Standards, Procedures and Public Appointments Committee

1st Report, 2013 (Session 4)

SPCB Membership - 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 Where the Committee considers it appropriate, it may by motion recommend that a member's rights and privileges be withdrawn to such extent and for such period as are specified in the motion.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)

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Standards, Procedures and Public Appointments Committee

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The Committee reports to the Parliament as follows—

1. This report recommends changes to Standing Orders in order to take account of changes to the rules on the membership of the Scottish Parliamentary Corporate Body (SPCB) in the Scotland Act 2012.

Background

2. Section 21(2)(b) of the Scotland Act 1998 ("the 1998 Act") provided for the SPCB to have four members in addition to the Presiding Officer and for these members to be appointed in accordance with Standing Orders.

3. In Session 3, the Standards, Procedures and Public Appointments Committee considered the issue of the membership of the SPCB in its report on the recommendations of the Calman Commission.¹ The Committee recommended that section 21 of the 1998 Act be amended to give greater flexibility over the composition of the SPCB.

4. The Committee explained in annexe A of the report that—

   "It seems important that the Presiding Officer should always be a member of the corporate body. Restriction to four members fits the current number of major political parties but this may not always be the case. It would perhaps be preferable to set a ceiling on the number of members so that the SPCB retains its essential character as representative of the major party interests and does not become unwieldy. It may then be helpful to give the Parliament autonomy to decide the number of members within that limit. The Committee recommends that section 21 be amended to give greater flexibility over the composition of the SPCB."

¹ Scottish Parliament Standards, Procedures and Public Appointments Committee. 5th Report, 2010 (Session 3) The recommendations of the Commission on Scottish Devolution regarding Scottish Parliament procedures (SP490). Available at:
http://archive.scottish.parliament.uk/s3/committees/stanproc/reports-10/stprr10-05.htm
Scotland Act 2012
5. Section 5 of the Scotland Act 2012 amended the reference to the four members of the SPCB (in addition to the Presiding Officer) in the 1998 Act to “at least four members”.

6. Standing Order Rule 3.6, however, currently refers to the “four members of the Scottish Parliamentary Corporate Body” in line with the 1998 Act. Rule 3.7, which details the election arrangements for SPCB members, also refers to “the four appointed members”.

7. The Committee has concluded that both of these rules require amendment in light of the changes to the number of SPCB members in the Scotland Act 2012.

Committee consideration
8. The Committee has given consideration to how to change the Standing Orders rules. The Committee favours an approach whereby Standing Orders provides for there to be four SPCB members (as at present), unless Parliament decides (on a motion of the Parliamentary Bureau) that there should be a different number. The Committee also was of the view that it should only be possible for the number of SPCB members to be varied at the start of a session, in advance of the first SPCB elections. In other words, it should not be possible for the number of SPCB members to be varied part-way through a session.

9. The Committee considered that this approach would allow the Parliament the opportunity at the start of each session to vary the number of SPCB members if it so decided. This may be appropriate, for example, if the number of members representing different parties had changed following the election. However the status quo of four members would continue unless action was taken.

10. The changes proposed by the Committee would not affect the number of SPCB members appointed this session, but would allow the Parliament at the start of future sessions to choose whether to appoint four members or more.

11. Proposed draft Standing Order changes can be found at the annexe to this report, along with explanatory notes. The SPCB has had sight of the proposed changes and is content with them. The SPCB commented that the Presiding Officer, as chair of the SPCB, should be given due prominence in any proposal to vary the number of SPCB members. The Committee notes that as the chair of both the Parliamentary Bureau and the SPCB, the Presiding Officer is likely to be involved in discussions on the bringing forward of any such proposal.

Recommendation
12. The Committee recommends to the Parliament the Standing Order rule changes in the annexe to this report.
ANNEXE: PROPOSED STANDING ORDER RULE CHANGES

Rule 3.6 Members of the Parliamentary corporation

1. Subject to paragraphs 2 and 3, the members of the Scottish Parliamentary Corporate Body (“the Parliamentary corporation”) referred to in section 21(2)(b) shall number four, and shall be appointed by the Presiding Officer, either after an election in accordance with Rule 3.7 or in accordance with Rule 3.8. Those members are referred to as “appointed members”.

2. The number of appointed members of the Parliamentary corporation may be varied after a general election, following a decision of the Parliament on a motion of the Parliamentary Bureau, but shall always comprise a minimum of four.

3. Any variation to the number of appointed members shall be made prior to elections held in accordance with Rule 3.7.1. No further variation may be made within the same Parliamentary session.

Rule 3.7 Election of members of the Parliamentary corporation

1. Not later than 20 sitting days after a general election, the Parliament shall hold consecutive elections to elect the four appointed members of the Parliamentary corporation (or such other number of appointed members as are to be elected following a decision of the Parliament, under Rule 3.6, to vary the number of appointed members).

Briefly, the changes cover the following matters—

- Rule 3.6.1 sets out the default position that there are to be four appointed SPCB members. It also indicates how appointments are to be made.

- Rule 3.6.2 makes provision for varying the number of appointed SPCB members. This can be done after a general election, but there must always be a minimum of four members (in addition to the Presiding Officer). Variation requires a decision of the Parliament, on a motion of the Parliamentary Bureau.

- Rule 3.6.3 deals with the timing of any variation. This would have to be made “prior to elections held in accordance with Rule 3.7.1”, i.e., before the elections for appointed members take place. No further variation in respect of numbers can then be made during the Parliamentary session which follows. At the start of the following session the number of SPCB appointed members would return to the default of four unless a further motion was agreed.

- Rule 3.7 deals with the actual election process for SPCB members. Rule 3.7.1 is amended. That paragraph states when elections are to take place, i.e., not later than 20 sitting days after a general election. It is now expanded
to take account of the possibility of membership numbers being varied, as provided for under revised Rule 3.6.
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