Standards, Procedures and Public Appointments Committee

4th Report, 2012 (Session 4)

Scotland Act: Standing Order rule changes

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Standards, Procedures and Public Appointments Committee

Remit and membership

Remit:

1. The remit of the Standards, Procedures and Public Appointments Committee is to consider and report on—
   
   (a) the practice and procedures of the Parliament in relation to its business;
   
   (b) whether a member’s conduct is in accordance with these Rules and any Code of Conduct for members, matters relating to members’ interests, and any other matters relating to the conduct of members in carrying out their Parliamentary duties;
   
   (c) the adoption, amendment and application of any Code of Conduct for members; and
   
   (d) matters relating to public appointments in Scotland.
   
2. Where the Committee considers it appropriate, it may by motion recommend that a member's rights and privileges be withdrawn to such extent and for such period as are specified in the motion.

(Standing Orders of the Scottish Parliament, Rule 6.4)

Membership:

Margaret Burgess
Bob Doris
Helen Eadie (Deputy Convener)
John Lamont
Margaret McCulloch
Dave Thompson (Convener)
Paul Wheelhouse
Committee Clerking Team:

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Standards, Procedures and Public Appointments Committee

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The Committee reports to the Parliament as follows—

Summary

1. The Scotland Act 2012 (“the 2012 Act”) was passed by the UK Parliament earlier this year. The Act contains a number of changes which need to be reflected in the procedures of the Scottish Parliament. This report proposes standing order rule changes to support the provision set out in section 12 of the Scotland Act, which renames the Scottish Executive as “the Scottish Government”.

2. The Committee recommends that the rule changes arising from section 12, which are minor but very numerous, are brought into effect on 20 August 2012. This is because the Parliament’s standing orders, and a good deal of associated procedural guidance, will be reprinted at that point to reflect the new structure of the parliamentary week agreed by the Parliament on 6 June.

Other changes not covered in this report

3. The 2012 Act has other procedural provisions which are not covered in this report but which the Committee will return to in due course. These are:

   - Section 4 which gives greater flexibility about the timing of the election of the Presiding Officer and deputies, and allows the election of additional deputies at any time (for example, to cover illness of an existing post holder). The Committee will look at this during the next year.

   - Section 5 which is about membership of the Scottish Parliamentary Corporate Body: it allows the Parliament to appoint “at least four” members to the body rather than having to appoint exactly four. This provision allows some flexibility to take account of different party balances in a future Parliament. The Committee’s aim is to have the additional flexibility in place before the next general election.

   - Section 6 which requires any person in charge of a bill, on or before introduction of that bill, to provide a statement that in that person’s view
the provisions of the bill would be within the legislative competence of the Parliament. Previously, this was only a requirement for Scottish Government bills (including hybrid bills). After section 6 is commenced, this requirement will extend to all bills including members’ bills, committee bills and private bills. The Committee’s aim is to bring forward rule changes to reflect this change in early September.

- Section 7 which gives the Parliament greater scope to determine the sanctions and offence which attach to breaches of the members’ interests regime. The Parliament has previously legislated on members’ interests through the Interests of Members of the Scottish Parliament Act 2006. The Committee proposes to revisit this Act in the next year, in the light of the Scotland Act changes, and consider whether to bring forward a committee bill to make changes to the current arrangements.

4. The Committee notes that the financial provisions in the 2012 Act may also need to be supported by standing order rule changes once more detail is available about how these provisions will work.

**Scottish Executive/Scottish Government**

5. Under section 44 of the 1998 Act, there is to be a Scottish Executive which consists of the First Minister, Scottish Ministers (but not junior Scottish Ministers), the Lord Advocate and the Solicitor General for Scotland. These are also collectively referred to as “the Scottish Ministers”.

6. Section 12 of the 2012 Act renames the Scottish Executive as “the Scottish Government”. The Explanatory Notes to section 12 comment that this change “empowers the Scottish administration to use the term Scottish Government in formal, legal documents, following the increasing use of that term by the current Scottish administration and others in the public domain.”

