



The Scottish Parliament
Pàrlamaid na h-Alba

Martin Whitfield MSP
Convener
Standards, Procedures and Public
Appointments Committee

The Scottish Parliament
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By email

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13 June 2024

Dear Martin,

Review of EU-related rules in Standing Orders

The Standing Orders of the Scottish Parliament contain a range of rules which derive from membership of the European Union (EU). The Session 5 Culture, Tourism Europe and External Affairs Committee highlighted in its [legacy report](#) that “there requires to be a range of Standing Order rule changes early in the next parliamentary session as a result of the UK leaving the European Union.”

The Constitution, Europe, External Affairs and Culture Committee agreed to review the EU-related rules in Standing Orders before reporting to the Standards, Procedures and Public Appointments (SPPA) Committee. This is reflected in the Conveners Group action plan on post-EU scrutiny, which forms part of its strategic priorities for Session 6. The Committee considered this review at its meeting on 13 June 2024.

The rules in Standing Orders deriving from EU membership are outlined at **Annexe A**, alongside our recommendation for each rule. The Committee considers that all references to the EU should be deleted from the Standing Orders, as it is our view that, in each case, these rules (or aspects of rules) are no longer applicable to the Scottish Parliament in the post-EU context.

Review of Rule 6.8

The Committee believes that further consideration must be given by the Parliament to Rule 6.8, which provides for the mandatory Europe and External Relations Committee.

As you will be aware, due to aspects of the remit of the mandatory committee no longer being relevant following the UK's departure from the EU, the Parliamentary Bureau agreed a temporary rule change to the remit and name of the committee at the start of Session 6, the duration of which has since been extended to the end of the session. Your committee has acknowledged that, "as the UK is no longer a member of the European Union, there is a need to review Rule 6.8" and "for that reason, the Committee will engage with the CEEAC Committee to develop a proposal to amend Rule 6.8."

The Committee is content with its current name and remit for the remainder of Session 6. However, we recognise that there is a need for Rule 6.8 to be reviewed in advance of Session 7 and we are happy to engage with you further during the remainder of Session 6.

Yours sincerely

A handwritten signature in black ink that reads "Clare Adamson". The signature is written in a cursive, flowing style.

Clare Adamson MSP, Convener of the Constitution, Europe, External Affairs and Culture Committee

Chapter 5 – The Parliamentary Bureau and Management of Business		
<p>Rule 5.4</p> <p>Business Programme</p>	<p>1. The Parliament shall decide, on a business motion of the Parliamentary Bureau, a programme of business (referred to as “the business programme”) for such period as may be specified in that motion.</p> <p>2. The business programme shall include an agenda of business for any meeting of the Parliament which is due to be held during that period and may include the timetable for consideration by the Parliament, any committee or sub-committee of—</p> <p>(a) any Bill or any provision of a Bill;</p> <p>(aa) any legislative consent memorandum or legislative consent motion;</p> <p>(ab) any Public Bodies Act consent memorandum or Public Bodies Act consent motion;</p> <p>(b) any legislation or draft legislation of the European Union or any provision of such legislation; or</p> <p>(c) any subordinate legislation or draft subordinate legislation.</p> <p>3. The business programme shall be notified to members in the Business Bulletin.</p>	<p><u>Suggested change:</u></p> <p>Delete paragraph 2(b) as this is no longer applicable post-EU.</p>
Chapter 6 – Committees		
<p>Rule 6.2</p> <p>Functions of All Committees</p>	<p>1. A committee shall examine such matters within its remit (referred to as “competent matters”) as it may determine appropriate or as may be referred to it by the Parliament or another committee and shall report to the Parliament (or, where the matter has also been referred to another committee as lead committee, to that lead committee) on any such matter.</p>	<p><u>Suggested change:</u></p> <p>Delete “any European Union legislation or” from paragraph 2(c) as this is no longer applicable post-EU.</p>

	<p>2. In particular, each committee shall conduct such inquiries into such competent matters as it may consider appropriate or as the Parliament or another committee may require, and may—</p> <p>(a) consider the policy and administration of the Scottish Administration upon any competent matter;</p> <p>(b) consider any proposals for legislation which relate to or affect any competent matter, including proposals for primary or secondary legislation, whether before the Scottish Parliament or the United Kingdom Parliament;</p> <p>(c) consider any European Union legislation or any international conventions or agreements or any drafts which relate to or affect any competent matter;</p> <p>(d) consider the need for the reform of the law which relates to or affects any competent matter;</p> <p>(e) initiate Bills on any competent matter; and</p> <p>(f) consider the proposals for public revenue or expenditure and financial administration of the Scottish Administration (including variation of taxes, estimates, budgets, audit and performance) which relate to or affect any competent matter.</p>	
<p>Rule 6.8</p> <p>Europe and External Relations</p>	<p>1. There shall be a committee, the remit of which is to consider and report on the following (and any additional matter added under Rule 6.1.5A)—</p> <p>(a) proposals for European Union legislation;</p> <p>(b) the implementation of European Communities and European Union legislation;</p> <p>(c) any European Communities or European Union issue;</p> <p>(d) the development and implementation of the Scottish Administration’s links with countries and territories outside Scotland, the European Union</p>	<p><u>Suggested change:</u></p> <p>Further consideration required, in consultation with the Bureau.</p>

