Standards, Procedures and Public Appointments Committee

5th Meeting 2021 (Session 6), Thursday 28 October 2021

Guidance on Public Bills

Background

1. The SPPA Committee is responsible for recommending that changes are made to Standing Orders. During Session 5, the SPPA Committee produced a number of reports recommending changes to Standing Orders:

- 3rd Report 2021, *Standing Order Rules Changes on the Financial Scrutiny of Bills* (SP Paper 964);
- 6th Report 2021, *Standing Order Rule changes – Private and Hybrid Bill Procedures* (SP Paper 973);
- 10th Report 2021, *Standing Order Rule changes – Delegated Powers Memorandum and Emergency Bills* (SP Paper 987).

2. The rule changes recommended in these reports were all agreed by the Parliament and, as a consequence of these changes, the necessary revisions to the Guidance on Public Bills have been made.

3. The changes proposed were prepared by the Legislation Team in collaboration with the Parliamentary Counsel Office. The Presiding Officer was also consulted and has indicated that she is content with the changes.

4. This paper outlines the revisions that have been made to the guidance and invites the Committee to agree the changes, which are attached in the annexe, for publication. If the Committee agrees the revised guidance for publication, the final changes will be made and a BB announcement will be made once it has been published.

Proposed Revisions to the Guidance on Public Bills

5. The proposed revisions relate to the changes in Standing Orders to:

- the Financial Memorandum;
- Financial Resolutions;
- Emergency Bills;
- Delegated Powers Memorandum.

6. The opportunity was taken to revise other minor areas of the Guidance. These related to:

- removing reference to the European Court of Justice as a result of the European Union (Withdrawal) Act 2018 and other changes resulting from the UK's withdrawal from the European Union;

- updating procedural information about hybrid and virtual meetings of the Parliament (paragraph 4.87 and 4.88);

- reflecting the changes to the Presiding Officer's criteria in relation to Scottish Law Commission Bills (paragraph 3.49);

- improving the explanation about amendments being consistent with the general principles of a bill in relation to admissibility of amendments. Examples are now included to better aid understanding (paragraph 4.24);

- updating references and adding examples of Bills the Parliament has already considered throughout the Guidance.

Financial Memorandum

7. Rule 9.3.2 requires a Financial Memorandum to be prepared for each Public Bill and sets out the information the Memorandum must contain.

8. Following changes to the Standing Orders, the Guidance (paragraphs 2.20 to 2.23) has now been updated to specify that the Financial Memorandum should provide information on the best estimates of (1) costs, (2) saving, and (3) changes to revenues (if any) arising from the provisions of a Bill. The Financial Memorandum should also explain how these costs, savings and changes to revenues arise, and what the implications are for the Scottish Consolidated Fund.

9. The purpose of the Rule is to ensure that, when it is scrutinising a Bill, the Parliament has before it not only information about the policy being proposed, but information about the likely financial implications of the Bill.

Financial Resolution

10. Rule 9.12.2 requires the Presiding Officer to decide in every case whether a Public Bill requires a financial resolution. In the Standing Orders Rule Change, Rules 9.12.3, 9.12.4 and 9.12.5 were substantially changed and new Rules 9.12.3A, 9.12.3B. 9.12.3C were added.

11. As a result, the Guidance has been updated accordingly:

- Paragraph 2.36 has been updated to explain what is meant by Scottish Consolidated Fund;

- Paragraphs 2.41 and 2.42 have been updated to list each revised and new Rule;

- Paragraphs 2.45 to 2.49 pertain to Rule 9.12.3 when a resolution is required due to changes on the Scottish Consolidated Fund. This Rule was revised and as such these paragraphs reflect how it should now be interpreted;

- Paragraphs 2.50 to 2.55 pertain to Rule 9.12.3A when a resolution is required due to other expenditure from the Scottish Consolidated Fund. This Rule was revised and renumbered and as such these paragraphs reflect how it should now be interpreted;

- Paragraphs 2.56 to 2.62 pertain to Rules 9.12.3B and 9.12.3C when a resolution is required due to changes to taxation revenues. These Rules are new and as such required inclusion in the Guidance;

- Paragraphs 2.63 to 2.69 pertain to Rule 9.12.4 and 9.12.5 when a resolution is required due to other changes or payments into the Scottish Consolidated Fund. These Rules were revised and as such these paragraphs reflect how it should now be interpreted.

12. In a number of places, the Rules refers to "significant" expenditure or expenditure increasing "significantly". What is meant by "significant" in the context of the financial resolution rules is for the Presiding Officer to determine in discharge of the Presiding Officer's duty under Rule 9.12.2. At the start of this session, the Presiding Officer was asked to consider how this will be approached so that decision making is consistent. The current practice is that, where a Bill is likely to give rise to cumulative costs on the SCF of at least £500,000 in any one financial year, this will be considered "significant" and a financial resolution will be required. In session 5, the threshold for "significant" expenditure was £400,00. The Guidance has been updated throughout to reflect the sum of "£500,000".

13. Rule 9.12.6 provides that the question cannot be put on an amendment to a Bill if the effect of the amendment would be that the Bill, had it been introduced in that form, would need a financial resolution that it does not have. These are known as "financially significant amendments". As a result of new Standing Order Rule Changes which now cover costs, savings and revenue, the corresponding paragraphs on financially significant amendments have been updated to take into account increases and well decreases and how these should be considered procedurally. These changes can be found in paragraph 2.116, 2.117, 2.125, and 2.127.

Withdrawal from the European Union

14. As a result of the United Kingdom's withdrawal from the European Union, the Guidance has been updated to remove references to the European Court of Justice which no longer apply. These were formerly contained in the section on Reconsideration Stage in the Guidance (paragraphs 2.150 to 2.155).

15. Paragraph 1.9 adds reference to the European Union (Withdrawal) Act 2018 and the Internal Market Act 2020 (which have become protected enactments since the last version of the guidance) and the restrictions in section 30A of the Scotland Act

1998 (which were added by the European Union (Withdrawal) Act 2018 and create limitations on modifying retained EU law in place of the previous requirement to act compatibly with EU law).

Delegated Powers Memorandum

16. The content of the paragraphs relating to DPMs is largely unchanged, they have simply been relocated so that they sit alongside the other accompanying documents (at paragraph 2.26). This move, and any reference added to the DPM in the context of accompanying documents, is to reflect the fact that the DPM is now an accompanying document rather than a standalone document with different procedures applying to it. The rest of the guidance about accompanying documents now applies to this too. For example, the DPM is now required on introduction alongside the other accompanying documents, not "after introduction" as was required previously. What is required to be provided in a DPM, and the role of the DPLR Committee in scrutinising it, is unchanged.

Bills – special cases

17. Private and Hybrid Bill procedures are covered by separate Guidance. As a result of changes to Standing Orders, the opportunity was taken to update the Guidance on Public Bills to ensure consistency between the two Guidance documents.

18. These changes pertain to:

- Paragraph 3.18 about Rule 9.14.13 on Member's Bills;
- Paragraph 3.36 about Rule 9.15.7A on Committee Bills;

19. Paragraph 3.44 of the Guidance was also updated to provide further detail relating to amendment deadlines for Budget Bills, which are slightly different than for other Bills.

20. In session 5, the Presiding Officer's criteria for Scottish Law Commission Bills was updated as a result of work undertaken by the Delegated Powers and Law Reform Committee. Paragraph 3.49 of the Guidance has therefore been updated to reflect the new criteria.

21. In light of the changes agreed to as a result of the Committee's 10th Report 2021, *Standing Order Rule changes – Delegated Powers Memorandum and Emergency Bills*, paragraph 3.72 has been added to explain that revised or supplementary accompanying documents are no longer required after Stage 2 of a Bill subject to Emergency Bill procedure.

Recommendation

22. The Standards, Procedures and Public Appointments Committee is invited to consider the revised Guidance on Public Bills set out in annexe and approve its publication.

Annexe – revised Guidance on Public Bills

The proposed changes are indicated in red text.

The Scottish Parliament
Pàrlamaid na h-Alba

GUIDANCE ON PUBLIC BILLS

Session 6 Edition

(Version 1, xxxxx 2021)

Contents

Foreword

Chapter 9 of the Parliament's Standing Orders sets out the rules that govern the Parliament's scrutiny of Public Bills. This Guidance aims to explain those rules and how they are applied in practice.

The Guidance takes account of changes to the Standing Orders, and the development of practice and precedent, since the second version of the Session 5 edition was published in March 2018. It is intended to be a reference resource for members, staff of the Parliament and Scottish Government, and anyone else with an interest in the legislative process.

The rules and practices explained in the Guidance are accurate as at xxxxx 2021. Procedures and practices continue to develop, and further versions of this Guidance will be published as appropriate.

Standing Orders use the terms "member of the Scottish Government", "junior Scottish Ministers" and "the Scottish Ministers". The members of the Scottish Government are the First Minister, the Law Officers (the Lord Advocate and the Solicitor General) and Ministers appointed under section 47 of the Scotland Act 1998. These office-holders are also collectively known as "the Scottish Ministers". "Junior Scottish Ministers" are appointed under section 49 of that Act to assist the Scottish Ministers in the exercise of their functions. The current administration uses the terms "Cabinet Secretary" and "Minister" to refer, respectively, to Ministers appointed under section 47 and junior Scottish Ministers. In this Guidance we use the terms used in the 1998 Act and Standing Orders.

The Guidance was prepared by the Legislation Team in the Parliament's Chamber Office. Comments or queries on this Guidance, or on Public Bill procedure generally, are welcome. The Legislation Team clerks can advise on any aspect of the Guidance and Standing Orders, and can be contacted at—

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For information in languages other than English or in alternative formats (for example Braille, large print or audio), please send your enquiry to Public Information, The Scottish Parliament, Edinburgh, EH99 1SP.

You can also contact Public Information by telephone on 0800 092 7500 or 0131 348 5000. Alternatively, you can email info@parliament.scot, or text 07786 209888. Written correspondence in any language is welcomed.

In addition, Scottish Parliament teams can be contacted using the Text Relay service or in British Sign Language (BSL) through contactSCOTLAND-BSL.

Part 1: Public Bills and background to the legislative process

Introduction

1.1 A Bill is a draft Act. A Bill introduced in the Scottish Parliament contains the text that will, if the Bill is passed and enacted, become part of the statute law as an Act of the Scottish Parliament.

1.2 Most Bills are "Public Bills" – Bills introduced by members of the Scottish Parliament (MSPs) and dealing with matters of public policy and the general law.

1.3 Various types of Bills (including Government Bills, Member's Bills, Committee Bills, Consolidation Bills, Scottish Law Commission Bills, etc.) are classed as Public Bills.

1.4 Bills are subject to a process of parliamentary scrutiny over various Stages. The main purpose of this Guidance is to describe that process as it applies to Public Bills in the Scottish Parliament.

1.5 "Private Bills" are Bills introduced by private individuals or bodies seeking powers or benefits in excess of or in conflict with the general law. Private Bills are subject to distinct Rules and are not covered in this Guidance. Separate *Guidance on Private Bills* is available.

1.6 "Hybrid Bills" are Public Bills introduced by a member of the Scottish Government which adversely affect a particular private interest of an individual or body in a manner different from the private interests of other individuals or bodies of the same category or class. Hybrid Bills combine the characteristics of other Public Bills – being introduced by Scottish Government Ministers, and often dealing with matters of general public policy – with some of the characteristics of a Private Bill. Hybrid Bills are also subject to distinct Rules and are not covered in this Guidance. Separate *Guidance on Hybrid Bills* is also available.

The Scottish Parliament's "legislative competence"

1.7 Before devolution, all Bills affecting Scotland were introduced in, and subject to the procedures of, the United Kingdom Parliament (that is, the two Houses at Westminster). Some such Bills were limited in extent to Scotland, while others applied to the whole of Great Britain or the United Kingdom (often with some distinct provisions applicable only to Scotland).

1.8 The Scotland Act 1998 ("the 1998 Act") established the Scottish Parliament, and gave it the power to legislate on certain matters. Section 28(1) of the 1998 Act provides that "subject to section 29, the Parliament may make laws, to be known as Acts of the Scottish Parliament". The limit on that power to legislate, set out in section 29, is the limit of the Parliament's "legislative competence".

1.9 The Parliament's legislative competence is defined according to five criteria (set out in section 29(2)):

- the Parliament can only legislate for or in relation to Scotland;
- it cannot legislate in relation to the "reserved matters" set out in Schedule 5 to the 1998 Act. Only the UK Parliament can legislate on those reserved matters;
- it cannot modify certain enactments set out in schedule 4 of the 1998 Act (which include the Human Rights Act 1998 and certain provisions of the Acts of Union, the European Union (Withdrawal) Act 2018 and the Internal Market Act 2020);
- its legislation must be compatible with the European Convention on Human Rights and cannot modify retained EU law in breach of any restriction in section 30A of the 1998 Act; and
- it cannot remove the Lord Advocate from their position as head of the system for criminal prosecutions and the investigation of deaths.

1.10 The 1998 Act requires separate statements on the legislative competence of any Bill to be made by the Presiding Officer and by the "member in charge" of the Bill before it is introduced in the Parliament (see paragraphs 2.17-2.19 below). The 1998 Act also provides an opportunity for the legislative competence of a Bill to be challenged after it is passed but before it can become law (see paragraphs 2.150-2.152 below).

1.11 While many of the limits on legislative competence are clear-cut, others may be subject to differences of interpretation. Whether the provisions of a Bill are within the legislative competence of the Parliament may be a matter of debate throughout the process of considering the Bill – both in regard to general debate on the Bill as a whole (or specific provisions in it) and in the context of particular amendments (see paragraphs 4.10 and 4.11). The precise boundaries of

the Parliament's powers to legislate can ultimately be decided only by the courts.

1.12 The Scottish Parliament has the power to legislate on a wide range of matters devolved to it – including most aspects of civil and criminal justice, health, education, local government, transport, housing and elements of taxation and social security.

1.13 Matters that are reserved to the UK Parliament include certain elements of the constitution, foreign affairs, defence and certain elements of taxation and social security, plus a range of more specific matters in home affairs, trade and industry, energy and transport, among others.

1.14 The UK Parliament also retains a general power (under section 28(7) of the 1998 Act) to legislate on all matters, both reserved and devolved. The exercise of this power is subject to the convention (known as "the Sewel convention") that the UK Parliament will not legislate on a devolved matter – or alter the legislative competence of the Parliament, or the executive competence of the Scottish Ministers – without the consent of the Scottish Parliament. (The Sewel Convention, insofar as it relates to UK Parliament legislation on devolved matters, is given statutory recognition in section 28(8) of the 1998 Act, as amended by the Scotland Act 2016.) The Parliament's consent is obtained by the Parliament's agreement to what is known as a legislative consent motion. The procedure associated with this process is contained in Chapter 9B of the Parliament's Standing Orders and is not covered by this Guidance.

The Scotland Act 1998 and Standing Orders

1.15 The 1998 Act (as amended by the Scotland Acts of 2012 and 2016) sets out the principles of the process to be followed by the Parliament in passing Bills. Section 36(1) requires there to be at least three distinct stages to the scrutiny of Bills:

- a stage when members can debate and vote on the general principles of the Bill;
- a stage when they can consider and vote on its details;
- a final stage when the Bill can be passed or rejected.

1.16 The Parliament may depart from this three-stage model in relation to specific types of Bill.

1.17 The 1998 Act also requires provision to be made for an additional stage ("Reconsideration Stage") to be available in circumstances where a Bill is subject to challenge after being passed (on legislative competence grounds – section 33 of the 1998 Act) or cannot be submitted for Royal Assent by the Presiding Officer because of an order issued by the Secretary of State (on various grounds – section 35 of that Act). Reconsideration Stage may also be held where:

- a Bill is rejected in circumstances where the Presiding Officer has stated that provisions in it relate to "protected subject-matter" (see paragraph 2.134), reference is made to the Supreme Court under section 32A(2)(a) of the 1998 Act and the Court decides that provisions referred to it do not relate to such a matter, or

- a Bill is passed (but by a majority of less than two-thirds) in circumstances where the Presiding Officer has stated that no provisions in it relate to "protected subject-matter", reference is made to the Supreme Court under section 32A(2)(b) of the 1998 Act and the Court decides that provisions referred to it do relate to such a matter.

See paragraphs 2.150-2.159 below for further details of Reconsideration Stage.

1.18 The Standing Orders set out the Parliament's procedures in more detail. The process governing the passage of a Public Bill is set out in Chapter 9. The rules in Chapter 9 need to be read in the context of the Standing Orders as a whole – including in particular, the rules relating to the management of business (Chapter 5), proceedings in committee (Chapters 6 and 12) and in the Parliament (Chapter 7), and decision-making and voting (Chapter 11).

1.19 Any of the rules in Standing Orders may be suspended or varied on a particular occasion or for a particular purpose. The rules cannot, however, be changed in a way that would be inconsistent with any requirements of the 1998 Act (Rule 17.2).

Structure and style of Bills

1.20 Bills in the Scottish Parliament are very similar, in terms of layout, structure and the conventions of legislative drafting, to Bills in the UK Parliament. This is primarily because the Acts of the Scottish Parliament (ASPs) to which they are intended to give rise form part of the UK

"statute book" alongside existing statute law in the relevant area, most of which consists of Acts passed by the UK Parliament before devolution.

1.21 Rule 9.2.3 requires Bills to be in "proper form". The Presiding Officer has made a determination of "proper form" which, together with recommendations on the content of Bills, is reproduced at Annex A. Annex B explains the structure of Bills and certain common features of drafting. An illustration of the form of a Bill and its principal components is set out at Annex C.

Part 2: Stages of Bills – the general rules

2.1 This Part of the Guidance explains the various procedures that a Bill goes through from before introduction to Royal Assent and beyond. The description relates principally to the "general rules" (Rules 9.2 to 9.13A) for the three stages of a Government "programme" Bill – that is, a Bill introduced to give effect to Scottish Government policy.

2.2 There are also "special rules" (Rules 9.14 to 9.21) which apply different procedures to particular types of Bills (including to some specific types of Government Bills such as Budget Bills, and to Member's Bills and Committee Bills). These are described in Part 3 of the Guidance.

2.3 The rules relating to amendments to Bills are explained in Part 4 of the Guidance.

2.4 The three-stage process is illustrated by a diagram in Annex D.

Government Bills – preparation for introduction

Policy development

2.5 For Government Bills, the legislative process begins with the formulation of policy by Ministers and civil servants. Once it has been decided that primary legislation is necessary in order to give effect to the policy, a "Bill team" consisting of administrators and solicitors is formed to develop the policy in detail. The Bill team solicitor prepares drafting instructions, on the basis of which the drafter (who works closely with the Bill team but is not a member of it) prepares the Bill. Scottish Government Bills are drafted by the Parliamentary Counsel Office (PCO). PCO also drafts some non-Government (Members' and Committee) Bills, and drafts some Scottish provisions in UK Government Bills.

2.6 In many cases, there will be a public consultation process during the preparation of the Bill. This may involve the publication of a Scottish Government consultation document, perhaps including detailed proposals for a Bill. The consultation may include a draft of the Bill.