7. Most of the rule changes set out in the annexe simply substitute the term “Scottish Government” for “Scottish Executive”. A few consequential changes also arise. In particular, “executive”/“non-executive” bills would now be known as “government”/“non-government” bills. Parliamentary questions would now be expressed as “to ask the Scottish Government...”.

**Conclusion**

8. The Committee recommends to the Parliament the changes to Standing Orders set out in Annexe A.
ANNEXE A: STANDING ORDER RULE CHANGES

REFERENCES TO THE SCOTTISH EXECUTIVE

In the following Rules, the word “Executive” should be replaced by the word “Government” –
- Rule 2.2.6(d) and 2.2.11;
- Rule 4.8.2 (and in the title of Chapter 4);
- Rule 5.6.1(a) and (b);
- Rule 5.7.1 (and in the title of Rule 5.7);
- Rule 6.3B.2;
- Rule 6.6.1(a);
- Rule 6.7.2 (for both occurrences);
- Rule 7.6.1(c);
- Rule 8.10.1;
- Rule 8.12.1 (for both occurrences);
- Rule 9.2A.1(a);
- Rule 9.3.3 (a);
- Rule 9.10.13;
- Rule 9.11.1;
- Rule 9.12.7 (for both occurrences);
- Rule 9.14.1;
- Rule 9.16.2 and 9.16.6;
- Rule 9A.13.1;
- Rule 9A.14.7 (for both occurrences);
- Rule 9B.3.1;
- 9B.3.2 (for both occurrences);
- 9B.3.3(c) and (d);
- Rule 9C.1.1;
- Rule 9C.2.1(a);
- Rule 9C.7.8(c);
- Rule 9C.9.9 and 9C.9.12;
- Rule 9C.14.15;
- Rule 9C.15.1;
- Rule 9C.16.7 (for both occurrences);
- Rule 10.4.2 and 10.4.4;
- Rule 10.5.2 and 10.5.4;
- Rule 10.6.2, 10.6.3 and 10.6.5;
- Rule 10.8.1;
- Rule 10A.2.1;
- Rule 13.2.1 and 13.2.2;
- Rule 13.3.1 (and in the title of Rule 13.3);
- Rule 13.5.1;
- Rule 13.7.1 (for each occurrence);
- Rule 13.8.3 (for each occurrence);
- Rule 13.9.2 and 13.9.6;
- Rule 14.1.4;
- Rule 17.4.2 (for both occurrences).

In Rule 9.3.3, for “An Executive” substitute “A Government”.

3
In the following Rules, the words “an Executive” should be replaced by the words “a Government” –
Rule 9.2A.1;
Rule 9.4A.1;
Rule 9.6.3;
Rule 9.7.10;
Rule 9.16.1.

In the following Rules, for “an Executive” substitute “a Government” and for “Scottish Executive” substitute “Scottish Government” –
Rule 9.13A.2(a);
Rule 12.2.3(b).

In the following Rules, for “Executive” where first and second occurring substitute “Government” and “Scottish Government” respectively –
Rule 9.14.13;
Rule 9.15.7A.

In Rule 9.2.1, for “Executive” where first occurring substitute “Government” and for “an “Executive Bill”” substitute “a “Government Bill””.

In Rule 9.8.5C and 5D, for “non-Executive” substitute “non-Government” and for “Executive” substitute “Government”.

In Rule 9.14.12(b), for “Executive” substitute “Scottish Government”.

In Rule 9.21.1, for “Scottish Executive” substitute “Scottish Government” and for “an Executive” substitute “a Government”.
[These amendments make appropriate adjustments in several places within the Standing Orders to take account of the Scottish Executive being renamed the Scottish Government, by virtue of section 12(1) of the Scotland Act 2012. References within the Scotland Act 1998 to the “Scottish Executive” are substituted with references to the “Scottish Government” by section 12(2) of the Scotland Act 2012.]
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