Standards, Procedures and Public Appointments Committee

5th Report, 2013 (Session 4)

Minor Standing Order Rule Changes

Published by the Scottish Parliament on 11 June 2013
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 Where the Committee considers it appropriate, it may by motion recommend that a member’s rights and privileges be withdrawn to such extent and for such period as are specified in the motion.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:

George Adam
Helen Eadie (Deputy Convener)
John Lamont
Richard Lyle
Margaret McCulloch
Fiona McLeod
Dave Thompson (Convener)
Committee Clerking Team:

Clerk to the Committee
Gillian Baxendale
Ali Walker

Senior Assistant Clerk
Alastair Macfie
Neil Stewart

Support Manager
Sam Currie
Standards, Procedures and Public Appointments Committee

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The Committee reports to the Parliament as follows—

1. This report considers several issues which the Committee has been made aware of which require changes to Standing Orders.

2. The changes proposed are minor in nature and so the Committee has not felt it necessary to carry out an inquiry prior to the publication of this report. The Standing Orders changes proposed by the Committee can be found at the annexe.

Commissioner for Ethical Standards in Public Life in Scotland

3. On 5 June 2013 the Parliament approved the Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order. The order will come into force on 1 July 2013.

4. The Order provides for the establishment of a Commissioner for Ethical Standards in Public Life in Scotland, replacing the existing Commission for Ethical Standards in Public Life in Scotland and the specific offices of Public Appointments Commissioner for Scotland and Public Standards Commissioner for Scotland.

5. Standing Orders currently contain various references to these offices in Chapter 3A, which require to be updated. The Committee therefore agreed that Chapter 3A should be amended to reflect the changes arising from the Public Services Reform (Commissioner for Ethical Standards in Public Life in Scotland etc.) Order.

6. These Standing Order changes are set out in the annexe to this report. The Committee is proposing to abbreviate the title of the Commissioner for Ethical Standards in Public Life in Scotland to ‘the Ethical Standards Commissioner’ in Standing Orders for ease of reference.
Scottish Parliamentary Pension Scheme


8. Rule 13 of the Scheme stated (amongst other things) that—

“Nothing in the scheme overrides section 241 of the Pensions Act 2004 (c. 35). Accordingly the SPCB must nominate as suitable to be a Fund trustee any individual who the Fund trustees recommend for the purposes of fulfilling their obligations under that section…”

9. The requirement in Rule 13 gave rise to Rule 3B.2.5(c) of Standing Orders, which states that a motion seeking the Parliament’s agreement to the appointment of an individual as a Fund trustee under Rule 3B.2 must specify—

“(c) that the individual is being nominated for the purposes of fulfilling the Fund trustees’ obligations under section 241 of the Pensions Act 2004 (where applicable).”

10. Given that Rule 13 has been repealed, the related Standing Order Rule 3B.2.5(c) is also now no longer required.

11. The Committee therefore agreed that Rule 3B.2.5(c) should be deleted from Standing Orders. This proposed change can be found at the annexe to this report.

Recommendation

12. The Committee recommends the changes to Standing Orders, set out at the annexe, to the Parliament.
ANNEXE: DRAFT STANDING ORDER RULE CHANGES

CHAPTER 3A
PARLIAMENTARY CORPORATION SUPPORTED BODIES

For the title of Rule 3A.1, substitute “Appointment of the Commissioner for Ethical Standards in Public Life in Scotland and members of the Standards Commission for Scotland”.

For Rule 3A.1.1, substitute-

“1. This Rule applies where the agreement of the Parliament is sought to the appointment of a person as-

(a) the Commissioner for Ethical Standards in Public Life in Scotland (“the Ethical Standards Commissioner”), under section 1 of the Scottish Parliamentary Commissions and Commissioners etc. Act 2010 (asp 11); or

(b) a member of the Standards Commission for Scotland, under section 8(3) of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7).”.

For the title of Rule 3A.2, substitute “Directions to the Ethical Standards Commissioner”.

In Rule 3A.2.1, for “Public Standards Commissioner” substitute “Ethical Standards Commissioner”, and for “11, 12 or 19” substitute “11 or 12”.

For Rule 3A.3, substitute-

“Rule 3A.3 Reports by the Ethical Standards Commissioner

1. The reports that the Ethical Standards Commissioner may, or, as the case may be, is required to make to the Parliament under or by virtue of sections 4, 5 or 7 to 12 of the Scottish Parliamentary Standards Commissioner Act 2002 shall be made to the Standards, Procedures and Public Appointments Committee.

2. Where the Ethical Standards Commissioner reports to the Parliament under section 2(8)(a) of the Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4) by laying a report before the Parliament or otherwise providing the Clerk with a copy of the report, the Clerk shall ensure that notice of receipt of the report is published in the Business Bulletin and shall refer the report to the Standards, Procedures and Public Appointments Committee.

3. Where the Ethical Standards Commissioner has indicated in writing, at the time a report referred to in paragraph 2 is laid or otherwise provided to the Clerk, that information contained in the report is confidential, the Clerk shall take all reasonable steps to ensure that the information in question is not made public
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by the Parliament or otherwise made available to any member who is not a member of the Standards, Procedures and Public Appointments Committee.

4. Where the Ethical Standards Commissioner has given a direction under section 2(8)(b) of the Public Appointments and Public Bodies etc. (Scotland) Act 2003 in respect of the case that is the subject of the Commissioner’s report to the Parliament, the Standards, Procedures and Public Appointments Committee shall consider that report and shall report on it to the Parliament, which shall then consider the case in the light of the Committee’s report.

Omit Rules 3A.4 and 3A.5.

In Rule 3A.6.3(a), for “Commission” substitute “Commissioner”.

[These rule changes remove references to the Public Standards Commissioner, Public Appointments Commissioner and Commission for Ethical Standards in Public Life in Scotland, and replace them with references to the new Commissioner for Ethical Standards in Public Life in Scotland (“the Ethical Standards Commissioner”). The opportunity is also taken to amalgamate the existing separate provisions about handling of the different Commissioners’ reports, and to remove references to a spent enactment (section 19 of the Scottish Parliamentary Standards Commissioner Act 2002).]

CHAPTER 3B

SCOTTISH PARLIAMENTARY PENSION SCHEME- FUND TRUSTEES

In Rule 3B.2.5, omit sub-paragraph (c).

[Rule 3B.2.5(c) gives effect in Standing Orders to Rule 13 of the Scottish Parliamentary Pensions Scheme, which has since been repealed by the Scottish Parliamentary Pensions Act 2009 (Modifications to the Scottish Parliamentary Pensions Scheme) Resolution 2011. The deletion of Rule 3B.2.5(c) by this amendment is consequential on that repeal.]
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