2.7 The committee of the Parliament expected to consider the Bill when it is introduced may consider the proposals (or draft Bill) at this stage, perhaps taking evidence from interested individuals and bodies. Such "pre-legislative scrutiny" can be useful in allowing members to familiarise themselves with the subject-matter prior to introduction.

The pre-introduction period

2.8 Once the Scottish Government has finalised the text of the draft Bill, the drafter sends a copy of the draft Bill to the Head of Legislation and Parliamentary Business at the Parliament together with draft accompanying documents and a covering letter. These documents are normally sent three weeks in advance of the date that the Bill is expected to be formally introduced in the Parliament. At around the same time, copies of these documents are also sent, along with a note of the Government's view on legislative competence, to the Solicitor to the Scottish Parliament and to the Team Leader in the Legislation, Strategy and Constitution Team in Legal Services.

2.9 The purpose of this pre-introduction period is to allow officials of the Parliament to prepare advice on various procedural matters that need to be decided in respect of each Bill, and to prepare for the formal introduction of the Bill. The draft Bill and accompanying documents submitted by the drafter are near-final versions, but it is possible for changes still to be made at this stage. For this reason, and because the Parliament has the exclusive right to publish the Bill and the accompanying documents after introduction, the text of the draft Bill and accompanying documents are confidential during this pre-introduction period.

2.10 The drafter's covering letter sets out the Scottish Government's view on the following issues:

- Content: whether the Bill conforms to the Presiding Officer's recommendations on the content of Bills – in particular, whether the short and long titles accurately and neutrally reflect what the Bill does (see Annex A).

- Scope: what is the extent of the purpose(s) of the Bill, and hence what advice would be given about the sorts of amendments that would be relevant to the Bill and consistent with the general principles of the Bill (see paragraphs 4.14-4.23).

- Protected subject-matter: the Scottish Government's initial view on whether a provision of the Bill relates to a protected subject-matter and whether the scope of the Bill would allow amendments that did so relate to be made (see paragraphs 2.134-2.135).

- Crown Consent: whether the Bill or any provision of it affects the prerogative, private interests or hereditary revenues of The

Queen (or the interests of the Prince of Wales in his capacity as Prince and Steward of Scotland or Duke of Cornwall) and so require the signification of Crown consent (under paragraph 7 of schedule 3 of the 1998 Act and Rule 9.11 – (see paragraphs 2.89-2.92).

- Private Interests: whether the Bill or any provision of it affects private individuals of any category or class in a manner different from others of the same category or class, so that those adversely affected might reasonably demand the right to make representations to the Parliament.

- Financial provisions: whether any provisions of the Bill would have implications for expenditure from the Scottish Consolidated Fund, or would impose or increase a tax (see paragraphs 2.56-2.62), or would impose or increase any charge or payment payable into the Scottish Consolidated Fund, which requires a financial resolution under Rule 9.12 (see paragraphs 2.36-2.69).

- Delegated powers: which provisions (if any) of the Bill contain provisions conferring power to make subordinate legislation, or conferring power on the Scottish Ministers to issue any directions, guidance or code of practice, and so requires to be considered by the Delegated Powers and Law Reform Committee under Rule 9.6.2 (see paragraphs 2.74 and 2.75).

2.11 During this pre-introduction period, Legal Services prepares advice to the Presiding Officer on legislative competence, in order to assist the Presiding Officer in making a statement as to whether the Bill would be within the Parliament's legislative competence, as required by section 31(2) of the 1998 Act.

2.12 At the same time, the clerks consider the points raised in the drafter's letter, with the Head of Legislation and Parliamentary Business sending a response shortly prior to introduction, setting out the advice that clerks will give on the issues covered in paragraph 2.10. The clerks also prepare advice to the Presiding Officer on whether a financial resolution is required (see paragraphs 2.36-2.69). They also make final formatting changes to the Bill to ensure that it conforms to the Presiding Officer's determination (under Rule 9.2.3) on "proper form" (reproduced in Annex A) and prepare it for printing and publication.

2.13 All reasonable efforts are made by Legal Services and the clerks to ensure that work is completed in time for the proposed date of

introduction to be met. Periods of parliamentary recess are not usually counted towards the period of three weeks. It is sometimes possible to carry out the necessary pre-introduction work in less than three weeks. However, circumstances can also arise when a longer period is needed – for example, because a number of other Bills have been submitted at around the same time.

Accompanying documents and other documents

2.14 All Bills submitted for introduction must be accompanied by the various documents required under paragraphs 2 to 4 of Rule 9.3. For most Government Bills, these accompanying documents are—

- a statement on legislative competence by the Presiding Officer (under section 31(2) of the 1998 Act and Rule 9.3.1);
- a statement on legislative competence by the member in charge of the Bill (under section 31(1) of the 1998 Act and Rule 9.3.1A);
- a Financial Memorandum (under Rule 9.3.2);
- Explanatory Notes (under Rule 9.3.2A);
- a Policy Memorandum (under Rule 9.3.3);
- a Delegated Powers Memorandum (under Rule 9.3.3B)
- an Auditor General's Report, if required (under Rule 9.3.4).

2.15 For some specific types of Government Bill (Budget, Consolidation, Codification, Statute Law Repeals and Statute Law Revision Bills) different accompanying documents are required (Rules 9.16, 9.18, 9.18A, 9.19 and 9.20). For the requirements in relation to Committee Bills, see paragraph 3.39.

2.16 Under Rule 9.3.6, the Parliament may decide (by agreeing to a motion lodged by the member proposing to introduce a Bill) to allow a Bill to be introduced without one or more of the accompanying documents required under Rule 9.3. This Rule does not, however, permit the Parliament to waive the requirement for the statements on legislative competence by the member in charge and the Presiding Officer, since those are requirements of the Scotland Act 1998 and not just of the Standing Orders.

Statements on legislative competence

2.17 The duty on the Presiding Officer to make a statement on legislative competence differs from that on the member in charge. The Presiding Officer's statement may indicate a view that the Bill is (or specified provisions of it are) outwith competence, giving reasons. A statement in such terms does not prevent the Bill from being introduced.

2.18 The established form of words for the statement on legislative competence by the member in charge of the Bill is: "In my view, the provisions of the [short title] Bill would be within the legislative competence of the Scottish Parliament.".

2.19 Although the Presiding Officer's statement must express a definite view as to the legislative competence of the provisions, and the statement by the member in charge must be that the Bill would be within competence, both statements are opinions as to the competence of the Bill at introduction. Legislative competence can be a complex issue, and can ultimately be determined only by the courts. It can be an important issue of debate throughout the scrutiny of a Bill (see paragraphs 4.10 and 4.11). The statements should not, therefore, be regarded as precluding the Parliament, or any committee, from critically examining a Bill on grounds of legislative competence during its passage.

Financial Memorandum

2.20 The information provided in the Financial Memorandum facilitates scrutiny by the Parliament of the financial implications of a Bill. In addition, the Financial Memorandum should provide the information the Presiding Officer needs, on advice from the clerks, to decide whether a Bill will require a financial resolution under Rule 9.12. For more on when a financial resolution is required, see paragraphs 2.36 to 2.69 (see also paragraphs 2.115 to 2.127 on financially significant amendments).

2.21 The Financial Memorandum should set out best estimates of the (1) costs, (2) savings, and (3) changes to revenues (if any) arising from the provisions of a Bill, and indicate the margins of uncertainty in these best estimates. In doing so, it must provide best estimates of the timescales over which these costs, savings, and changes to revenues would be expected to arise.

2.22 It must also separately distinguish the costs, savings, and changes in revenues which will fall upon—

- the Scottish Administration as defined in the 1998 Act (i.e. the Scottish Government, in the broad sense of Ministers, departments and agencies),
- local authorities, and
- other bodies, individuals and businesses (considered collectively).

2.23 The Financial Memorandum should explain how these costs, savings, and changes to revenues arise, and what the implications are for the Scottish Consolidated Fund. For example, provision for a new or modified tax raising power could, assuming the power is used, significantly increase or reduce the amount of revenue paid into the Scottish Consolidated Fund. The discontinuation of a service or dissolution of an organisation could present potential savings to budgets and the Financial Memorandum should set out best estimates for these savings.

Explanatory Notes

2.24 The Explanatory Notes normally provide a brief overview of what the Bill does, followed by a more detailed commentary on the individual provisions. Their purpose is to summarise objectively and clearly what the provisions of the Bill do and to give other information necessary or expedient to explain the effect of the Bill. They must be neutral in tone, and should explain what the Bill does without seeking to justify the policy or advocate its merits. They should be as clear and readable as possible so as to be comprehensible to people with no legal or specialist knowledge. Explanatory Notes can be useful to the reader in describing the legal context in which the Bill operates, including reference to relevant statute and common law on which the provision relies, and explaining specialised terminology used in the Bill. Straightforward or self-explanatory provisions do not require explanation in the Notes.

Policy Memorandum

2.25 The Policy Memorandum sets out the Bill's policy objectives, what alternative approaches were considered, the consultation undertaken and an assessment of the effects of the Bill on equal opportunities, human rights, island communities, local government, sustainable development and other matters considered relevant. It provides an opportunity to argue the case for the Bill, and so can provide a useful complement to the Explanatory Notes.

Delegated Powers Memorandum

2.26 Where a Bill contains any provision which confers power to make subordinate legislation, or for the Scottish Ministers to issue any directions, guidance or code of practice, a Delegated Powers Memorandum is required. This must set out, for each such power:

- the person on whom or body on which any such power is conferred;
- the form in which the power is to be exercised;
- why it is considered appropriate to delegate the power;
- the parliamentary procedure (if any) to which the power is to be subject; and
- the reason for opting for that procedure (or for no procedure).

Auditor General's Report

2.27 This document is required only in relation to a Bill containing provisions "charging expenditure on" the Scottish Consolidated Fund. A charge on the Scottish Consolidated Fund is a charge which the Scottish Government is required to pay without obtaining further authority from the Parliament by means of a Budget Bill. By agreeing to the provision, the Parliament voluntarily gives up its right to scrutinise the budget for the item concerned (see also paragraph 2.45).

Role of the clerks in relation to accompanying documents

2.28 Accompanying documents (other than the Presiding Officer's statement on legislative competence) are prepared by or on behalf of the member in charge of the Bill (in the case of Government Bills, by the Bill team). The clerks have a role in ensuring that they are presented appropriately and conform to the requirements of Standing Orders (described in paragraphs 2.14-2.27).

Introduction of the Bill

2.29 Once the Presiding Officer has made a statement on legislative competence, and the other pre-introduction steps have been taken, the Bill may be formally introduced. A Bill may be introduced on any sitting day (Rule 9.2.1) by being lodged with the clerks (Rule 9.2.2). A "sitting day" is any day when the office of the Clerk is open, but not when the Parliament is in recess or dissolved (Rule 2.1.3). The office of the Clerk is open on most weekdays throughout the year, other than the main

public holidays. Recess dates and public holidays are published on the Parliament's website.) The Bill must be signed by the member introducing it and by any supporters whose names are to appear on the published version (Rules 9.2.4 and 5).

Member in charge of the Bill

2.30 The member who introduces the Bill is also, in the first instance, the "member in charge" of it. As such, this member has certain specific rights in relation to the Bill at later stages during its passage. That member may also designate another member as member in charge. In the case of a Government Bill, only a junior Scottish Minister may be the designated member in charge (Rules 9.2A.1(b) and 9.2A.5). Such a designation is made in writing to the clerks, and only one other member may be so designated at any time. The designation of another member does not prevent the member who introduced the Bill from exercising any rights conferred by the Rules on the member in charge (Rule 9.2A.4).

2.31 Designation of another member as member in charge may be made at any time, but is normally made at the time of introduction. It gives the member who introduced the Bill an assurance that any necessary procedural steps can still be taken should the member be unavailable for a period or on a particular occasion.

2.32 In the case of a Government Bill, the member who introduces the Bill becomes the original member in charge by virtue of that member's role as Minister, rather than in an individual capacity. If another member takes over that role during the passage of the Bill, the new Minister automatically assumes the status of member in charge (Rule 9.2A.1).

Publishing the Bill and accompanying documents

2.33 On the day of introduction, the Bill and accompanying documents are sent by the clerks for publication (Rule 9.4). The Bill and accompanying documents are normally available, both in hard copy and on the Parliament's website, at 8:30am the following day.

2.34 Bills appear in "pdf" format on the website, so that page and line breaks remain identical to the printed version. This enables the internet user to make sense of amendments, which are worded by reference to the page and line numbers.

2.35 The introduction of a Bill is recorded by an announcement in the Business Bulletin. Information on the progress of a Bill through the Parliament also appears in the Bulletin.

Financial resolutions

2.36 Where a Bill contains particular provisions affecting payments into or out of the Scottish Consolidated Fund, no proceedings can be taken on the Bill after Stage 1 unless the Parliament has, by resolution, agreed to the relevant provisions. That resolution is known as a "financial resolution". Financial resolutions are governed by Rule 9.12. The Scottish Consolidated Fund was created by the 1998 Act. Payments are made into the Scottish Consolidated Fund by the Secretary of State as well as sums which are received by the Scottish Administration. The spending of the Scottish Administration and other statutorily defined bodies comes out of the Scottish Consolidated Fund.

Principles behind the Rule

2.37 The financial resolution procedure is a means of giving extra control to the Scottish Government over Bills with certain financial implications. Only a member of the Scottish Government or a junior Scottish Minister can lodge a motion for a financial resolution (Rule 9.12.7), and so the Scottish Government has a veto on whether any Bill that requires such a resolution makes progress. Unless a motion is lodged and the Parliament agrees to it within six months of the completion of Stage 1, a Bill that requires a financial resolution falls.

2.38 Rule 9.12 is intended to give effect to the principles of the Financial Issues Advisory Group (FIAG) which reported to the Consultative Steering Group (CSG) before the establishment of the Parliament. FIAG advocated a clear separation between "policy Bills" that would create powers or functions, and "Budget Bills" that would allocate resources. Budget Bills provide authorisation for the spending of money on existing functions. Separate provision would always be needed in policy Bills for conferring the functions which give rise to the demand for funding. It is the policy provision that requires the consent of the Parliament by means of a financial resolution. A financial resolution recognises that the new (or altered demand) for funding in a policy Bill is something that will have an impact on the Scottish Consolidated Fund. This is distinct from the annual Budget process, which determines the amounts of funding allocated.

2.39 In recommending this system, FIAG was attempting to give effect to the established principle that the executive arm of government has a unique responsibility in relation to the management of public funds. If it is to fulfil this function, the Scottish Government must maintain control both over the raising of revenue and over public spending – hence the need for a mechanism to secure Scottish Government consent for payments either into or out of central funds.

When a resolution is required

2.40 The Presiding Officer decides in relation to every Public Bill whether or not a financial resolution is required (Rule 9.12.2). This decision is usually made shortly after a Bill's introduction. It is communicated to the member introducing the Bill and to relevant Ministers and committee conveners, and announced on the Bill's webpage.

2.41 The information provided in the Financial Memorandum (see paragraphs 2.20 to 2.23) is used by the Presiding Officer, on advice from the clerks, to help decide whether a Bill requires a financial resolution. In particular, the Financial Memorandum should provide enough information to determine, in accordance with Rule 9.12, whether the provisions of the Bill—

- charge expenditure on the Scottish Consolidated Fund (Rule 9.12.3(a), see paragraph 2.44),
- are likely to increase significantly the expenditure payable under an existing charge on the Scottish Consolidated Fund in any financial year (Rule 9.12.3(b), see paragraphs 2.45 to 2.49),
- are likely to increase significantly expenditure payable out of the Scottish Consolidated Fund in any financial year (Rule 9.12.3A, see paragraphs 2.50 to 2.55),
- impose, or confer a power to impose, a tax (Rule 9.12.3B(a), see paragraph 2.57),
- increase, or confer a power to increase, any tax, the likely effect of which would be to increase significantly revenue from the tax in any financial year (Rule 9.12.3B(b), see paragraphs 2.58 and 2.60 to 2.62),
- reduce, or confer a power to reduce, any tax, the likely effect of which would be to reduce significantly revenue from the tax in any financial year (Rule 9.12.3C, see paragraphs 2.60 to 2.62),
- impose or increase a charge (other than a tax) or otherwise require a payment to be made, or confer a power to do so, in the

circumstances set out in Rule 9.12.4 as read with Rule 9.12.5 (see paragraphs 2.63 to 2.69).

2.42 The decision is made on the basis of the criteria in paragraphs 3, 3A, 3B, 3C and 4 of Rule 9.12. These criteria are considered independently of one another, so a Bill may require a resolution under more than one paragraph. Assessing whether the criteria are met is done by reference to the provisions contained in the Bill, the information in the Financial Memorandum and any other relevant information.

2.43 The need for a resolution does not just arise in relation to mandatory provisions (e.g. those using "must") in a Bill, but also in relation to optional provisions (e.g. those using "may"). Budgetary authorisation may be required to ensure that a mechanism provided in the Bill can be used, as well as for what the Bill requires to be done. The question is whether, if the mechanism in the Bill were used, there would be a change in revenues available to the Scottish Consolidated Fund.

Rule 9.12.3: resolutions required due to charges on the Scottish Consolidated Fund

2.44 A resolution is required in every case where a Bill "charges expenditure on" the Scottish Consolidated Fund (Rule 9.12.3(a)). Such charges – which the Scottish Government is required to pay without obtaining further authority from the Parliament by means of a Budget Bill – are provided for only in exceptional cases. An example is provision for judicial salaries (for example, the Lands Tribunal Act 1949). The creation of any such new charge requires a financial resolution – regardless of the amount of money involved.

2.45 By agreeing to a provision charging expenditure on the Fund, the Parliament voluntarily gives up its right to scrutinise the budget for the item concerned. (It is for this reason that, where a Bill contains such a provision and Rule 9.12.3(a) is engaged, it must be accompanied on introduction by a report by the Auditor General for Scotland (under Rule 9.3.4).) Previous Bills which have required a financial resolution under Rule 9.12.3(a) are the Courts Reform (Scotland) Bill (introduced in 2014) and the Scottish Parliamentary Pensions Bill (introduced in 2008).

2.46 A financial resolution is also required where the likely effect of a Bill's provisions would be to increase significantly expenditure charged on the Scottish Consolidated Fund (Rule 9.12.3(b)). Where the need for a resolution depends on the "likely effect" of a Bill, for example where expenditure is the likely outcome of the Bill's implementation, account is

taken of the wider context in which the Bill operates, and consideration isn't confined to just whether the Bill directly requires expenditure to be incurred. It is possible that a Bill could have the effect (directly or indirectly) of increasing the amount of expenditure arising as a result of a previously authorised charge on the Scottish Consolidated Fund. For example, a Bill introducing a new type of civil order which can be made by the courts might mean that more judges are required, leading to an increase in the amount required to pay judicial salaries.

