sufficient argument has been heard in order to take a decision.<sup>3</sup>

#### ***SPEAKER'S AUTHORITY AND DECISIONS***

Initially, the *Rules of the Senate* limited the Speaker to explaining a rule or, when asked, deciding on a point of order, subject to an appeal. In 1906, a rule was added to allow the Speaker to preserve order and decorum. Further rule changes have made it possible for the Speaker to take the initiative to enforce the *Rules of the Senate* or maintain order in the Senate.<sup>4</sup>

The Speaker may not participate in the debate on a point of order on which they are required to render a decision.<sup>5</sup>

In cases where the point of order is quite straightforward, or it is apparent that it has been raised for purposes other than correcting irregular procedure, the Speaker will usually rule immediately. However, if the point of order involves a more complex issue, the Speaker may take the matter under advisement and give a ruling later. The Speaker is required to give reasons for the decision, including references to the applicable rules, practices or other written authorities on which the ruling is based.<sup>6</sup> In a case where the Speaker reserves the decision for a ruling later, the item is left in abeyance and, if applicable, the Senate will proceed to the next item of business. If the matter raised is of a time sensitive nature, the Speaker may suspend the sitting to take the time to prepare a decision on the point of order.

Any decision of the Speaker on a point of order may be challenged, and the appeal must be decided immediately and without debate.<sup>7</sup> When a Speaker's ruling is appealed, the Senate is asked to take a decision on the following question: "Shall the Speaker's ruling be sustained?" This question must be adopted by a majority vote in order for the decision of the Speaker to be upheld. If there is a tie vote or if a majority of votes are opposed, the Speaker's decision is overturned.<sup>8</sup>

#### ***POINT OF ORDER CONCERNING THE RIGHT TO SPEAK***

A point of order may be used to allow a senator to speak when two senators rise at the same time to be recognized in debate.<sup>9</sup> The Speaker will recognize the senator who, in their opinion, rose first. A third senator may then rise on a point of order and move a motion requesting that the other senator be now heard. A decision must be taken immediately on the motion without debate or amendment. If the motion is adopted, the senator named in the motion is given the floor to speak. If it is defeated, the senator originally recognized will have the floor.

***RESTRICTIONS ON POINTS OF ORDER***

Points of order may relate to any part of the Senate's proceedings. Although they may be raised at almost any time during a sitting, including during Senators' Statements, points of order may not be raised:

- during Routine Proceedings and Question Period;
  - a point of order relating to the introduction of a bill must be raised as soon as the second reading of the bill is moved;
  - in the case of a motion, it must be raised when the motion is moved for adoption;
  - in the case of an inquiry, it must be raised as soon as debate on the item begins;<sup>10</sup> and
  - any other matter arising during Routine Proceedings or Question Period can only be raised at the beginning of the Orders of the Day;<sup>11</sup>
- during a vote;
  - senators must wait until the end of the vote to raise a point of order;
- on another point of order;
- for the purpose of moving the adjournment of the Senate;<sup>12</sup> and
- to ask a question of another senator or to obtain the floor during a debate.

**FOR ADDITIONAL INFORMATION ON POINTS OF ORDER**

[Senate Procedure in Practice](#) (Chapter 10)

**FOR ADDITIONAL INFORMATION ON OTHER POINTS COVERED IN THIS NOTE**

[Senate Procedural Note No. 2, Order of Business of Sitings](#)

[Senate Procedural Note No. 3, Debate](#)

[Senate Procedural Note No. 4, Voting](#)

[Senate Procedural Note No. 9, The Speaker of the Senate](#)

[Senate Procedural Note No. 14, Leave of the Senate](#)

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**References**

<sup>1</sup> Definition in Appendix 1 of the Rules.

<sup>2</sup> Rule 1-1(2).

<sup>3</sup> Rule 2-5(1).

<sup>4</sup> Rule 2-6.

<sup>5</sup> Rule 2-3.

<sup>6</sup> Rule 2-5.

<sup>7</sup> Rule 2-5(3),

<sup>8</sup> Rule 9-1.

<sup>9</sup> Rule 6-4.

<sup>10</sup> Rules 4-10(1)(a) and 4-10(1)(b).

<sup>11</sup> Rule 4-10(1)(c).

<sup>12</sup> Rule 5-13(2).