	<p>(and its institutions) and other international organisations; and</p> <p>(e) co-ordination of the international activities of the Scottish Administration.</p> <p>2. The Committee may refer matters to the Parliamentary Bureau or other committees where it considers it appropriate to do so.</p> <p>3. The convener of the Committee shall not be the convener of any other committee whose remit is, in the opinion of the Parliamentary Bureau, relevant to that of the Committee.</p> <p>4. The Parliamentary Bureau shall normally propose a person to be a member of the Committee only if that person is a member of another committee whose remit is, in the opinion of the Parliamentary Bureau, relevant to that of the Committee.</p>	
Chapter 10A – Proposals for European Union Legislation		
<p>Rule 10A.1</p> <p>Proposal for European Union Legislation</p>	<p>1. In this Chapter—</p> <p>(a) “end date” means the last date of the 8-week period, by which the UK Parliament can issue a reasoned opinion on an EU legislative proposal in terms of Article 6 of the Subsidiarity Protocol;</p> <p>(b) “EU legislative proposal” is a proposal for the adoption of a legislative act to which the Subsidiarity Protocol applies;</p> <p>(c) “principle of subsidiarity” refers to the principle that the European Union shall act only if and insofar as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at European Union level; and</p> <p>(d) “Subsidiarity Protocol” means the Protocol (No. 2) on the Application of the Principles of Subsidiarity and Proportionality annexed to the</p>	<p><u>Suggested change:</u></p> <p>Delete rule 10A.1 as this is no longer applicable post-EU.</p>

	Treaty on European Union and to the Treaty on the Functioning of the European Union.	
Rule 10A.2 Referral to Lead Committee	<p>1. Where the UK Government, the UK Parliament or the Scottish Government brings to the attention of the Parliament any EU legislative proposal (or part of such proposal) as raising a concern in relation to compliance with the principle of subsidiarity, the proposal may be considered by the committee within whose remit the subject matter of the proposal falls (“the lead committee”).</p> <p>2. Where the subject matter of an EU legislative proposal falls within the remit of more than one committee, the Parliamentary Bureau may designate one of those committees as the lead committee.</p>	<p><u>Suggested change:</u></p> <p>Delete rule 10A.2 as this is no longer applicable post-EU.</p>
Rule 10A.3 Consideration of Proposal for European Union Legislation	<p>1. Where an EU legislative proposal has been referred to a lead committee in terms of Rule 10A.2, that committee may consider the EU legislative proposal and report to the Parliament if it considers that the proposal does not comply with the principle of subsidiarity.</p> <p>2. Where the lead committee so considers that an EU legislative proposal does not comply with the principle of subsidiarity, the Convener of that committee shall by motion propose that the Parliament agrees that the EU legislative proposal does not comply with the principle of subsidiarity. The Parliamentary Bureau shall allocate such time for debate on the motion as it considers appropriate.</p> <p>3. Where an EU legislative proposal is referred to a lead committee in terms of Rule 10A.2, and the lead committee decides having regard to the end date that there is an insufficient period remaining for report by the committee and a debate on a motion in terms of paragraph 2, the Presiding Officer shall notify the UK Parliament of any concerns of the lead committee that the proposal does not comply with the principle of subsidiarity.</p>	<p><u>Suggested change:</u></p> <p>Delete rule 10A.3 as this is no longer applicable post-EU.</p>

	<p>4. Where an EU legislative proposal is referred to a lead committee in terms of Rule 10A.2 while the Parliament is in recess for more than 4 days, the Presiding Officer may notify the UK Parliament of any concerns indicated by the Convener on behalf of the lead committee that the proposal does not comply with the principle of subsidiarity.</p>	
<p>Chapter 12 – Committee Procedures</p>		
<p>Rule 12.6 Reporters</p>	<p>1. Any committee may appoint a committee member (other than a committee substitute) (referred to as “a reporter”) to report to it upon any competent matter within such time limit as the committee may determine. A committee may appoint different reporters to report to it upon different competent matters.</p> <p>2. Each subject committee and the committee mentioned in Rule 6.9 shall appoint a committee member (other than a committee substitute) (referred to as a “European Reporter”) to bring to the attention of the committee any European Union (“EU”) issue, proposal for EU legislation, or implementation of European Communities or EU legislation, as he or she may determine is appropriate.</p>	<p><u>Suggested change:</u></p> <p>Delete paragraph 2 as this is no longer applicable post-EU.</p>