2.47 In addition, expenditure that is likely to arise in the event of a power conferred by the Bill being exercised will be taken into account, even if is not certain that the power will be exercised. It is the mechanisms that the Bill provides, not the way in which particular Ministers currently intend to use those mechanisms, that is important.

2.48 Sums of £500,000 or more in any single financial year (regardless of whether the relevant sum is an ongoing expenditure or a one-off) is the threshold for what is currently considered "significant" for the purposes of Standing Orders. For the purposes of Rule 9.12.3(b), where the likely effect of more than one provision in a Bill would be to increase expenditure under any existing charges on the Scottish Consolidated Fund, the increases will be considered cumulatively in determining whether the increase is "significant".

2.49 Where there is substantial uncertainty about the level of sums that might be involved in a Bill, but there is potential for the sums to exceed the "significant" threshold, an approach of erring on the side of caution and saying that a financial resolution is required is likely to be adopted. If, however, the implications of a Bill for the sums are very indirect or uncertain a resolution may not be required.

Rule 9.12.3A: resolutions required due to other expenditure from the Scottish Consolidated Fund

2.50 Expenditure which is not charged on the Scottish Consolidated Fund as described above is referred to as being "payable out of the Scottish Consolidated Fund". Expenditure payable out of the Scottish Consolidated Fund is expenditure which requires further authorisation from the Parliament via a Budget Bill (see also paragraph 2.38).

2.51 A financial resolution is required in relation to expenditure payable out of the Fund if two tests are satisfied (Rule 9.12.3A). The first test is

what the "likely effect" of the Bill would be. The second test is that the expected expenditure (whether it is new or increased) must be "significant".

2.52 Where the need for a resolution depends on the "likely effect" of a Bill, for instance where expenditure is the likely outcome of the Bill's implementation, account is taken of the wider context in which the Bill operates, and consideration isn't confined to just whether the Bill directly requires expenditure to be incurred. In addition, expenditure that is likely to arise in the event of a power conferred by the Bill being exercised will be taken into account, even if is not certain that the power will be exercised. It is the mechanisms that the Bill provides, not the way in which particular Ministers currently intend to use those mechanisms, that is important.

2.53 Sums of £500,000 or more in any single financial year (regardless of whether the relevant sum is an ongoing expenditure or a one-off) is the threshold for what is currently considered "significant" for the purposes of Standing Orders. For expenditure under Rule 9.12.3A, significance is considered on a cumulative basis, which means that if in any single financial year smaller sums in different categories of expenditure under Rule 9.12.3A collectively add up to £500,000 or more, a financial resolution will be required (but see paragraph 2.55 as regards savings).

2.54 Where there is substantial uncertainty about the level of sums that might be involved in a Bill, but there is potential for the sums to exceed the "significant" threshold, an approach of erring on the side of caution and saying that a financial resolution is required is likely to be adopted. If, however, the implications of a Bill for the sums are very indirect or uncertain a resolution may not be required.

2.55 A financial resolution may be required even if no overall increase in spending from the Scottish Consolidated Fund is anticipated – the fact that a Bill gives rise to a need for spending has to be recognised. If it is intended that that need will be met by, for example, efficiency savings or diversion of funds from another area, the Parliament should be alive to the fact that in order to deliver the Bill's provisions such a difference in where and how spending is being allocated is occurring. However, savings arising from provisions in the Bill itself may be taken into account in determining the overall net cost of the Bill for the purposes of Rule 9.12.3A.

Rule 9.12.3B and Rule 9.12.3C: resolutions required due to changes to taxation revenues

2.56 A tax is a liability on a person to make a payment. It is distinct from a fee for a service, which a person who wants to use the service must pay (such as a fee for a planning application, or for a licence for a shotgun). For the purposes of paragraphs 3B and 3C, a "tax" means a devolved tax (within the meaning given by section 80A(4) of the Scotland Act 1998) and any local tax to fund local authority expenditure (as referred to in Part 2 of schedule 5 of the 1998 Act, Section A1).

2.57 A resolution is required in every case where a Bill imposes or confers power to impose a new tax (Rule 9.12.3B(a)). The creation of a new tax requires a financial resolution regardless of the amount. The rule, therefore, assumes that the creation of a new tax is a significant provision that should always in itself cause a Bill to require a resolution.

2.58 A resolution is also required where a Bill includes provision to increase, or confer power to increase, an existing tax (Rule 9.12.3B(b)); for example, by increasing the rate of tax, expanding the range of activities that are taxable or the persons who are subject to the tax. A resolution is however required only if two tests are engaged (Rule 9.12.3B(b)). This is that the "likely effect" of the increase would be a "significant" increase in revenues from the tax.

2.59 A resolution is required where a Bill includes provision to reduce, or confers power to reduce, an existing tax (for example, by abolishing a tax or creating or extending a tax relief) but only if an additional test is satisfied (Rule 9.12.3C). This is that the "likely effect" of the reduction in revenue would be "significant".

2.60 In Rules 9.12.3B(b) and 9.12.3C, the interpretation of "likely effect" with regards to taxes and revenue is more clear-cut since it applies directly to a tax and its associated revenue as opposed to any provisions or actions which may consequently affect the tax. For example, if the provisions of a Bill restricted the sale of sugary drinks, this would have the effect of reducing the revenue from an existing tax on the sale of such drinks, but it does not directly affect the tax itself. Therefore, a financial resolution would not be required under Rule 9.12.3C. But a financial resolution might still be required under Rule 9.12.3A if the provisions of the Bill which restrict the sale of sugary drinks are likely to increase significantly the expenditure payable out of the Scottish Consolidated Fund (see paragraphs 2.50 to 2.55). If, instead, the provisions in the Bill increased the rate of the existing tax on the sale of

sugary drinks and the likely effect of this is that the revenues from the tax would be significantly increased, then a financial resolution under Rule 9.12.3B(b) would be required.

2.61 For the purposes of Rules 9.12.3B(b) and 9.12.3C, the interpretation of "significant" is a threshold of £500,000 or more in the change of revenue in any single financial year; either as an increase of revenue of £500,000 or more or a decrease in revenue of £500,000 or more. Accordingly, a resolution will not be required for a Bill which is likely to increase (or decrease as the case may be) an existing tax if the increase (or decrease) is below this threshold.

2.62 Rules 9.12.3B(b) and 9.12.3C should be considered separately when assessing whether a financial resolution is required. Where the likely effect of more than one provision in a Bill would be to increase revenue from a tax or taxes, the increases should be considered cumulatively in determining whether the increase is "significant" for the purposes of Rule 9.12.3B(b). Conversely, where the likely effect of more than one provision in a Bill would be to reduce revenue from a tax or taxes, the reduction should be considered cumulatively in determining whether the reduction is "significant" for the purposes of Rule 9.12.3C.

Rule 9.12.4: resolutions required due to other charges or payments into the Scottish Consolidated Fund

2.63 A financial resolution is required if a Bill satisfies the two tests set out in Rule 9.12.4(a) and (b). The first test is that it would impose or increase a charge (other than a tax), or otherwise require a payment to be made, including by provision that is to be made by subordinate legislation. It is assumed for the purposes of Rule 9.12.4 that a power to impose or increase a charge will be used.

2.64 The second test is that the charge or payment must be made – with one exception – to persons with a statutory duty to pay the amounts involved into the Scottish Consolidated Fund. In practice, this means the Scottish Ministers and other office-holders in the Scottish Administration, together with directly-funded bodies. It excludes most non-departmental public bodies (NDPBs), whose income is not payable into the Scottish Consolidated Fund.

2.65 The exception (set out in brackets in Rule 9.12.4(b)) relates to bodies which are not required to pay income received (e.g. from charges or payments) into the Scottish Consolidated Fund because a provision in an Act of the Scottish Parliament (or in subordinate legislation made

under such an Act) allows them instead to keep that income. Bodies in that position, in other words, have the power to "recycle" income – offsetting it directly against money they would otherwise require to be given from the Scottish Consolidated Fund for expenditure purposes.

2.66 The purpose of the exception is to ensure that a Bill which authorises such a body to levy charges or payments is not automatically exempted from the need for a financial resolution just because the body is not required to pay the income into the Scottish Consolidated Fund. Without this exception, an arbitrary distinction would be drawn between public bodies which have this limited type of financial autonomy and those which don't – even though the impact on the Scottish Consolidated Fund of a Bill authorising either type of body to raise new income would be essentially the same.

2.67 Rule 9.12.5 provides three exemptions from the application of Rule 9.12.4. Similar to Rule 9.12.3A, income as a result of the Bill must be "significant" for a resolution to be required under Rule 9.12.4. The income produced by a Bill is currently considered "significant" for the purposes of Rule 9.12.4 if it is likely to be £500,000 or more in any single financial year. As with Rule 9.12.3A, an approach of erring on the side of caution and saying that a financial resolution is required is likely to be taken in cases where there is substantial uncertainty about the level of income that will be produced by a Bill but where there is potential for it to meet or exceed the "significant" threshold. For the purposes of Rule 9.12.5(a), the income from different charges or payments imposed by in the same Bill will be considered cumulatively in determining whether the increase is "significant".

2.68 The second exemption is for charges or payments which are levied to recover the cost of goods or a service provided (Rule 9.12.5(b)(i) and (ii)). Charges for goods that are reasonable and charges for services that are limited to approximately cost recovery level do not require financial resolution cover. This would cover, for example, a charge for providing someone required to register information with a copy of their entry in the register. It would allow the charge levied to be at a higher level than would be justified only in terms of marginal cost recovery (i.e. the cost of the paper, photocopier toner and staff time making the copy) – but not substantially higher. The underlying intention is that a financial resolution should be required only in cases where charges or payments can be levied in such a way as to generate substantial profit or to contribute significantly to the income of the body in question.

2.69 The third exemption is for any charge that would result in no significant net gain or loss to the Scottish Consolidated Fund. This exemption will include, for example, any charges, such as fines or fixed penalties, which would be paid into the Scottish Consolidated Fund but would result in a corresponding downward adjustment to Scotland's Block Grant, meaning that overall there would be no net change to the Scottish Consolidated Fund. Therefore, if a Bill has a provision which introduces such charges, as there is no change to the revenues available to the Scottish Consolidated Fund via the provision, there is no requirement for a financial resolution.

Lodging and moving motions for resolutions

2.70 Under Rule 9.12.7, a motion for a resolution may be lodged and moved only by a member of the Scottish Government or a junior Scottish Minister. (The Minister who moves such a motion need not be the one who lodged it, and may move it without having added their name as a supporter (Rule 8.3.2).) For non-Government Bills, it is for the member in charge of the Bill to approach the Scottish Government, once it has been decided that a resolution is required, to request the relevant Minister to lodge and move a suitable motion. The motion must be lodged within six months of the completion of Stage 1 (Rule 9.12.8(a)) and amendments to such a motion are not admissible (Rule 9.12.7) (if the Rule does not specify "sitting days" then it is straight calendar days). If no motion is lodged within this time or if such a motion is lodged but not agreed to by the Parliament when it is taken, the Bill falls (Rule 9.12.8).

2.71 Most motions on financial resolutions are formally moved without any debate taking place. Financial scrutiny takes place through consideration of the Financial Memorandum at Stage 1 and concerns on financial matters may be raised in the Stage 1 debate. Motions for financial resolutions are usually broadly worded, which allows many financially significant amendments to be debated and decided on at later stages without a further financial resolution being required. Sometimes, however, a motion may be more narrowly worded, making it more likely that any financially significant amendments may require a new financial resolution (see more at paragraphs 2.115 to 2.127).

Stage 1

2.72 Stage 1 is the stage where members can debate and vote on the general principles of a Bill.

Lead and secondary committees

2.73 Once a Bill has been introduced, the Parliamentary Bureau refers it to the committee within whose remit the subject matter of the Bill falls. For the purposes of Stage 1, this committee is known as the "lead committee". If there is more than one committee to which the Bill is relevant, the Parliament may designate (on the recommendation of the Bureau) which is to be the lead committee. In that case, the other committees, known as "secondary committees" may (but need not) consider and report on the general principles of the Bill to the lead committee (Rule 9.6.1).

Delegated Powers and Law Reform Committee

2.74 If the Bill contains provisions conferring power to make subordinate legislation, or conferring power on the Scottish Ministers to issue any directions, guidance or code of practice, it must be considered by the Delegated Powers and Law Reform Committee, which reports on the relevant provisions to the lead committee (Rule 9.6.2). The Committee may also report on any provisions in the Bill which confer other delegated powers.

2.75 In considering those provisions, the Committee normally considers the Delegated Powers Memorandum provided by the member in charge, and may also take evidence from officials and other interested parties. The Committee considers in particular:

- whether the delegation of powers proposed by the Bill is appropriate or whether any powers concern matters which should properly be the subject only of primary legislation; and

- if the delegation of powers is appropriate, whether the parliamentary control over exercise of the delegated power proposed in each case is suitable.

Stage 1 Report

2.76 At Stage 1, the lead committee's role is to consider and report to the Parliament on the general principles of the Bill – that is, on the principal purposes of the Bill, rather than the fine detail.

2.77 The Parliamentary Bureau normally proposes to the Parliament a timescale within which Stage 1 should be completed. By setting a date by which the debate and decision on the general principles must have taken place, this will effectively set a date by which the lead committee should report.

2.78 The lead committee can decide how it will go about fulfilling its role. It may take different approaches depending on the subject matter of, and background to, the Bill. The lead committee is likely to issue a call for written evidence at the beginning of the inquiry. The lead committee is likely to consider different methods of gathering evidence from those who are likely to have an interest in the Bill or be affected by its provisions. The committee will normally also take oral evidence from a range of witnesses over a number of meetings. For any Government Bill, the relevant Minister or junior Minister and Scottish Government officials are likely to be invited to give evidence.

2.79 The lead committee must include in the Stage 1 Report consideration of the Financial Memorandum, taking into account any report on that document that may (but need not) be made to it by the Public Finance and Administration Committee. In the case of a Government Bill, the Report must also include consideration of the Policy Memorandum. This enables the lead committee to consider, for example, whether sufficient consultation was undertaken before introduction.

2.80 The lead committee must take into account any views submitted to it by another committee. The Stage 1 Report will normally include links to (and comment on) any reports by the Delegated Powers and Law Reform (DPLR) Committee, Public Finance and Administration Committee or secondary subject committees.

2.81 It is normal (but not obligatory) for a Stage 1 Report to include a recommendation to the Parliament as to whether the general principles of the Bill should be agreed to.

2.82 If a date for the Stage 1 debate has been set, the Stage 1 Report must be published not later than the fifth sitting day before that date (Rule 9.6.3A).

Stage 1 debate

2.83 The Parliament is then required to consider the general principles of the Bill and decide whether to agree to them (Rule 9.6.4). This debate cannot take place earlier than the fifth sitting day after publication of the Stage 1 Report, unless a motion by any member proposing that the debate takes place earlier is agreed to (Rule 9.6.3A). This is intended to ensure that there is, in the normal course of events, at least a week between publication of the Stage 1 Report and the Stage 1 debate.

2.84 Before the Parliament has decided on the general principles of the Bill, any member may propose by motion "That the [short title] Bill be referred back to the [name] Committee for a further report on the general principles of the Bill" (or of any specified part of the Bill) (Rule 9.6.5). If such a motion is agreed to, the Bill returns to the lead committee for a further report (Rule 9.6.6). Otherwise, the Bill's general principles are debated and decided on. An example of a Bill being referred back to the lead committee for further Stage 1 consideration is the St Andrew's Day Bank Holiday Bill (SP Bill 41, Session 2).

2.85 The debate takes place on a motion by the member in charge of the Bill ("That the Parliament agrees to the general principles of the [short title] Bill"). Such a motion may be amended. By way of example, amendments might be worded (a) to add a reason why, in agreeing to the motion, the Parliament does so with some regret or misgivings – e.g. Insert at end "but, in so doing, expresses reservations about [etc.]"; or (b) so as to reverse the terms of the motion for a reason stated in the amendment – e.g. Leave out from "agrees" to end and insert "does not agree to the general principles of the [short title] Bill because [etc.]".

2.86 Amendments of both types are admissible and may be lodged. Like all amendments to motions, such amendments are subject to selection by the Presiding Officer. Amendments may be selected by the Presiding Officer for debate if they are so worded that, if agreed to, the amended motion would make clear that the Bill should proceed to Stage 2. Reasoned amendments of type (b) to reverse the motion are not normally be selected, depending on the Presiding Officer's decision. This is because rejection of a motion amended in this way would mean that the Parliament has not made a resolution either way and would, therefore, could cast doubt on whether the Bill was still in progress.

2.87 A decision on the general principles need not involve members voting in a division. There is no quorum of members present required for the purpose of agreeing to the general principles.

2.88 If the Parliament agrees to the general principles of the Bill at Stage 1, the Bill proceeds to Stage 2. If the general principles are rejected, the Bill falls (Rule 9.6.7).

Crown consent

2.89 If a Bill contains provisions which would, if it were a Bill in the UK Parliament, require the consent of The Queen (or the Prince of Wales in his capacity as Prince and Steward of Scotland or Duke of Cornwall), the

Parliament cannot debate whether to pass the Bill unless Crown consent has been signified to the Parliament (paragraph 7 of schedule 3 of the 1998 Act and Rule 9.11).

2.90 Crown consent is required if a Bill contains provisions that would affect the prerogative, private interests or hereditary revenues of The Queen (or the Prince of Wales in the capacity explained above). It is understood that the Prince of Wales does not have any private interests as such in Scotland and, therefore, that Prince's consent is unlikely to be required for a Bill in the Scottish Parliament.

2.91 It is the Scottish Government's responsibility to identify the need for, and to seek, Crown consent in relation to a Government Bill. (The Scottish Government would also normally be expected to seek consent, on the request of the member in charge, where a Member's Bill required consent, and on the request of the committee convener where a Committee Bill required consent.) Discussions to agree whether consent is required (and, if so, at what Stage of the Bill's passage it should be signified to the Parliament) take place as part of the correspondence between the Scottish Government drafters and the Parliament in preparation for the Bill's introduction (see paragraph 2.8).

2.92 It is generally advisable to wait until the latest appropriate stage to signify consent, so that account can be taken of any amendments that might affect whether consent is required. Consent should be signified at Stage 1 if the provisions requiring consent are central to the Bill – if, in other words, there would be no point in proceeding with the Bill if consent were refused. Consent is signified to the Parliament in a brief statement at the beginning of the Stage 1 debate and must be done by a member of the Scottish Government (i.e. not a junior Scottish Minister). In any other case (the majority of cases where consent is required), signification at Stage 3 is more appropriate (see paragraph 2.148).

Stage 2

Stage 2 committee

2.93 If the Bill proceeds to Stage 2, the Parliamentary Bureau may refer the Bill back to the Stage 1 lead committee for Stage 2 or propose by motion that a different committee or committees take that Stage. The Stage 2 committee can be a Committee of the Whole Parliament, of which all MSPs are members and the Presiding Officer is the convener. (An example of a Bill dealt with at Stage 2 by a Committee of the whole Parliament was the Scottish Parliamentary Standards (Sexual Harassment and Complaints Process) Bill (SP Bill 85, Session 5)).

2.94 The Bureau may also propose that the Bill be divided among two or more committees for Stage 2 consideration – preferably with each committee being allocated whole Parts or Chapters to deal with. For example, the UK Withdrawal from the European Union (Continuity) (Scotland) Bill (SP Bill 77, Session 5) was dealt with at Stage 2 in 2020 by both the Environment, Climate Change and Land Reform Committee and the Finance and Constitution Committee.

Timescale for Stage 2

2.95 Except for Budget and Emergency Bills, there must be at least 12 sitting days between the completion of Stage 1 (i.e. the decision at the end of the Stage 1 debate) and the beginning of Stage 2 (Rule 9.5.3A). So, for example, if the Stage 1 debate takes place on a Tuesday, Stage 2 could begin on the Friday of the second week thereafter (assuming all intervening weekdays are sitting days). Since committees normally meet only on Tuesdays, Wednesdays, Thursdays or (occasionally) Mondays, this rule effectively ensures that two whole weeks of parliamentary business must pass before Stage 2 commences.

2.96 Stage 2 proceedings may be dealt with at one committee meeting, or may require two or more meetings and be spread over a number of weeks. The Parliamentary Bureau may propose by motion a date by which Stage 2 is to be completed.

Lodging amendments etc.

2.97 As soon as a decision has been taken at Stage 1 to approve the general principles of the Bill, any member may lodge amendments to the Bill (Rule 9.7.5). As explained in Part 4 below, any member of the Parliament (not just members of the Stage 2 committee) may lodge amendments at Stage 2, and there is no limit on the number of amendments that may be lodged. There is no selection of amendments at Stage 2, so all admissible amendments may be moved. Further details of the procedures relating to amendments at Stage 2 are set out in Part 4.

Order of consideration

2.98 The normal or “default” order for consideration of the sections and schedules of the Bill at Stage 2 is for the sections to be taken in the order they arise in the Bill and each schedule taken immediately after the section which introduces it (Rule 9.7.4). Where a schedule is introduced by more than one section, it would normally be taken after the last such section.

2.99 A Bill can be considered in a different order. This may be done if, for example, a particular provision or Part early in a Bill is critical to the overall scheme of the Bill and the committee wants to defer consideration of that provision so that it can decide any amendments to it in the light of amendments agreed to other Parts of the Bill, or where deferred consideration of an early Part of the Bill will allow more time for key issues it raises to be resolved and amendments drafted.

2.100 If any order other than the default order is to be followed, it must be decided by the Parliament (on a motion by the Parliamentary Bureau) or, if the Parliament does not so decide, by committee decision, usually on a motion of the convener. Before any such motion is lodged by the convener, the member in charge should be given an opportunity to comment on the order proposed.

2.101 Where the order of consideration is to be decided by motion, this should, if at all possible, be done before the meeting at which the committee commences Stage 2 consideration. This allows the Marshalled List of amendments (see Part 4 below) to reflect the agreed order.

Proceedings at Stage 2

2.102 The principal role of the Stage 2 committee is to consider and dispose of amendments. The procedures which require to be followed in doing so are explained in more detail in Part 4 of this Guidance. It is also open to the committee, within the timescale available, to take further evidence on the Bill at Stage 2 – for example, if it wishes to do so to inform its consideration of amendments.

2.103 There are no set time limits for members to speak on amendments at Stage 2. Within the time available, it is for the committee convener to decide how to manage the proceedings. Where Stage 2 is expected to take place over a number of committee meetings, the convener may announce a target point beyond which the committee will not proceed at a particular meeting.

2.104 Any member may attend the committee to participate in Stage 2 proceedings. Any member who has lodged an amendment, the member in charge and (if different) any Scottish Government Minister present is entitled to speak on the amendment. However, only members of the committee (or committee substitutes attending as such) can vote on amendments at Stage 2.

Recording decisions in committee

2.105 For each week during which there are to be Stage 2 proceedings, a Marshalled List is published and a groupings list prepared. Both documents are published on the Parliament's website and circulated to members of the committee and to any other member who has lodged amendments. The clerks provide a procedural brief to assist the committee convener in calling amendments for debate according to the groups and putting all the necessary questions on amendments to the committee. The committee minutes list how all amendments were disposed of and all sections and schedules agreed to (whether or not amended). The same information can be obtained by reference to the Official Report.

2.106 There is normally no separate report of the committee's Stage 2 proceedings. The Official Report and the "As amended" print of the Bill (if there is one) serve the purpose that would otherwise be served by a discursive report. It is, however, open to a Stage 2 committee to prepare a Stage 2 report – perhaps to explain why particular amendments were made or to draw the Parliament's attention to provisions of the Bill where, although the committee could not agree on any particular amendments, it agrees that some amendment is required.

After Stage 2

The Bill "as amended"

2.107 If any amendment (however small) is agreed to, the Bill is re-published in amended form (Rule 9.7.8). The re-published Bill indicates all amendments agreed to by side-lining in the right margin. Provisions in the Bill as introduced are not re-numbered as a result of amendments being agreed to. So, for example, a new section inserted by amendment between sections 1 and 2 will appear as 1A, and the removal by amendment of section 3 will not cause section 4 to be re-numbered. This is intended to assist members and others to see clearly where amendments have been made during the parliamentary scrutiny of a Bill. All numbering is corrected for the Act if the Bill is passed.

2.108 The publication of a Bill as amended is recorded in the Business Bulletin. The Bill as amended is normally available, both in hard copy and on the Parliament's website, at 8:30am on the day after Stage 2 is completed.

Revised or supplementary accompanying documents

2.109 If any amendment is made to the Bill at Stage 2 inserting a new section or schedule or substantially changing an existing provision, the

member in charge must produce revised or supplementary Explanatory Notes. These must be lodged with the clerks no later than the fourth sitting day before Stage 3 starts (Rule 9.7.8A). The Notes should fulfil the same purpose that the Explanatory Notes provided on introduction i.e. they (or, in the case of supplementary Notes, they, when read with the original Notes) should provide an objective explanation of what each provision of the Bill does, to the extent that any provision requires explanation.

2.110 The member in charge must also lodge with the clerks a revised or supplementary Financial Memorandum if a Bill has been amended so as to substantially alter any of the costs set out in the original Memorandum. This must be done not later than whichever is the earlier of:

a) the tenth sitting day after the day on which Stage 2 ends;

b) the end of the second week before the week on which Stage 3 is due to start (Rule 9.7.8B).

The Memorandum (or, in the case of a supplementary Memorandum, that document read together with the original Memorandum) must provide the same information in respect of the Bill as amended as the original Memorandum provided for the Bill as introduced (see paragraph 2.20).

2.111 An amended Bill may have been changed in a way that the member in charge did not welcome and the member may even have it in mind to propose amendments reversing those changes at Stage 3. The member in charge is still required to produce revised/supplementary Explanatory Notes to explain neutrally what those provisions would do (to the extent that that is necessary), although it would be permissible for the Notes to draw attention to perceived anomalies or to errors in such provisions that are objectively evident. Similarly, the member in charge is still required to produce a revised/supplementary Financial Memorandum to set out best estimates of the costs of any amendments that substantially alter the costs set out in the original Memorandum.

2.112 If any amendments are made to insert provisions in the Bill conferring power to make subordinate legislation, or conferring power on the Scottish Ministers to issue any directions, guidance or code of practice, or to make substantial alterations to such provisions already in the Bill, the member in charge must, no later than whichever is the earlier of:

a) the tenth sitting day after the day on which Stage 2 ends;

b) the end of the second week before the week on which Stage 3 is due to start,

lodge a revised or supplementary Delegated Powers Memorandum for the Delegated Powers and Law Reform (DPLR) Committee's consideration (Rule 9.7.9(a), see paragraphs 2.26).

2.113 The Delegated Powers and Law Reform Committee must report to the Parliament on the newly inserted or substantially altered provisions (Rule 9.7.9(b)). That committee may also consider and report on any new or substantially altered provisions conferring other delegated powers.

2.114 As for revised/supplementary Explanatory Notes and Financial Memorandum, the member in charge is required to explain any new or substantially altered provisions conferring power to make subordinate legislation, or conferring power on the Scottish Ministers to issue any directions, guidance or code of practice, even if these powers are the result of amendments not welcomed by the member in charge.

Financially significant amendments to Bills

2.115 Rule 9.12.6 provides that the question cannot be put on an amendment to a Bill if the effect of the amendment would be that the Bill, had it been introduced in that form, would need a financial resolution that it doesn't have. Rule 9.12.6 does not affect the admissibility of amendments, and an amendment to which it applies may be lodged and published in the Business Bulletin and in a Marshalled List.

2.116 A financial resolution is required in respect of any amendment that would, by itself, cause a Bill to require a financial resolution that it would not otherwise require – referred to as an "individual financially significant amendment". The term "financially significant" is used here to refer to amendments that involve significant expenditure from (and expenditure charged on) the Scottish Consolidated Fund, and amendments involving a new tax or significant increases or decreases in tax revenue, or significant amounts of other charges or payments being paid into the Scottish Consolidated Fund (including amendments that would result in more or less revenue being so paid).The same criteria is used as set out in Rule 9.12 (see paragraph 2.36 to 2.69).

2.117 If an amendment would change the Bill in a way that makes the costs or changes to revenues likely to arise from the Bill exceed the

"significant" threshold of £500,000 or more in any single financial year, a financial resolution will be required.

2.118 An amendment that might, in combination with other amendments, cause a Bill to require a financial resolution that it would not otherwise require is a "cumulative financially significant amendment". These are amendments that involve costs or changes to revenues that are not high enough to make them individual financially significant amendments.

2.119 A financial resolution is required in respect of any cumulative financially significant amendment that would, at the time it falls to be disposed of, taking account of any other such amendments already agreed to, cause the Bill to require a financial resolution that it would not otherwise require.

Determination of whether an amendment requires a financial resolution

2.120 The Presiding Officer determines which amendments are individual financially significant amendments and which are cumulative financially significant amendments (and, where necessary, assigns costs to amendments) (Rule 9.12.6C). In doing so, the Presiding Officer may, if necessary, assigns costs to, or otherwise quantify, amendments. No determination is necessary where a financially significant amendment is covered by the terms of an existing financial resolution.

2.121 Members should consider whether any amendment they intend to lodge might involve costs or changes to revenues (and, if so, whether these are covered by an existing financial resolution). An estimate of the costs or changes to revenues involved in any potential financially significant amendment should be provided. The Financial Scrutiny Unit – part of the Scottish Parliament Information Centre (SPICe) – is available to assist members in this. The Scottish Government may also provide its own estimate. Amendments should preferably be lodged sufficiently well in advance of the relevant lodging deadline for estimates to be submitted, for the Presiding Officer to make a determination and, ideally, for a motion for a financial resolution to be taken by the Parliament in advance of the scheduled proceedings on amendments.

2.122 The Presiding Officer's determination will be based on whatever information is available – where little information is available or insufficient time is available to obtain information, an approach of erring on the side of caution is likely to be adopted, which may result in

amendments being assigned a higher cost, say, than would be the case with better information. The Financial Scrutiny Unit provides analysis of the different estimates submitted for the Presiding Officer. Information on the Presiding Officer's determinations is published as part of the Groupings of Amendments.

2.123 A determination under Rule 9.12.6C is also required in relation to Government amendments that involve costs or changes to revenues that are not already covered by a financial resolution and such amendments should therefore also be lodged sufficiently far in advance of the scheduled proceedings on amendments to enable the Presiding Officer to be provided with advice and make a determination. The Scottish Government may ask the Presiding Officer to make an early determination that a proposed amendment is likely to require a financial resolution, in advance of the amendment being formally lodged, in order to allow the necessary motion to be lodged and taken by the Parliament before the scheduled proceedings on amendments. Such a request may be made in relation to Government amendments and, where the Scottish Government can provide sufficient information, also in relation to non-Government amendments.

Procedure on financially significant amendments at Stage 2

2.124 Individual significant amendments may be debated as normal at Stage 2, but the question whether the amendment be agreed to cannot be put unless an appropriate financial resolution is in place (Rule 9.12.6(a)). The effect is that, without such a financial resolution, the amendment cannot be agreed to.

2.125 Cumulative financially significant amendments are debated as normal. That is, a cumulative financially significant amendment which leads a group can be moved, debated and either withdrawn or pressed at the end of the debate on the group as normal. A cumulative financially significant amendment which does not lead a group can be debated as part of its group and then moved or not moved when it is reached on the Marshalled List, again as normal. But where such amendment is pressed at the end of the debate or moved when reached on the Marshalled List, having been debated earlier, the question on the amendment will normally be deferred until a later point in Stage 2 (unless an appropriate financial resolution is in place, in which case the amendment will be disposed of in the normal way) (Rule 9.12.6(b)). At that later point, remaining cumulative financially significant amendments will be debated together before being disposed of. In principle, any combination of amendments that does not lead to the Bill requiring a

financial resolution may then be agreed to. However, any amendment that will, taking account of other financially significant amendments already agreed to, trigger the need for a financial resolution will be disposed of without the question being put (unless an appropriate financial resolution is in place) (Rule 9.12.6A). The minutes of the meeting would record the outcome as "fell" for that amendment.

2.126 Questions on amendments related to cumulative financially significant amendments and the questions on sections and schedules amended by either cumulative financially significant amendments or related amendments are also deferred. Questions on amendments and questions on sections and schedules that are deferred by virtue of Rule 9.12.6(b) will be put in their original marshalled order at the time they are disposed of.

Procedure on financially significant amendments at Stage 3

2.127 No proceedings (including debate) may take place on an individual financially significant amendment at Stage 3 unless an appropriate financial resolution is in place. Stage 3 proceedings on cumulative financially significant amendments (including debate and the question being put) may take place even if the amendments are not covered by a financial resolution. The test is whether, at the time the proceedings should take place, any one amendment would (as a result of other financially significant amendments already having been agreed to) trigger the need for a financial resolution (Rule 9.12.6B). For example, there may be two financially significant amendments, such that neither would meet or exceed the threshold on its own but the joint effect of agreeing both would meet or exceed the threshold. Either one can be debated (as part of a group) so long as the other has not been agreed to. But as soon as one has been agreed to, it is no longer possible to call the other (even if it has already been debated) because agreeing to it would in those circumstances cause the Bill to meet or exceed the threshold.

Stage 3

2.128 Stage 3 takes place at a meeting of the whole Parliament (Rule 9.8.1). Stage 3 is in two parts: proceedings to debate and dispose of those amendments (if any) selected for debate; and a debate on a motion by the member in charge that the Bill be passed. The two parts of Stage 3 are often scheduled to take place on the same day, but need not be.

Timetable for Stage 3

2.129 Except in the case of a Budget or Emergency Bill, there must be at least 10 sitting days between the day on which Stage 2 ends and the day on which Stage 3 starts (Rule 9.5.3B). So, for example, if Stage 2 is completed on a Tuesday, Stage 3 cannot take place until the Wednesday of the second week thereafter (assuming that all intervening weekdays are sitting days).

Amendments at Stage 3

2.130 Amendments for Stage 3 may be lodged as soon as Stage 2 is completed (Rule 9.8.3). Where the Bill was amended at Stage 2, Stage 3 amendments must relate to the "as amended" version of the Bill. Amendments lodged before that version is ready can only be published once the page and line references have been checked against the amended Bill.

Order of consideration

2.131 Rule 9.8.5 requires amendments at Stage 3 to be taken by reference to the order of the sections and schedules in the Bill (with amendments to the Long Title taken last), unless the Parliament agrees to a Parliamentary Bureau motion proposing an alternative order. Any such motion should be taken as early as possible before Stage 3, to ensure that the Marshalled List reflects the agreed order.

Selection of amendments

2.132 As at Stage 2, any member may lodge amendments, there is no limit to the number of amendments that may be lodged, and all admissible amendments are published in the Business Bulletin. Unlike at Stage 2, however, only those amendments selected for debate by the Presiding Officer appear in the Stage 3 Marshalled List (Rule 9.10.8). Selection of amendments is explained in more detail in Part 4 below.

Proceedings on amendments

2.133 The first part of the Stage 3 proceedings consists of the moving and disposal of those amendments selected for debate. Stage 3 proceedings on amendments are similar to those at Stage 2, except that all members may vote, and there is no requirement to agree to each section and schedule. Unlike at Stage 2, there is likely to be a timetabling motion agreed to by the Parliament, setting out deadlines by which debates on particular groups of amendments must be concluded

(see paragraphs 4.108 – 4.119 below for discussion of timetabling motions).

Statement on protected subject-matter

2.134 After any amendments have been disposed of, the Presiding Officer is required to decide and make a statement on whether or not, in their view, any provision of the Bill relates to a "protected subject-matter" within the meaning of section 31(4) of the 1998 Act (Rule 9.8.5BA). Where a Bill contains such provisions, it can only be passed by a two-thirds majority of members – i.e. at least 86 MSPs must vote in favour (Rule 11.11.4). A provision relates to a protected subject-matter if it would modify, or confer power to modify—

- who is entitled to vote in Scottish Parliament elections,
- the voting system for Scottish Parliament elections,
- the number of constituencies, regions or any equivalent electoral area,
- the number of members to be returned for each constituency, region or equivalent electoral area.

But a provision does not relate to a protected subject-matter if it is incidental to or consequential on another provision of the Bill.

2.135 The Presiding Officer's statement can be made orally or in writing. If it is made in writing, it must be published. In either case, the Chamber will be informed before the debate on the motion to pass the Bill begins.

Adjournment to a later day

2.136 If the debate on the motion to pass the Bill is scheduled to take place later on the same day as the day on which Stage 3 amendments are disposed of, the member in charge (or, in the case of a non-Government Bill, the member in charge or a Minister, if any, with general responsibility for the subject matter of the Bill) may move a motion, "That further Stage 3 consideration of the [short title] Bill be adjourned to [date]/a later day" (Rule 9.8.5C). The motion may, but need not, name a specific day. This motion, which must be moved immediately after the Presiding Officer's statement on protected subject-matter has been made, may be moved without notice and cannot be amended or debated – so the question is put on it straight away. An example of such an

adjournment can be found in the Stage 3 consideration of the Hate Crime and Public Order (Scotland) Bill (SP Bill 67, Session 5).

2.137 If the motion is agreed to, no further proceedings take place on the Bill until the day named in the motion (or until the day subsequently appointed by the Bureau as the "later day") (Rule 9.8.5C). In the interim, further amendments may be lodged, but only by the member in charge (or, in the case of a non-Government Bill, the member in charge or a Minister, if any, with general responsibility for the subject matter of the Bill). Such amendments may be lodged only for the purpose of "clarifying uncertainties" or "giving effect to commitments given at the earlier proceedings at Stage 3" (Rule 9.8.5D). This limited right to lodge amendments also exists where the debate on the motion to pass the Bill is already scheduled to take place on a later day.

2.138 These two categories of permissible additional amendments correspond to possible reasons the member in charge may have for moving to adjourn to a later day. The first reason is to gain an opportunity to consider the implications of any unexpected or unwelcome decision to agree to Stage 3 amendments. In particular, any substantial new material inserted into a Government Bill by a non-Government amendment may require some adjustment to its drafting, and further changes elsewhere in the Bill may also be necessary before the Bill is, once again, fit to be enacted. It is important to note that the Parliament's agreement to a motion to adjourn Stage 3 would not permit the member in charge (or the relevant Government Minister) to lodge amendments that would have the effect of reversing amendments to which the Parliament has agreed.

2.139 The second reason for moving to adjourn Stage 3 proceedings is where the member in charge (or relevant Scottish Government Minister) has promised, earlier in the Stage, to make some concession on a controversial issue, to meet concerns expressed by members in debate or in response to amendments already proposed. In such a case, the Parliament may feel able to support the motion to adjourn Stage 3 proceedings, on the ground that this will allow time for a mutually satisfactory compromise to be reached and appropriate amendments to be lodged. These amendments can then be moved by the member in charge (or relevant Scottish Government Minister) at the resumed Stage 3 proceedings.

2.140 A third reason the member in charge may have for moving to adjourn to a later day is to consider the implications of the Presiding Officer's statement on protected subject-matter.

2.141 Where the debate on the motion to pass the Bill has been adjourned to a later day, or was originally scheduled for a later day, then after any such further amendments have been disposed of, the Presiding Officer is again required to make a statement on whether or not, in their view, any provision of the Bill relates to a "protected subject-matter".

Referral back for further Stage 2 consideration

2.142 It may emerge during or shortly before Stage 3 proceedings that adjourning Stage 3 consideration is not sufficient to resolve outstanding difficulties with the Bill. It may become apparent, in other words, that although there is still general support for the Bill, the limited scope for further Stage 3 amendments does not allow the necessary changes to be made. This would be the case, in particular, if the member in charge or the Scottish Government wished to overturn an unwelcome amendment agreed to at Stage 3.

2.143 In such a case, the member in charge may move a motion that the Bill be referred back for further Stage 2 consideration in respect of specified sections and/or schedules, under Rule 9.8.6. Only whole sections and (normally) whole schedules should be specified in the motion, and no more than half of the sections of the Bill may be so specified. This is on the ground that, where the difficulties with the Bill are more widespread, it would be better to withdraw it and introduce a new Bill in its place.

2.144 If the motion is agreed to, it is for the Parliamentary Bureau to determine which committee should conduct the further Stage 2 proceedings and the timetable for those proceedings. A Bill may be referred back only once (Rule 9.8.8). Further Stage 2 proceedings follow the same rules as for Stage 2 (except that only those sections and schedules specified in the motion to re-commit need be agreed to). At least four sitting days must elapse between the day on which Stage 3 proceedings are adjourned and the day on which the further Stage 2 proceedings start (Rule 9.5.3C).

2.145 A Bill amended in the further Stage 2 proceedings is re-published and then returns to Stage 3. At least four whole sitting days must elapse between the end of the further Stage 2 proceedings and the resumption of Stage 3 (assuming the Bill has been amended during the further Stage 2 proceedings) (Rule 9.5.3C). Stage 3 amendments may again be lodged – but only to those sections and schedules specified in the motion to re-commit or to other parts of the Bill (including the long title) if they are necessary in consequence of amendments made on re-

commitment (Rule 9.8.6). After any such amendments have been disposed of, the Presiding Officer is again required to make a statement on whether or not, in their view, any provision of the Bill relates to a "protected subject-matter".

Debate on motion to pass the Bill

2.146 After proceedings on amendments at Stage 3 are concluded (including any adjourned proceedings under Rule 9.8.5C, and any further Stage 3 proceedings after referral back for further Stage 2 consideration), the Parliament must decide whether to pass the Bill. The debate takes place on a motion by the member in charge of the Bill that the Parliament agrees that the Bill be passed. Such a motion may be amended, but the Presiding Officer applies similar criteria in selecting amendments as are applied to reasoned amendments to Stage 1 motions (see paragraphs 2.85 and 2.86 above). An amendment to a Stage 3 motion will, therefore, be selected only if it would remain clear from the amended motion that the Bill would be passed if the motion were agreed to.

2.147 The question on the motion that the Bill be passed must be decided by division. The result of the division is valid only if at least a quarter of MSPs vote (i.e. if at least 33 MSPs take part in the voting), otherwise the Bill is treated as rejected. If the majority votes against the Bill, it falls. If the Presiding Officer has made a statement that any provision of the Bill relates to a protected subject-matter (see paragraph 2.134), the Bill is passed only if at least 86 MSPs vote in favour, otherwise the Bill is treated as rejected.

Crown consent

2.148 If provisions of the Bill require Crown consent (see paragraphs 2.89-2.92), and that consent has not been signified at Stage 1 (or if the provision giving rise to the need for consent has been inserted by amendment), it is signified at this Stage by the relevant Minister during their speech. This is normally done at the start of the debate on the motion that the Bill be passed, and must be done by a member of the Scottish Government (i.e. not a junior Scottish Minister).

"As Passed" version

2.149 If a Bill is amended at Stage 3, it is re-published to show the Stage 3 amendments. As with other amended versions, the Bill includes side-lining to show amendments made since the previous version, and

leaves numbering un-corrected. If the Bill was not amended at Stage 3, the previous print of the Bill serves the purpose of showing the Bill in the form in which it was passed.

Reconsideration Stage

Powers of Law Officers and Secretary of State

2.150 Section 32 of the 1998 Act provides that a Bill, once passed, may be submitted for Royal Assent (see paragraphs 2.164-2.166) by the Presiding Officer after the expiry of a four-week period. During that period, the Bill is subject to legal challenge by the Advocate General for Scotland, the Lord Advocate or the Attorney General under section 32A or 33, and may also be subject to an order made by the Secretary of State under section 35. The Presiding Officer may, however, submit the Bill for Royal Assent after less than four weeks if notified by all three law officers (under section 32A(3) or 33(3)) and the Secretary of State (under section 35(4)) that they do not intend to exercise those powers.

2.151 The Secretary of State may make a section 35 order only on the grounds that the Bill is incompatible with international obligations or defence or security interests, or because it would adversely affect the operation of the law on reserved matters, where that law is modified by the Bill. Such an order, which must specify the provisions of the Bill objected to and the reasons, prohibits the Presiding Officer from submitting the Bill for Royal Assent.

2.152 A challenge from one of the Law Officers is made:

(a) under section 32A on grounds of a question as to whether any provision of the Bill relates to a protected subject-matter (see paragraph 2.134). Such a challenge may be made if:

i. the Bill was rejected in a case where the Presiding Officer had stated that, in their view, any provision of the Bill related to a protected subject-matter;

ii. the Bill was passed (but with fewer than 86 members voting in favour) in a case where the Presiding Officer had stated that, in their view, no provision of the Bill related to a protected subject-matter;

(b) under section 33 on grounds of a question as to whether the Bill or any of its provisions would be within the Parliament's legislative competence.

Any such challenge takes the form of a reference to the Supreme Court. Once such a reference has been made, the Bill cannot make further progress towards Royal Assent until the Supreme Court has either decided (or otherwise disposed of) the reference.

Motion to reconsider the Bill

2.153 If the Supreme Court decides that any provision of the Bill would be outwith the legislative competence of the Parliament, or if a section 35 order is made by the Secretary of State, the member in charge of the Bill may move a motion that the Parliament resolves to reconsider the Bill (Rule 9.9.2(a) and (b)).

2.154 A motion to reconsider the Bill may also be moved if:

(a) in a case where the Bill was passed (but with fewer than 86 members voting in favour) where the Presiding Officer had stated that, in their view, no provision of the Bill related to a protected subject-matter, the Supreme Court decides that any provision of the Bill does in fact relate to a protected subject-matter (Rule 9.9.2(c));

(b) in a case where the Bill was rejected, the Supreme Court decides that no provision of the Bill that was the subject of the reference to the Court does in fact relate to a protected subject-matter (Rule 9.9A.1).

2.155 If the motion is agreed to, the Parliamentary Bureau proposes in a Business Motion a time for Reconsideration Stage on the Bill at a meeting of the Parliament.

Amendments at Reconsideration Stage

2.156 Where Reconsideration Stage is held following a reference under section 33 (on legislative competence grounds) or an order under section 35, the main purpose of the Stage is likely to be to amend the Bill so that the problem which led to the reference or order being made is resolved (Rule 9.9.4). So only amendments aimed at resolving that problem are admissible. The judgment of the Supreme Court or the section 35 order will be used by the clerks as a guide to the admissibility of amendments at Reconsideration Stage. Amendments are worded by reference to the “As Passed” version of the Bill. As at Stage 3, amendments are disposed of in the order in which they relate to the Bill, unless the Parliament decides, on a Bureau motion, to follow a different order (Rule 9.9.4). There is no selection of amendments at

Reconsideration Stage, so all admissible amendments lodged may be moved.

2.157 Where Reconsideration Stage is held following a reference under section 32A (on protected subject-matter grounds), the purpose of the Stage is to take a fresh decision whether to pass or reject the Bill, subject to the correct majority threshold. In these circumstances, the Bill may not be amended at Reconsideration Stage (Rules 9.9.4 and 9.9A.2).

Proceedings at Reconsideration Stage

2.158 The above differences aside, proceedings at Reconsideration Stage are similar to those at Stage 3. After any amendments have been disposed of and before the Parliament debates whether to approve the Bill, the Presiding Officer must make a further statement on protected subject-matter (see paragraph 2.134 above). The decision whether to approve the Bill must then be taken by division (subject, as at Stage 3, to the requirement that at least 33 MSPs must take part in the voting and that, if the Presiding Officer has made a statement that any provision of the Bill relates to a protected subject-matter, the Bill is passed only if at least 86 MSPs vote in favour).

2.159 A Bill approved after Reconsideration Stage is again subject to legal challenge by the Law Officers or to the making of an order by the Secretary of State in exactly the same way as it was after it was first passed. There is no limit to the number of times that the Parliament may approve a Bill or that those persons may exercise their rights under the 1998 Act in relation to it.

Crown consent

2.160 If the Bill has been amended at Reconsideration Stage to include provisions that would require Crown consent (see paragraphs 2.89-2.92), consent for those provisions is signified during debate on whether to approve the Bill.

From Bill to Act

2.161 If a Bill that has been passed (or approved at Reconsideration Stage) has not been subject to a section 32A or 33 reference or a section 35 order within the four-week period, the Presiding Officer then sends the Bill, together with draft Letters Patent, to the Palace for Royal Assent. As noted above, the Presiding Officer can submit the Bill for Royal Assent before the expiry of the four-week period if the Secretary of

State and all three law officers have confirmed that they will not exercise their powers under those sections.

2.162 To prepare for Royal Assent, a version of the Bill is prepared for the Palace, showing the Bill in its final form. This "Palace copy" version of the Bill is not published. This is the same as the previous, published version but with all numbering corrected and any necessary "printing points" taken in. Printing points are non-substantial corrections, i.e. typographical or formatting points and other minor corrections that do not alter the legal effect of the Bill (see paragraphs 4.46 to 4.50 for more information on printing points).

Preparation of the Official Print

2.163 At the same time, the "Official Print" version of the Act is prepared. This is produced on special archive-quality paper bound with ribbon. The Official Print is identical, in terms of its legislative text, to the Bill that was passed by the Parliament. (This is made possible by the drafting convention that, within the text of a Bill, all references are, for example, to "this Act" rather than "this Bill".)

Royal Assent

2.164 The Bill becomes an Act of the Scottish Parliament when it receives Royal Assent. Royal Assent is treated (under section 28(3) of the 1998 Act) as taking place at the beginning of the day on which Letters Patent signed by The Queen are recorded in the Register of the Great Seal by the Keeper of the Registers of Scotland (under section 38(1)(a) of the 1998 Act). When the Keeper confirms that Royal Assent has taken place (under section 38(2) of the 1998 Act), the Clerk of the Parliament writes the date of Royal Assent on the Official Print (under section 28(4) of the Scotland Act 1998 and section 38 of the Interpretation and Legislative Reform (Scotland) Act 2010 ("the 2010 Act")).

2.165 Acts are numbered consecutively in each calendar year (section 38 of the 2010 Act). The Clerk also assigns an "asp number" in the form "2015 asp 1" (for the first Act given Royal Assent in 2015). This number is the equivalent of the chapter number assigned to an Act of the UK Parliament. The Clerk then sends a copy, certified by the Clerk as a true copy, of the Official Print to the Queen's Printer for Scotland, as authority to publish the Act. The Official Print itself is sent to the Keeper of the Records of Scotland for inclusion in the National Records of Scotland. The National Records of Scotland also hold the signed Letters Patent.

2.166 The "Queen's Printer" version of the Act – which is identical to the Official Print except with the date and asp number added – is published and made available to the public on the legislation.gov.uk website (operated by the National Archives). The Act is not a publication of the Parliament. A link to it will, however, appear on the Parliament's website.

Withdrawal of Bills

2.167 Rule 9.13 allows a Bill to be withdrawn during Stage 1 by the member in charge of the Bill. The consent of the Parliament (or of the other members whose names appear on the Bill as supporters) is not required. The Bill is withdrawn by the member in charge writing to the Clerk. A notice of the Bill's withdrawal will be published the Business Bulletin. The Children and Young People (Information Sharing) (Scotland) Bill provides an example of this.

2.168 After the Parliament has agreed to the general principles of a Bill at Stage 1, the Bill is treated as the property of the Parliament as a whole, and can be withdrawn only if the Parliament agrees. This requires the member in charge to move a motion that the Bill be withdrawn. If there is a division on this motion, it is decided by a simple majority of those voting.

Part 3: Stages of Bills – special cases

3.1 This Part of the Guidance explains the special procedures applicable to Bills other than the Government "programme" Bills dealt with in Part 2. The processes for introducing a Member's or Committee Bill are also illustrated in simplified form in Annex F and Annex G respectively.

The Non-Government Bills Unit

3.2 The Non-Government Bills Unit (NGBU) is a clerking team within the Parliament whose main role is to assist individual members seeking to introduce a Member's Bill. All proposals for Members' Bills are lodged with NGBU, which provides advice on the wording and on the relevant procedure. Members may also, if they wish, obtain further support from NGBU during the proposal process and beyond. This may include preparing consultation documents, analysing consultation responses, instructing the drafting of Bills, drafting accompanying documents, and providing briefing and advice as the Bill goes through the Parliament. Any member considering introducing a Member's Bill should contact NGBU at the earliest opportunity. NGBU also assists committees, working in conjunction with the committee clerking team, in the development and passage of Committee Bills.

Members' Bills

3.3 A Member's Bill is a Bill introduced by an MSP who is not a member of the Scottish Government. (By convention, junior Ministers also do not introduce Members' Bills.) A Member's Bill may be introduced only if the member first obtains the right to do so through a process that involves lodging a draft proposal and then a final proposal.

3.4 There is no limit to the number of proposals that each member may lodge. A member cannot, however, have more than two proposals – whether draft proposals or final proposals – in progress simultaneously. A proposal continues to count towards this quota until it falls or is withdrawn, or until a Bill introduced to give effect to it is passed, falls or is withdrawn (Rule 9.14.17).

3.5 A draft proposal or a final proposal can be withdrawn at any time by the member who lodged it (Rule 9.14.16).

The draft proposal

3.6 The first formal step in securing the right to introduce a Member's Bill is to lodge with NGBU a draft proposal for such a Bill (Rule 9.14.3). A draft or final proposal can be lodged at any time, including in recess. The proposal consists of the proposed short title of the Bill and a brief explanation of its proposed purposes. The draft proposal must be lodged with either—

- a consultation document seeking views on the policy objectives of the draft proposal, or
- a written statement (a "statement of reasons") explaining why the member thinks that a case for the Bill has already been established and that consultation is unnecessary.

3.7 The draft proposal is published in the next edition of the Business Bulletin, along with information about the consultation or about where copies of the statement of reasons can be obtained. The proposal is also published, along with the consultation document or statement of reasons, on the "Proposals for Bills" page of the Parliament website.

3.8 Where the draft proposal is accompanied by a consultation document, the consultation must run for at least 12 weeks, beginning on the day the proposal is published in the Bulletin (or a specified day up to two weeks later – Rule 9.14.3(a)). Such consultation allows the member's policy to be tested against, and informed by, stakeholder and public opinion. This usually proves valuable in refining and developing the policy and in equipping the member for the challenges involved in explaining and defending that policy during the passage of the Bill.

3.9 In some circumstances, however, the member lodging the proposal may consider consultation to be unnecessary. Such a member has the option of lodging a statement of reasons instead of a consultation document. The statement must explain why a case for the Bill has already been established by reference to specified published material (such as a report of a previous consultation exercise, a court judgement or academic research).

3.10 As soon as practicable after a draft proposal is lodged, the Parliamentary Bureau must refer it to a committee within whose remit the subject matter of the draft proposal falls (Rule 9.14.5). If the proposal is accompanied by a consultation document, the referral may be to more than one committee and is for information only.

3.11 If the proposal is accompanied by a statement of reasons, the committee to which it is referred may, within one month, determine

whether the statement is adequate justification for not consulting. If the committee does not come to a view within that time, the member may proceed to lodge a final proposal (see paragraph 3.12). If the committee decides that it is not satisfied with the statement, the member has two months in which to lodge a consultation document. If the member does so, the draft proposal is published again in the Business Bulletin and the consultation begins from that date (Rule 9.14.7). If the member does not lodge a consultation within two months, the proposal falls (although there is nothing to prevent the same or a similar proposal being lodged immediately afterwards).

The final proposal

3.12 The next formal step is for the member to lodge with NGBU a final proposal for the Bill (Rule 9.14.8). Like the draft proposal, the final proposal is a concise description of what the proposed Bill would do, prefaced by the Bill's proposed short title.

3.13 If the member consulted on the draft proposal, the final proposal may be lodged at any time after the consultation has closed, and must be accompanied by a summary of consultation responses (including any conclusions the member draws from those responses), together with copies of those responses. The consultation summary is published on the "Proposals for Bills" page of the Parliament website; the individual responses are deposited in the Scottish Parliament Information Centre (SPICe).

3.14 If the member did not consult, a final proposal may be lodged as soon as the committee decides it is satisfied with the statement of reasons or, if the committee has not reached a decision by the end of the one-month period, as soon as that period has ended. The final proposal must be accompanied by a statement of reasons (either the same statement that was lodged with the draft proposal or a revised version of it – Rule 9.14.9). The statement is published on the "Proposals for Bills" page of the Parliament website.

3.15 The final proposal must be broadly similar to, but not necessarily the same as, the draft proposal (Rule 9.14.8). In other words, both the draft and final proposal must seek to promote the same overall aim but may vary in the detail of how this is to be achieved (for example, to reflect policy changes prompted by responses to the consultation exercise). The member should ensure that the wording of the final proposal is an accurate reflection of the member's policy, as it will only

be possible to introduce a Member's Bill to "give effect to" the final proposal (as explained further below).

3.16 The final proposal is published in the first edition of the Business Bulletin after it is lodged, in each subsequent edition published during a one-month period beginning on the day the proposal is lodged, and in the first edition after that period has ended. The final proposal one-month period takes no account of recess periods. During the one-month period, other members may notify the Chamber Desk of their support for the final proposal. (By convention, Ministers and junior Ministers do not support final proposals.) Each edition of the Bulletin in which the final proposal appears shows the list of members who have so far supported it. If the proposal has secured the level of cross-party support needed to give the member the right to introduce a Member's Bill, the list of supporters' names is given in bold.

The right to introduce a Member's Bill

3.17 The member who lodged the final proposal obtains the right to introduce a Member's Bill to give effect to that proposal only if two conditions are satisfied. The first is that, by the end of the one-month period during which supporters may add their names, at least 18 other members from at least half the parties or groups represented on the Parliamentary Bureau have done so. (Each party with five or more MSPs is entitled to be represented on the Bureau, and members of smaller parties and independent MSPs may form a group, at least five in number, for the same purpose.) The second is that the Scottish Government has not made (or has waived its right to make), during that period, a statement under Rule 9.14.13.

3.18 A statement under Rule 9.14.13 is a statement that the Scottish Government will, within two years or by the end of the current session of the Parliament (whichever is sooner) initiate legislation (which could be a Bill or a statutory instrument) to give effect to the proposal. Any such statement (or a waiver of the right to make one) must be made (by a Minister or junior Minister) in writing to the member and to NGBU, and is published in the Business Bulletin (Rule 9.14.13A). The making of the statement prevents the member obtaining a right to introduce a Member's Bill even if the final proposal has obtained the necessary level of cross-party support. As well as being made in writing, such a statement must be repeated orally in the Chamber as soon as reasonably practicable (which need not be within the one-month period). Sufficient time must be set aside to allow the member who lodged the final proposal to ask questions of the Minister about the statement; other

members may also (at the Presiding Officer's discretion) ask questions on the statement (Rule 9.14.13B).

3.19 The right to introduce a Member's Bill can normally only be exercised until the first sitting day in June in the calendar year before the next Scottish Parliament general election is due to be held. A member can, exceptionally, seek the consent of the Parliamentary Bureau to introduce a Bill up until the last sitting day of September in that year (Rule 9.14.15).

3.20 If a member does not gain the right to introduce the Bill (either because the final proposal has not received the required level of cross-party support or because the Scottish Government has made a statement as described in paragraph 3.18) the proposal falls. A proposal in the same or similar terms cannot be lodged by any member during the same parliamentary session within six months of the proposal falling (Rule 9.14.12).

Introduction of Members' Bills

3.21 A member may introduce a maximum of two Members' Bills in any parliamentary session. This includes any Committee Bills that result from draft proposals submitted by that member (Rule 9.14.2). As with any Government Bill, the finalised text of a Member's Bill should be submitted for a Presiding Officer statement on legislative competence. This is normally required three weeks before the proposed date of introduction. During this period, the Legislation Team clerks consider the matters referred to in paragraph 2.10 above, and the Head of Legislation and Parliamentary Business writes to the member, normally shortly before introduction, setting out the advice the clerks would give on those matters.

3.22 By the time a final proposal is lodged, the member's policy is expected to be reasonably well developed. A Member's Bill should "give effect" to a final proposal (Rule 9.14.12). So a Bill which contained provisions extending substantially beyond the terms of the final proposal or which did not provide a substantial element of what was outlined in the final proposal could not be introduced. This test (of conformity between the final proposal and the eventual Bill) protects the interests of members who have supported the final proposal with a reasonable expectation of what the Bill resulting from it would be like.

3.23 On introduction, a Member's Bill must be accompanied by the same accompanying documents as are required for a Government Bill (see paragraphs 2.14-2.28).

Stage 1 of Members' Bills

3.24 Stage 1 consideration of a Member's Bill is largely the same as that for a Government Bill (see paragraphs 2.72-92). There is, however, one important exception. The lead committee has the option, under Rule 9.14.18, of recommending to the Parliament that the general principles not be agreed to, on one of three grounds (Rule 9.14.18). The grounds are that, in the committee's opinion:

- the consultation on the draft proposal, or the published material referred to in the statement of reasons, does not demonstrate a reasonable case for the policy objectives of the proposal or does not demonstrate that legislation is necessary to achieve those objectives;

- the Bill appears to be clearly outwith the Parliament's legislative competence and it is unlikely to be possible to rectify this by amendment at Stages 2 and 3;

- the Bill has deficiencies of drafting that make it unfit to be passed and which are so serious that they would be difficult or impractical to resolve by amendment at Stages 2 and 3.

3.25 The aim of this procedure is to avoid the need for a lead committee to carry out a full Stage 1 inquiry or publish a Stage 1 report on the general principles of a Member's Bill if the Bill (for one of the above three reasons) is never likely to be fit to become law. A committee considering invoking this power should, however, ensure it does not do so without first taking such advice and evidence (including from the member in charge) as it considers necessary to establish that one of the three grounds applies.

3.26 If the lead committee decides that one of the grounds applies, it is for the convener to recommend (by motion) that the general principles of the Bill not be agreed to. The motion should make clear which of the three grounds applies (in the committee's opinion). The committee may, if it wishes, explain its decision in a short report to the Parliament. It is then for the Parliamentary Bureau to propose (in a business motion) a time for the Parliament to consider the committee's motion. This is likely to involve a short debate in which (at least) the committee convener and

the member in charge of the Bill have an opportunity to speak. If the Parliament agrees to the motion, the Bill falls. If the motion is rejected, the lead committee must consider and report on the general principles of the Bill in the normal way (Rule 9.14.19).

Participation in meetings by member proposing a Member's Bill

3.27 A member who has lodged a draft proposal for a Member's Bill accompanied by a statement of reasons and who is also a member of the committee considering the statement cannot participate as a committee member in the committee's consideration of the proposal (Rule 9.13A.1). This also applies where the member making the proposal is a committee substitute on the committee considering the proposal. The member may, however, participate in another capacity (for example, as a witness).

3.28 Similarly, if the member in charge of a Member's Bill is also a member (including as a committee substitute) of a committee that is involved in scrutiny of the Bill at Stage 1, or is taking Stage 2, that member cannot participate in the relevant proceedings in the capacity of committee member. The member in charge can, however, still participate in proceedings on the Bill in another capacity – for example, as a witness before the Stage 1 committee, or as the member in charge at Stage 2 (in which capacity, the member may move and speak to amendments but not vote).

3.29 Where a member is prevented from participating in proceedings as a committee member by Rule 9.13A, another member who has been designated as a committee substitute (Rule 6.3A) or a Bill substitute (Rule 6.3B.1(b)) may participate instead.

Committee Bills

3.30 Any committee may make a proposal for a Bill (Rule 9.15.2). The committee may initiate this (prompted, perhaps, by evidence received in the course of an inquiry, or by a petition referred to the committee). A member of the committee who wishes the committee to make a proposal should raise the matter with the convener, who can then invite the committee to decide whether to conduct an inquiry on the subject.

3.31 Alternatively, any member may submit a draft proposal for a Committee Bill to the Parliamentary Bureau (Rule 9.15.4). Members are advised to contact NGBU in the first instance for assistance with the wording of a draft proposal. This mechanism can be used where the

member concerned is not a member of a committee within whose remit the Bill would fall. Such a draft proposal is not published in the Business Bulletin, but is referred by the Bureau to an appropriate committee. The committee is required to consider a draft proposal referred to it in this way (Rule 9.15.4). In doing so, the committee may (but need not) conduct an inquiry on the merits of the draft proposal before reaching a decision on whether to propose a Bill.

3.32 If a committee decides to make a proposal (whether on its own initiative or in response to a draft proposal referred to it) it does so in the form of a report to the Parliament. A report containing a proposal for a Committee Bill should set out clearly, and in reasonable detail, why a Bill is considered to be necessary and what it would contain (Rule 9.15.5). Because there is no Stage 1 report on a Committee Bill (see below), it is important that a committee developing a proposal for such a Bill takes similar evidence to the evidence it would expect to take at Stage 1 of a Bill, and otherwise consults adequately on the proposal, before finalising its report.

3.33 The report should make clear that the committee is proposing a Committee Bill under Rule 9.15. The report may, but need not, include a draft Bill (Rule 9.15.5).

3.34 Committees are advised to involve NGBU at an early stage during any inquiry on a Committee Bill proposal. NGBU's role at this stage is primarily to help the committee to ensure that the proposal both expresses the policy of the committee and provides a suitable basis for the drafting of a Bill. To do this, a proposal must be sufficiently detailed to allow the Parliament to make a properly informed decision as to whether to support it, but not so detailed as to restrict the ability of the drafter to implement the committee's policy in legislative terms.

3.35 Once the committee report containing the proposal has been published, the convener should lodge a motion as follows:

> **[Convener's Name] on behalf of the [Name] Committee: Proposal for a [proposed short title] Bill**—That the Parliament agrees to the proposal for a Committee Bill under Rule 9.15 contained in the [Name] Committee's Nth Report, [year] (SP Paper X).

The Bureau must allocate time in a Business Motion for consideration of the proposal (Rule 9.15.6).

3.36 If the Parliament agrees to the motion (and hence the proposal), this gives the committee convener the right to instruct the drafting of a Bill to give effect to the proposal and to introduce the Bill. In practice, NGBU (in conjunction with the committee clerks) will instruct the drafting on the convener's behalf. The right to instruct drafting and then introduce a Committee Bill cannot be exercised until the fifth sitting day after the debate, and then only if the Scottish Government has not made, before that day, a statement under Rule 9.15.7A. A statement under that Rule is a statement

> that the Scottish Government will, within two years or by the end of the current session of the Parliament (whichever is sooner), initiate legislation (which could be a Bill or a statutory instrument) to give effect to the proposal. Such a statement is initially made (by a Minister or junior Minister) in writing, and then repeated orally in the Chamber as soon as reasonably practicable (Rule 9.15.7AA). The convener of the committee that made the proposal may question the Minister about the statement, and other members may also (at the Presiding Officer's discretion) ask questions on the statement (Rule 9.15.7AB).

This is equivalent to Rule 9.14.13 in relation to Members' Bills discussed at paragraph 3.18.

3.37 A Committee Bill must give effect to the proposal, so can be introduced only if it is broadly consistent with the terms of the proposal that was agreed to by the Parliament. If, in the course of finalising the Bill, the Committee decides not to include in the Bill a substantial element of the proposal, or to include in the Bill substantial provisions that were not mentioned in the proposal, it would need to obtain the Parliament's agreement to a further report containing a revised proposal. It is partly to avoid any such difficulties that committees are advised to involve NGBU from the earliest stage in the preparation of any proposal. If the proposal is agreed to, NGBU will provide support to the member in charge of the Bill during its passage.

3.38 A Committee Bill is introduced by the convener of the committee which made the proposal (who need not be the same member as the one who was convener when the proposal was made). That convener then becomes the member in charge of the Bill; but if the committee which made the proposal ceases to exist, the convener of another committee within whose remit the subject matter of the Bill falls becomes the member in charge of the Bill. The convener can designate another

member as member in charge, but only if that other member is a member of the committee (Rules 9.2A.3 and 9.2A.5).

3.39 Explanatory Notes, a Financial Memorandum and a statement on legislative competence from the convener and from the Presiding Officer are required. A Policy Memorandum is not required, but may still be provided. A committee may decide not to prepare a Policy Memorandum if it considers that the report proposing the Bill is sufficient to explain the Bill's policy objectives and how they were developed. If the Bill contains any provision conferring power to make subordinate legislation or conferring power on the Scottish Ministers to issue any directions, guidance or code of practice, then a Delegated Powers Memorandum is required.

3.40 At Stage 1, a Committee Bill is not referred to a lead committee for a report on its general principles (Rule 9.15.8). The Public Finance and Administration Committee will consider and report on the Financial Memorandum in the normal way – unless it was the Public Finance and Administration Committee which proposed the Bill. Similarly the DPLR Committee must report on any provisions conferring power to make subordinate legislation, or conferring power on the Scottish Ministers to issue any directions, guidance or code of practice, unless it was that Committee which proposed the Bill. Once those committees have reported to the Parliament, the Stage 1 debate takes place in the normal way.

3.41 The MSPs who were members of the committee that developed the proposal for the Bill cannot also participate as members of any committee involved in scrutinising the Bill at Stage 1, or as members of the committee taking Stage 2. Where the Committee Bill originated from a draft proposal submitted by an individual member, the same restriction applies to that member (Rule 9.13A.2(c)). This does not prevent any of the members in question from participating in the relevant committee proceedings in another capacity – for example, as a witness before a Stage 1 committee or as the member in charge of the Bill at Stage 2.

Budget Bills

3.42 A Budget Bill is a Bill consistent with the description of a Budget Act, as defined in section 29(3) of the Public Finance and Accountability (Scotland) Act 2000. Budget Acts are Acts authorising the use of resources by the Scottish Government, authorising payments out of the Scottish Consolidated Fund, enabling sums otherwise payable into the Scottish Consolidated Fund to be applied for other purposes, and

governing maximum amounts of expenditure and borrowing by certain statutory bodies.

3.43 A Budget Bill may be introduced only by a member of the Scottish Government, and is accompanied by the two mandatory statements on legislative competence (Rule 9.16.2). It is referred immediately for a Stage 1 debate, without the need for a Stage 1 report. If it contains provisions conferring power to make subordinate legislation, or conferring power on the Scottish Ministers to issue any directions, guidance or code of practice, a Delegated Powers Memorandum will also be required and it will be considered by the DPLR Committee under Rule 9.6.2, but that Committee is only required to report on it before Stage 3 (Rule 9.16.3).

3.44 Stage 2 of a Budget Bill is taken by the Finance and Public Administration Committee. At all Stages, amendments may be lodged and moved only by a member of the Government or junior Minister (Rule 9.16.6). The normal deadlines for lodging amendments at Stages 2 and 3 do not apply. The deadline for lodging amendments to a Budget Bill at each Stage is 4:30pm on the Friday immediately preceding the week in which the Stage is due to start. If that Friday falls in a recess, the deadline is 4:30pm on the Friday immediately before the recess. Otherwise, the procedures at amending Stages are the same as for other Government Bills.

3.45 Budget Bills are subject to an accelerated timescale. Stage 3 must be completed not later than 70 days after introduction (although that Stage cannot begin until 60 days after introduction) (Rule 9.16.5). The normal rules on intervals between Stages do not apply (Rule 9.16.4).

3.46 If a Budget Bill is dependent on the Parliament passing a particular Scottish rate resolution (a resolution under section 80C of the 1998 Act, as inserted by section 25 of the 2012 Act, to set the Scottish rate of income tax), Stage 3 proceedings cannot take place unless the Parliament has agreed to the motion for that resolution (Rule 9.16.7). Where amendments to a Budget Bill have been lodged, the Bill is treated as dependent only on the passing of a Scottish rate resolution that reflects the content of those amendments (Rule 9.16.7A).

3.47 These Rules reflect the fact that there is likely to be considerable interdependence between the Scottish rate resolution and the Budget Bill. Where a motion for such a resolution is rejected, the Bill will not automatically fall. The suspension of Bill proceedings if a motion for a Scottish rate resolution is rejected will enable the lodging of a fresh

motion, and of amendments to the Bill to reflect this. It is possible that failure to persuade the Parliament to agree to the motion for a resolution would mean that Stage 3 is not completed before the expiry of 70 days after the Bill's introduction. If a Budget Bill does fall for that reason, or is rejected for any other reason, another Bill in the same or similar terms may be introduced immediately afterwards (Rule 9.16.8).

3.48 The special rules applicable to Budget Bills reflect the convention that the Parliament's budgetary decision-making must be agreed (or can be rejected) by the Scottish Government. However, the Budget Bill itself is only the final stage in the annual budget scrutiny process. Other stages of that process, which involve reports by the Finance and Public Administration Committee and debates in the Parliament, provide subject committees and the Parliament as a whole with a pre-legislative opportunity to comment on the Scottish Government's budgetary plans for the coming financial year.

Scottish Law Commission Bills

3.49 A Scottish Law Commission Bill ("SLC Bill") is a Bill (not necessarily a Government Bill) which implements all or part of a report of the Scottish Law Commission (including a joint report with the Law Commission for England and Wales), and is not a Consolidation Bill, Codification Bill, Statute Law Repeals Bill or Statute Law Revision Bill. An SLC Bill must also comply with criteria determined by the Presiding Officer (Rule 9.17A.1). The criteria were published in the Business Bulletin, on Wednesday 24 March 2021--

> The Presiding Officer has determined under Rule 9.17A.1(b) that a Scottish Law Commission Bill is a Bill within the legislative competence of the Scottish Parliament the primary purpose of which is to—
>
> (a) simplify, modernise or improve the law to—
> (i) ensure it is fit for purpose,
> (ii) respond to developments, or address deficiencies, in the common law, or
> (iii) respond to other developments in the law;
> (b) make provision which is not likely to generate substantial controversy among stakeholders.
>
> Consideration should also be given by the Parliamentary Bureau to whether there are any wider legislative proposals expected within two years beginning with the date of introduction of the Bill (or by

the end of the same session if sooner), which relate closely to the same particular aspect of law as the Bill. Where further legislation is expected, regard should be had to whether scrutiny of the overall proposed law change would be aided by both pieces of legislation being referred to the committee that would be designated lead committee were Rule 6.11.1(g) not to apply.

3.50 After introduction, an SLC Bill is referred to a lead committee in the normal way (by the Parliamentary Bureau), but if it meets the Presiding Officer's criteria highlighted above it would instead normally be referred to the DPLR Committee (which has the scrutiny of all such Bills within its remit – Rule 6.11.1(g)). This is intended to reflect the fact that Bills which comply with the criteria above may be regarded as comparatively technical and uncontroversial reforms to the law. Members and officials of the Scottish Law Commission are likely to be key witnesses during Stage 1 scrutiny.

3.51 Where the DPLR Committee has begun to consider, but has not yet reported on, the general principles of an SLC Bill, and that Committee considers that the Bill does not comply with any of the criteria determined by the Presiding Officer, the Committee must inform the Parliamentary Bureau (Rule 9.17A.3). The Bureau may decide to propose by motion to the Parliament that another committee is designated as lead committee. This may arise, for example, where it becomes clear during the DPLR Committee's consideration of the Bill that the Bill has generated substantial controversy among stakeholders. In this case it may be thought preferable for the subject committee within whose remit the subject matter of the Bill falls to consider the Bill. If the Parliament agrees to such a motion, the new lead committee must consider the general principles of the Bill afresh. It may take into account any evidence already gathered and views submitted to it by the DPLR Committee.

3.52 If the DPLR Committee has considered an SLC Bill at Stage 2, and the Bill has been amended to insert or substantially alter provisions conferring power to make subordinate legislation, or conferring power on the Scottish Ministers to issue any directions, guidance or code of practice, the DPLR Committee is not required to consider and report on those provisions (Rule 9.17A.4). The member in charge of the Bill is still, however, required to lodge a revised or supplementary Delegated Powers Memorandum.

3.53 At Stages 2 and 3, there is nothing to prevent amendments being lodged or moved that would cause a Bill introduced as an SLC Bill to cease to be such a Bill (e.g. amendments which might generate substantial controversy among stakeholders) – by contrast with the situation for Consolidation Bills (see paragraph 3.54).

Consolidation Bills

3.54 Where the statutory basis of the law in a particular area is scattered among a wide range of Acts, or where those Acts have been heavily amended, it may be appropriate to introduce a Consolidation Bill to re-enact the existing provisions in a more logical and coherent form. Such Bills are usually prepared by the Scottish Government in conjunction with the Scottish Law Commission (but are not classed as "SLC Bills").

3.55 A Consolidation Bill may not contain substantial new provisions, nor make substantial changes to the existing law. It may, however, make various minor amendments to the law (particularly to give effect to Scottish Law Commission recommendations) as well as simply re-stating it (Rule 9.18.1). Such recommendations may, if they relate to aspects of Scots law identical or similar to the law in other parts of Great Britain, be made jointly by the Scottish Law Commission and the Law Commission of England and Wales.

3.56 The only accompanying documents required for a Consolidation Bill are statements on legislative competence by the member in charge and by the Presiding Officer, plus tables of derivations and destinations. These tables show the connections between the provisions of the Bill and the equivalent provisions of existing statute law which are restated. The table of derivations follows the order of the Bill, while the table of destinations follows the chronological order of the restated statutes (listed by year and chapter/asp number). If a provision giving effect to a Law Commission recommendation charges expenditure on the Scottish Consolidated Fund, an Auditor General's Report is also required (Rule 9.18.2).

3.57 Once introduced, the Bureau may propose by motion that the Parliament refers the Bill to a Consolidation Committee to be established for the purpose of considering the Bill. Alternatively, the Bureau may propose that the Parliament refers the Bill to the DPLR Committee to consider the Bill.

3.58 If the Bureau proposes the establishment of a Consolidation Committee, it should have regard to the subject matter of the Bill and, where possible, ensure that at least one member of the Committee is a member of a subject committee to whose remit the Bill is relevant (Rule 9.18.4). The remit of a Consolidation Committee is limited to consideration of the Bill in the terms set out in the Rules, and it is established only for the duration of the Bill – that is, until the Bill has received Royal Assent, falls or is withdrawn. In other respects, a Consolidation Committee is subject to the same Rules as other committees of the Parliament.

3.59 The role of the Consolidation Committee or DPLR Committee at Stage 1 is more restricted than that of a lead committee. Rather than considering the general principles of the Bill, the committee is required to report only on whether the Bill should proceed as a Consolidation Bill. The question is not whether the committee approves of the law that the Bill consolidates, but only whether it approves of that law being consolidated.

3.60 The motion which is the subject of the Stage 1 decision is that the Parliament agrees that the Bill should proceed as a Consolidation Bill. As with any other Stage 1 motion, that motion may be amended (although, as with other Stage 1 motions, amendments which would cast doubt on the outcome of the amended motion will not be selected). There is normally no debate on the motion, although exceptions may be made (if, for example, the committee has raised serious doubts in its report about the rationale for, or the scope of, the consolidation exercise). If the Parliament does not agree to the motion, the Bill falls (Rule 9.18.5).

3.61 If the Parliament agrees that the Bill should proceed as a Consolidation Bill, Stage 2 is considered by the Consolidation Committee or by the DPLR Committee. The ordinary rules on admissibility (other than the prohibition on “wrecking” amendments – see paragraphs 4.22 and 4.23) apply to amendments to a Consolidation Bill at Stage 2 or Stage 3 (Rule 9.18.8). In addition, amendments are inadmissible if they would result in the Bill no longer falling within the definition of a Consolidation Bill in Rule 9.18.1. Any amendment that would cause the Bill to make substantial new provision in the area of the law with which it deals is therefore inadmissible. Amendments may, however, propose changes to how the Bill restates the law and how it gives effect to any Scottish Law Commission recommendations.

3.62 At Stage 3, there is a presumption that there will be no debate on the motion that the Bill be passed, although again exceptions may be made (Rule 9.18.7).

Codification Bills

3.63 A Codification Bill restates both statute law and common law (whereas a Consolidation Bill deals only with statute law). Such Bills are subject to the same requirements in relation to accompanying documents and the same procedures, with appropriate modification, as Consolidation Bills. The committee established to consider the Bill would be a Codification Committee (Rule 9.18A.2). The option to refer the Bill to the DPLR Committee does not exist for Codification Bills.

3.64 The motion which is the subject of the Stage 1 decision is that the Parliament agrees that the Bill should proceed as a Codification Bill. An amendment to such a Bill is inadmissible if it would cause the Bill to cease to be a Codification Bill.

Statute Law Repeals and Statute Law Revision Bills

3.65 Statute Law Repeals and Statute Law Revision Bills are also intended to tidy up the “statute book”, mainly by repealing spent enactments or enactments no longer in force. In the case of a Statute Law Revision Bill, this involves re-enacting those provisions in particular statutes that still have application while repealing the remainder of them.

3.66 The Rules applicable to Consolidation Bills also apply to these Bills, with appropriate modifications. The committees established to consider such Bills are known as “Statute Law Repeals committees” and “Statute Law Revision committees”. Again, the option to propose that the Bill be referred to the DPLR Committee does not exist for these Bills. Tables of derivations and destinations are not required.

3.67 At Stage 1, the motion is that the Parliament agrees that the statute law which is repealed/revised in the relevant Bill should be repealed/revised. Amendments to a Statute Law Repeals Bill must not cause it to cease to be a Statute Law Repeals Bill. For example, an amendment proposing the inclusion in the Bill of the repeal of an enactment which is not spent or which (while spent) does not flow from a Scottish Law Commission recommendation would be inadmissible. Similarly, amendments to a Statute Law Revision Bill may vary the extent of the repeals made by the Bill (but not by adding repeals of provisions still in force or which are still necessary), and may also vary

the way in which the Bill re-enacts provisions of Acts which are otherwise spent.

Emergency Bills

3.68 An Emergency Bill is a Government Bill that needs to be enacted more rapidly than the normal timetable allows - for example, to amend the law in response to a recent court judgement which has exposed a loophole or problem of interpretation in an existing enactment. Such a Bill must first be introduced as a Government Bill and becomes an Emergency Bill if the Parliament, on a motion by a Minister (or junior Minister) agrees to treat it as such (Rule 9.21.1). Unless the Parliament agrees (under Rule 9.3.6) to waive the requirement, an Emergency Bill must be introduced with the same accompanying documents as any other Government Bill.

3.69 Rule 9.21.2 provides that Stages 1 to 3 of an Emergency Bill are taken on the same day unless the Parliament agrees to a motion by the Parliamentary Bureau proposing an alternative timescale. The Bureau is required to propose, by motion, a timetable for the various stages. This does not affect the power to adjourn Stage 3 under Rule 9.8.5C or refer the Bill back for further Stage 2 consideration (Rule 9.21.3).

3.70 The Bill is referred immediately to the Parliament to consider the general principles. There is no committee consideration and report on the general principles. Stage 2 of an Emergency Bill must be taken by a Committee of the Whole Parliament (i.e. all MSPs meeting in the Chamber, but operating under committee procedure, and with the Presiding Officer acting as convener). If the Bill contains provisions conferring power to make subordinate legislation, or conferring power on the Scottish Ministers to issue any directions, guidance or code of practice, or is amended at Stage 2 to insert or substantially alter such powers, the Bill is not required to be considered by the DPLR Committee.

3.71 Emergency Bills may be amended. The Presiding Officer may determine a time by which amendments must be lodged. For example, if Stage 1 of an Emergency Bill finished at 11 am and Stage 2 was due to start at 2 pm that day, a Stage 2 deadline of 1 pm might be set. This allows time (albeit very limited) both for members to lodge amendments and for a Marshalled List and groupings to be prepared and made available to members. Manuscript amendments could still be lodged after 1 pm but would be subject to the normal test for manuscript amendments set out in Rule 9.10.6. If no determination about the

deadline for lodging is made by the Presiding Officer, the normal notice periods apply (which in practice is likely to mean that all amendments would be manuscript amendments).

3.72 Where an Emergency Bill is amended at Stage 2, there is no requirement for revised or supplementary accompanying documents to be lodged (Rule 9.21.6A).

Part 4: Amendments

4.1 This Part of the Guidance explains the rules and procedures relating to amendments in more detail. It explains the principles behind amendments, how they are lodged and published and the creation of Marshalled Lists. It also explains how amendments are grouped and (at Stage 3) selected, and how the proceedings on amendments are conducted.

4.2 An amendment is a proposal to change the wording of the text of a Bill. It is the only mechanism that may be used to make such a change. An amendment is also the key mechanism for allowing debate on the Bill's provisions at Stages 2 and 3. Some amendments – sometimes referred to as "probing amendments" – are lodged primarily to allow an issue to be debated, without any intention of changing the Bill's text. All amendments must conform to the rules governing the admissibility, style and content of amendments.

Basic principles

4.3 The Standing Orders relating to amendments are based on two guiding principles: the rule of separate textual amendments and the rule of progress.

Separate textual amendments

4.4 This is the principle that every substantive change to the text of a Bill requires an individual amendment to be lodged, moved and agreed to. As a legislature, the Parliament must agree to the precise form of words that has legal effect, and not just to the underlying policy behind those words. This means that it cannot simply agree, for example, to change every occurrence of a particular word or phrase to something else, since the legal effect of such a change will depend on the context in which the word or phrase occurs and may be different in each case.

4.5 When the Parliament (or a committee) agrees to an amendment, it is precisely that amendment – and only that amendment – that may be made to the Bill. The only other changes that are permitted are strictly non-substantive "printing points" (see paragraphs 4.46 – 4.50). The Parliament (or the committee) cannot decide only on the principle underlying a change to the text of a Bill; it must also decide on the precise manner in which that change is to be made.

4.6 Some major changes to the legal effect of a Bill can be achieved by a single amendment, whereas other, less substantial changes may require dozens of separate amendments. However, for non-Government amendments at Stage 2 in particular, it is not always necessary to lodge every amendment that would be required – since the principal purpose may simply be to allow an issue to be discussed. If a member wishes to question, for example, why a new body established by a Government Bill has been given a particular name, a single amendment to change the name of the body the first time it occurs would be sufficient. If that amendment was agreed to, it would then be up to the Government either to seek to have the amendment reversed at Stage 3, or to lodge the further amendments necessary to re-name the body throughout the Bill.

4.7 At Stage 3, a different approach is required. A single such amendment, while still admissible, has little prospect of success. If agreed to, it would create an inconsistency in the Bill which could only be corrected at the cost of delaying the passage of the Bill. This creates a presumption against it being selected and, if moved, makes it less likely to be agreed to.

The rule of progress

4.8 The second basic principle is that amendments must be taken and disposed of strictly in order. This order is not always the order in which the sections and schedules to which they relate appear in the printed Bill. A different order can be agreed (see paragraphs 2.98-2.101 and 2.131). Whatever the order is, it must be followed. It is never permitted to return to a point in the order earlier than the last amendment moved at that Stage of the Bill. This makes it important that amendments are marshalled accurately and requires the manner in which amendments are called and disposed of to be handled carefully, since mistakes often cannot be rectified at the same Stage. The rule of progress also explains the importance of wording amendments consistently, as this determines their relative places in the Marshalled List and their precedence in debate.

Admissibility of amendments

4.9 Rule 9.10.5 establishes four criteria for the admissibility of amendments. These are explained below by reference to the paragraphs of that Rule.

4.10 It should be noted that legislative competence is not a criterion for the admissibility of amendments. Whether a Bill, or specific provisions

within it, are within the Parliament's legislative competence may be a matter of debate throughout the passage of a Bill irrespective of the statements made by the member in charge and the Presiding Officer on the introduction of the Bill (see paragraphs 2.17-2.19). There may also be debate about whether amendments would take a Bill outside competence or, indeed, whether amendments may resolve concerns about competence.

4.11 The convener, at Stage 2, and the Presiding Officer, at Stage 3, does not have a role in considering whether proposed amendments might take a Bill outside the legislative competence of the Parliament. The Parliament is, however, permitted to legislate only within its competence, and a Bill may be subject of a reference to the Supreme Court on the grounds of legislative competence after it is passed (see paragraph 2.150). In lodging amendments, members will, therefore, wish to have regard to competence issues and will wish to be aware of the potential for the effect of an amendment on legislative competence to be raised in debate. It is only the courts that can determine definitively whether a provision is within competence, and analysis of the legislative competence of a Bill or any of its provisions can be a complex matter. However, the clerks will, where possible, seek to alert members who wish to lodge amendments where they are aware of specific issues of competence that may be raised by amendments. Where possible, the clerks will seek to advise on alternative approaches that may avoid these issues.

(a) Proper form

4.12 The Presiding Officer has made a determination on the form of amendments, which is reproduced in Annex E. The clerks will aim to ensure, as a matter of course, that an amendment that is otherwise admissible is put into proper form. Amendments should, therefore, rarely be ruled inadmissible on this ground alone.

4.13 It is implicit in this first criterion that an amendment is inadmissible if an identical amendment has already been lodged. This includes not just amendments which can be worded in only one way (e.g. "Leave out section 1") but also amendments which differ from an amendment already lodged only in trivial respects that would have no legal effect. A member seeking to submit such an amendment has the choice of either changing the amendment to make it substantively different from the one already lodged, or indicating support for that amendment (see paragraphs 4.52-4.54).

(b) Relevance

4.14 An amendment is inadmissible if it is not relevant to the Bill. This is sometimes referred to as an amendment being outwith the scope of the Bill – though this is not always easy to determine. As noted at paragraph 2.10, the clerks take a general view of the scope of a Bill in advance of introduction. This is intended to establish in general terms what advice they would give at later Stages should an amendment of questionable relevance be lodged.

4.15 It is sometimes wrongly imagined that the long title alone can be used to determine the "scope" of the Bill. The long title is intended to provide a concise description of the main purposes of the Bill and so is a useful guide to the scope of what the Bill covers, but it is not definitive. The reason why amendments to the long title are permitted (and are taken last) is to allow it to be adjusted to take account of amendments made elsewhere in the Bill – amendments that had to be within the scope of the Bill to be admissible, but were not consistent with the long title as it stands.

4.16 The wording of the long title can also mislead in relation to relevance. The long title may, for example, include the words "to make further provision about" a particular subject, but this is merely a convenient shorthand, and does not imply that any amendment about that subject would be relevant to the Bill. Similarly, it is commonplace for the long title of a large Bill to end with the words "and for connected purposes" – but this does not open up the Bill to amendments which would, in the absence of those words, be irrelevant to the other purposes of the Bill.

4.17 Where a Bill has only one or two purposes when it is introduced, any additional purpose is unlikely to be relevant. But if the Bill has three or more purposes when it is introduced, it may be relevant to add a further purpose by amendment, so long as the new purpose is no more remote in terms of subject-matter from the existing purposes than those purposes are from each other. Some Bills (sometimes called "miscellaneous provisions" Bills) consist of a large number of distinct purposes within a broad area of policy (or with a general common theme). With such a Bill, it is usually possible to introduce by amendment any number of new purposes within that area of policy (or theme). However, even with such a Bill, amendments to introduce purposes in another area of policy altogether (or not sharing the theme) would not be relevant.

4.18 The following are examples of the sorts of rulings on relevance that might be made:

- In relation to a Bill about the administration of justice (the organisation of the courts, avenues of appeal etc.), amendments that would create new offences (except offences directly concerned with the administration of justice) would not normally be relevant – because they would make it into a Bill about what the law should be, rather than just about how it should be administered.

- In relation to a Bill about school education, amendments to impose similar obligations (e.g. in relation to class sizes) on providers of nursery education would not normally be relevant.

- In relation to a Bill which is intended to deregulate in a particular area, amendments to regulate would not normally be relevant. (But if the Bill completely or substantially deregulated, then amendments to impose regulation at a lower level than before might be relevant – since the Bill's overall purpose of reducing regulation would still be achieved.)

4.19 As well as being relevant to the Bill as a whole, each amendment must be relevant to the provision to which it is made. An amendment to a section, for example, is admissible only if it is relevant to the subject matter of the section. Similarly, an amendment to leave out a section and insert a new section in its place is appropriate only where the new section has essentially the same purpose as the old one, but uses a different form of words to achieve that purpose. If the new section is doing something quite distinct, two amendments should be lodged, one to leave out the existing section, the other to insert the new one. The Parliament (or committee) should, in that case, have the option of agreeing to one amendment without the other. Similar considerations apply to amendments to leave out smaller provisions such as subsections and insert new such provisions in their place.

4.20 Where an amendment is relevant to the Bill but not to any existing section (or schedule), it should be put in the form of a new section (or schedule). In that case, care must be taken to place it appropriately in the Bill. If the Bill is divided into Parts and Chapters or under italic headings, a new section must be placed under a Part, Chapter, or italic heading to which it is relevant (which is easier if one of those headings is "General" or "Miscellaneous"). If the new section is not relevant to any existing heading, it may be necessary to prefix it with its own heading.

4.21 Under Rule 9.10.9, an amendment to insert a new section or schedule should "normally" specify where it is to be inserted. "Normally" here means "wherever possible". For any new section/schedule amendment that is admissible, it must be possible to find a place in the Bill where it can be relevantly inserted – and it should be lodged as an amendment to that place in the Bill if possible. But if proceedings at the Stage in question have already progressed beyond the last place where the new section or schedule could relevantly be inserted, then the amendment may be lodged as an amendment to an unspecified place in the Bill. Such an amendment would be published under the heading "At an appropriate place in the Bill". This should not, however, be used to undermine the rule of progress by seeking to insert at a later point in a Bill an amendment that relates to a provision at a point in the Bill that has already been passed (see paragraph 4.8).

(c) Consistency with general principles

4.22 An amendment is not admissible if it is inconsistent with the general principles of the Bill as agreed by the Parliament. This criterion is intended to rule out so-called "wrecking amendments" – amendments that would reverse, substantially alter or render ineffective a principal purpose of the Bill. The rationale for this rule is that, by the time the Bill comes to be amendable, the Parliament has already voted at Stage 1 in favour of its general principles. The purpose of Stage 2 (and of amendments at Stage 3) is to subject the Bill to detailed scrutiny and to improve the means by which it gives effect to those general principles. The proper course for members who oppose the basic thrust of the Bill is, therefore, to oppose the motion to approve the general principles of the Bill at Stage 1 – or, if any amendments agreed to at Stages 2 and 3 are insufficient to make it acceptable in their view, to oppose the motion to pass the Bill at the end of Stage 3. This criterion is intended to stop members attempting, by amendment, to frustrate the general principles of the Bill already agreed to by the Parliament.

4.23 In determining whether an amendment would "wreck" the Bill, a similar approach to that described under 'Relevance' above (see paragraphs 4.14-4.21) is employed. Where a Bill is introduced with only one or two principal purposes, an amendment to leave out (or substantially alter) that purpose or one of those purposes would not normally be admissible. But where the Bill was introduced with three or more purposes, it may be possible to leave out by amendment any one of them without wrecking the Bill. In any particular case, account would be taken of how substantial the purpose is, the extent to which the remaining purposes would be affected by its removal (or substantial

alteration) and how close it is in terms of subject-matter to the other principal purposes of the Bill. It would normally be possible to remove by amendment from a multi-purpose Bill a minor purpose that stands apart from the remainder of the Bill and on which the rest of the Bill does not depend, but not to remove a more substantial purpose which is more central to the Bill as a whole.

4.24 Where a Bill is introduced with an outcome to be achieved or delivered in a specific manner, an amendment creating a different approach to achieving the same outcome may not be admissible. Depending on the drafting of the Bill, the approach to achieving the outcome may be so fundamental to the Bill that to change the approach would be considered a wrecking amendment. Therefore, a situation could arise where suggesting another approach for the same outcome could be considered inadmissible. For example, if the outcome to be achieved by a Bill is to discourage a certain activity and the Bill does that by criminalising that activity, the removal of that offence and replacement with some other means of discouraging the activity may not be admissible. As a further example, if a Bill is seeking to make something universally available, it may be inadmissible to try to limit this universality. In these cases, if the approach in the Bill was considered incorrect, the general principles of the Bill would be considered incorrect. These general principles can be voted against at Stage 1. In considering whether to agree to the Bill's general principles it is therefore important to look beyond the broad subject matter covered by the Bill and instead consider the specific approach that is being taken, as there may be some fundamental elements of this approach which are not amendable.

(d) Consistency with decisions already taken

4.25 An amendment is not admissible if it is inconsistent with a decision already taken at the Stage at which it is proposed. This criterion is intended to prevent decisions taken on one amendment being effectively overturned by a decision on a subsequent amendment at the same Stage. Rule 9.10.11 (see paragraph 4.75) prevents a later amendment already on the Marshalled List (i.e. which was admissible when it was lodged) being called; but this rule prevents such an amendment being published if the amendment with which it is inconsistent has already been agreed to. It also prevents an amendment being published if another amendment which would have essentially the same effect has already been disagreed to.

4.26 It may be a question of fine judgement as to whether two amendments are similar enough that agreement or disagreement to one

should preclude the other being taken. The rationale for the rule is to prevent a member who has been defeated once on an issue simply coming back again with a similar amendment later during the same Stage. The rule is not, however, intended to prevent the Parliament from considering the relative merits of amendments that represent slightly different ways of achieving the same outcome, or amendments that are "direct alternatives" (see paragraph 4.80). The rule is, therefore, applied narrowly. It will not be applied to treat a later amendment as pre-empted in any case where the later amendment may be regarded as the better means of achieving the shared intention. That is properly a matter for political debate.

4.27 This Rule does not prevent amendments to reverse a decision taken at one Stage being lodged for a subsequent Stage.

Admissibility of amendments at Reconsideration Stage

4.28 The above four admissibility criteria apply to all amendments. In addition, amendments at Reconsideration Stage are admissible (under Rule 9.9.4) only if they are intended to resolve the problem which gave rise to the Law Officer's reference under section 33 or to the section 35 order (see paragraphs 2.150- 2.154). The reference or order is likely to specify particular provisions of the Bill, but this does not mean that any amendment to those provisions is admissible. Amendments to other provisions may also be admissible if they are necessary in consequence of amendments to those provisions which aim to resolve the problem. A Bill may not be amended where Reconsideration Stage arises as a result of a reference to the Supreme Court under section 32A on the grounds of protected subject-matter (Rule 9.9.4).

4.29 Modified admissibility criteria apply to Consolidation, Codification, Statute Law Repeals, and Statute Law Revision Bills (see paragraphs 3.62, 3.64 and 3.67).

Determining admissibility

4.30 The clerks in the Legislation Team will seek to ensure that all amendments are in proper form and also aim, where possible, to ensure that amendments submitted conform to the other criteria above. Where there is a doubt about the admissibility of an amendment, the clerks will seek to raise this with the member as soon as possible. The clerks will seek, wherever possible, to assist a member to make any changes that are required to make an amendment to achieve the member's policy intention admissible. If this is not possible, the clerks will seek to advise

the member about any possible alternative approaches. Application of the admissibility criteria in practice can be complex. In any case of dispute about the admissibility of an amendment, the decision rests with the convener at Stage 2 and the Presiding Officer at Stage 3 (Rule 9.10.4). Conveners and Presiding Officers do not normally give reasons for decisions on admissibility.

4.31 The clerks may, if need be, hold back amendments of doubtful admissibility from publication while the issue is resolved, to avoid the situation where an amendment is published in the Business Bulletin and is subsequently deemed inadmissible. Where an amendment is held back for this reason, the member who submitted it will be informed. However, where an amendment of doubtful admissibility is lodged on the last day before the deadline, it may sometimes be necessary to publish it before its admissibility is decided, to ensure that notice is given. This may lead to a delay in publication of the Marshalled List until the amendment's admissibility is decided.

Lodging amendments

When amendments may be lodged

4.32 A Bill can be amended at Stage 2 and at Stage 3 (Rules 9.7.5 and 9.8.3). A Bill that is referred back to committee for further Stage 2 consideration under Rule 9.8.6 may be further amended at that Stage and again when it returns to Stage 3 (to the limited extent specified in that Rule). A Bill may be amended at Reconsideration Stage to the extent allowed under Rule 9.9.4 (and subject to Rule 9.9A.2).

4.33 At each amending Stage, amendments may not be lodged until the previous Stage has been completed. For Stage 2 amendments, this means as soon as the Parliament has decided in favour of the general principles of the Bill at Stage 1.

4.34 At Stage 2 and Reconsideration Stage, amendments should be lodged no later than the fourth sitting day before the day the Stage takes place or begins (Rule 9.10.2). So for a Bill being taken at Stage 2 on a Tuesday, the final lodging day is normally the previous Wednesday. As it is sitting days that count for this Rule, public holidays and recess days are not counted and so may affect the day by which amendments should be lodged. (Recess dates, and dates when the office of the Clerk is closed, are available on the Parliament's website.)

4.35 Where Stage 2 is being taken over more than one week, further amendments may be lodged for the second or subsequent weeks so long as the same four-day limit is observed. So if the second day at Stage 2 was scheduled for the following Tuesday, amendments for that day could be lodged until the Wednesday of the previous week (i.e. in this case, the day after the first Stage 2 meeting).

4.36 The purpose of the four-day notice period at Stage 2 is to ensure that members (and others with an interest in the Bill) have an opportunity to consider amendments in advance of the debate, and to allow the clerks adequate time to prepare the Marshalled List and advise on groupings (see paragraphs 4.64-4.70).

4.37 At Stage 3, amendments must be lodged no later than the fifth sitting day before the Stage (Rule 9.10.2A). So for a Bill being taken at Stage 3 on a Wednesday, the final lodging day is the previous Wednesday. This longer notice period applies because the Marshalled List can be published only after the Presiding Officer has selected amendments for debate. Since this is likely to be the final opportunity to amend the Bill, it is also appropriate to ensure that adequate notice is given to anyone with an interest in it of any potentially important changes that are being proposed.

4.38 At all amending Stages, amendments may be lodged on any day when the office of the Clerk is open. This excludes weekends and holidays, but includes most days of recess. Amendments may normally be lodged until 4.30 pm, except on a final lodging day when the deadline is 12 noon (Rules 9.10.2 and 9.10.2A). Members can withdrawn an amendment up until the final lodging day (Rule 9.10.7A).

4.39 Amendments for a second or subsequent day of a Stage are accepted only if they are to a part of the Bill not already dealt with at that Stage. The deadline is worked out in the same way as for the first day of the Stage. The exception is where two or more Stage 2 committee meetings take place in one week or where Stage 3 takes place over two days in one week. In those circumstances there is only one deadline for all the meetings taking place over the week, and that is the usual Stage 2 or 3 deadline for the first meeting taking place in the week. So if a committee is holding two Stage 2 meetings, on Tuesday and Wednesday, the deadline for submitting amendments to be considered on *either* day will be 12 noon on the fourth sitting day before the Tuesday (i.e. normally the previous Wednesday). And if amendments are being considered at Stage 3 on both Wednesday and Thursday then the deadline for both days will be 12 noon on the fifth sitting day before

the Wednesday (i.e. normally the previous Wednesday). It follows from this that there is normally no need to prepare more than one Marshalled List and list of groupings (see paragraphs 4.64-4.70) per week.

4.40 If, at Stage 3, the debate on the motion to pass the Bill is scheduled for another day (or if proceedings are adjourned under Rule 9.8.5C) a separate deadline applies in relation to the more limited range of amendments that may then be lodged under Rule 9.8.5D. The usual rule as to Stage 3 deadlines for amendments (i.e. the fifth sitting day prior to the date of the meeting) applies.

4.41 Amendments lodged after the deadline may be accepted as "manuscript amendments" under Rule 9.10.6, but only at the discretion of the convener (at Stage 2) or Presiding Officer (at Stage 3 and Reconsideration Stage). Procedures for dealing with such amendments are set out below.

4.42 At all Stages, members are advised to lodge amendments as early as possible before the deadline. This ensures that other members are given maximum notice of what is proposed, allowing them a better opportunity to prepare for the debate. Greater notice of an amendment gives members of other parties more opportunity to consider whether they can support it and also allows the member who lodged the amendment to enter into a dialogue with those other parties about possible changes of wording that might make the amendment capable of receiving those parties' support.

4.43 Members are also encouraged to contact the clerks as early as possible to discuss amendments they propose to lodge. Giving the clerks more time to assist members with the wording of their amendments allows greater opportunity to ensure that amendments can be drafted to achieve the member's policy intentions correctly and reduces the chances of drafting problems that might prevent the amendments being acceptable to other parties.

4.44 Amendment lodging deadlines for all Bills in progress, where these deadlines are known, are published in the Business Bulletin.

Where amendments are lodged

4.45 Amendments at all Stages are lodged with the clerks in the Legislation Team. They are based in Room T1.01 and can be contacted on (0131 34) 85277 or at LegislationTeam@parliament.scot.

Which parts of the Bill may be amended

4.46 Any part of the “legislative text” of the Bill (i.e. the words that have legal effect) may be amended. This includes every section and schedule of the Bill and the long title (although the long title is normally amended only in consequence of amendments made elsewhere in the Bill). The short title may be amended where it is cited in the Bill itself (usually in the final section).

4.47 The parts of the Bill that cannot normally be amended are Part and Chapter titles, italic cross headings, section or schedule titles, or any of the numbers assigned to any of the component parts of the Bill. Cross-references in the text of one provision to another provision may, however, be amended. The principle behind this distinction between legislative text and other elements of a Bill is that the Parliament must decide what the legislative effect of the Bill is to be, and these other elements can then be adjusted administratively to reflect what the Parliament has decided. For example, an amendment to change substantially a particular section might require a change to the italic heading above it, so that the heading continues to describe accurately the provisions that fall under it. If the italic heading and the section in question are adjacent, an amendment to leave out the section and insert a new section in its place might replace the heading as part of the amendment. But if the italic heading is not adjacent to the section in question, a separate amendment to the heading would be inadmissible and the italic heading would be adjusted administratively (as what is known as a “printing point”).

4.48 Similar considerations apply with punctuation and numbering. For example, an amendment which involves breaking up a subsection into two paragraphs, (a) and (b), might only insert the (b) (and the text of that paragraph), leaving the (a) to be inserted later as a printing point. The insertion of the (a) is purely a consequence of the amendment being agreed to, and simply makes good the structure of the subsection following the amendment. Inserting the (a) has no legal effect. A separate amendment intended to do nothing more than insert the (a) would be needed only where necessary to make the effect of the principal amendment clear.

4.49 When changes are made to a Bill as printing points this would be most often done at the end of the parliamentary passage of a Bill. A document known as a Printing Points Document is published on the Bill webpage outlining all the printing point changes that have been made. Changes can only be made as printing points if they do not alter the legal effect of the Bill. Examples of printing points include making formatting changes, correcting minor typographical errors, amending

titles of Parts, Chapters, sections, etc. to ensure they accurately reflect the contents of the Bill as a result of amendments agreed to by the Parliament.

4.50 Amendments to amendments are permitted (Rule 9.10.7), and are subject to the same rules as other amendments, save for minor differences of style.

Who may lodge amendments

4.51 Any MSP may lodge an amendment at any Stage - apart from specific rules applying where a Bill is adjourned at Stage 3 (Rule 9.8.5D) and for Budget Bills (Rule 9.16.6). At Stage 2, it is not only the members of the relevant committee who may lodge amendments. There is no limit to the number of amendments that each MSP may lodge.

4.52 The convener of a committee may lodge (or support) an amendment on behalf of the committee if the committee has made a formal decision during a meeting to that effect. Such "committee amendments" are published in the name of the convener followed by the words "(on behalf of the [name] Committee)". There is no procedural distinction between committee amendments and amendments in the name of an individual member, but the stated endorsement of the committee may be helpful to indicate that the person attending the Stage 2 committee meeting to move it is doing so on behalf of another committee and not just in an individual capacity.

4.53 As with other items of business, amendments may be lodged in person or in writing by the member; on the member's behalf by a third party authorised in writing by the member; or by e-mail if the member has authorised the lodging of business from the member's e-mail account (Rule 17.4.1). Amendments cannot be lodged from the e-mail address of anyone other than the member (except in the case of amendments in the name of a Minister or junior Minister, which may be lodged by email by an authorised official of the Scottish Government – Rule 17.4.2). The Interests of Members of the Scottish Parliament Act 2006 (Declaration of Interests) Determination 2007 requires that a member should indicate when lodging or supporting an amendment if they have a declarable interest in relation to the amendment. Such amendments will be marked with an "***R***" on the daily list and Marshalled List.

4.54 Each amendment must be in the name of just one member, but may also have up to four supporters – or five if one is the member in charge of the Bill (Rule 9.10.3). Supporters' names need not be attached to the amendment when it is lodged – they may be added at any time during the period when amendments for the Stage may be lodged (Rule 9.10.3) – i.e. before the deadline for lodging amendments. Where supporters' names are added to an amendment that has already been published in the Business Bulletin, the amendment is not republished just because new names have been added. The additional names will, however, appear when the Marshalled List is published.

4.55 Part of the rationale for allowing members to support amendments is that a member cannot lodge a particular amendment if another member has already done so. But the second member's name can be added in support of the amendment. An amendment may be withdrawn in advance of the Stage by the member who lodged it, but only with the consent of all supporters and only during the same period when supporters' names may be added (Rule 9.10.7A). So a member who has added their name in support of an amendment can prevent the amendment being withdrawn in advance of the Stage, and so be assured of the opportunity (under Rule 9.10.14) to move it if the member who lodged it does not.

4.56 Where the member who lodged an amendment seeks to alter it (or lodge a new version in substitution), the consent of any supporters to the original amendment is only required if the alteration is substantial (or the new version substantially different). If any such supporters' consent has not been obtained, their names must be left attached to that version of the amendment (which cannot therefore be withdrawn in advance of the Stage).

4.57 Government amendments are prepared by the PCO drafters and lodged in the name of the relevant Minister. Other members may add their names as supporters just as with non-Government amendments.

4.58 It is quite normal for many of the amendments to a Bill to be lodged by the member in charge of the Bill (e.g. by the Minister in charge of a Government Bill). Some of these may give effect to concessions made during earlier Stages, or may be intended simply to improve the drafting or correct errors that have come to light since the Bill was introduced.

Correcting amendments after lodging

4.59 All members – and others – with an interest in a Bill are advised to check the legislation section of the Business Bulletin every day during the period when amendments may be lodged, to ensure they have seen and considered all amendments lodged to the Bill. It is particularly important that members who lodge amendments check them carefully in the next day's Bulletin. The clerks may make minor changes of wording and structure to ensure that amendments are, so far as possible, consistent with the structure and drafting style used in the Bill. The clerks will make every effort to clear changes of substance with members before sending amendments for publication, but this is not always possible and occasionally the purpose of an amendment may be misunderstood. It is the responsibility of members to ensure that amendments published in their name achieve the intended purpose.

4.60 Members who wish to correct amendments that have been published should contact the clerks as early as possible. If the corrections are substantive (i.e. non-trivial) but do not change the overall purpose of the amendment, the corrected amendment will appear on the Marshalled List marked with an asterisk (*). This alerts other members to the fact that the amendment is not the same as the version previously published with that amendment number. New amendments – i.e. those not previously published – are also asterisked on the Marshalled List. Where a more fundamental correction is sought, a new amendment must be lodged and is published in the Bulletin as "in substitution for" the earlier amendment. This procedure ensures that maximum notice is given of the new amendment, and alerts other members to the fact that the earlier amendment has been superseded.

4.61 Major corrections (i.e. those which would require an "in substitution" amendment) can only be made up to the deadline for lodging amendments at that Stage. Minor corrections may be made at any time until the Marshalled List is finalised. Either way, members should notify the clerks of all corrections as early as possible in order to ensure that the Marshalled List shows amendments as the member who lodged them would wish them to appear. The published Marshalled List is treated as a definitive document. The only amendments that may be moved and agreed to (aside from any manuscript amendments that may be lodged) are those published on the List.

Rules on marshalling amendments

4.62 The preparation of both daily lists of amendments and Marshalled Lists is based on rules determined by the Clerk of the Parliament under Rule 9.10.8. These rules were announced in Business Bulletin

No.46/1999 (2 September 1999). They are subject to the "order of consideration" – the order in which the sections and schedules of the Bill are to be considered (see paragraphs 2.98-2.101 and 2.131). At Stage 2, the order of consideration is the order set out in Rule 9.7.4, or such other order as is decided by the Parliament or the committee under that Rule. At Stage 3, it is either the order in which the sections and schedules appear in the Bill or such other order as the Parliament has decided under Rule 9.8.5. The long title is always considered last.

4.63 The rules on marshalling amendments are set out in a determination made by the Clerk under Rule 9.10.8 and are as follows:

> An amendment to insert a new section or schedule before or after an existing section or schedule is taken before or after (as the case may be) amendments to the existing section or schedule.
>
> An amendment to leave out a section or schedule and insert a new section or schedule in its place is taken after all amendments to the section or schedule, but before any amendment to leave out the section or schedule. An amendment to leave out a section or schedule is, in turn, taken before any amendments to divide or move the section or schedule.
>
> Within each section or schedule, amendments are considered in the order determined by the first point in the section or schedule to which they relate, subject to the following rules:
>
> - Amendments to leave out a block of text within a section or schedule (such as a subsection or paragraph) are taken before any amendments to that block of text.
>
> - Amendments to leave out words are taken before any amendments to leave out words beginning at the same place in the Bill and insert other words in their place.
>
> - Amendments to insert new words at the end of the last line of a block of text are taken before amendments to insert new blocks of text at the end of that line; and amendments to insert new blocks of text at the same place in the Bill are taken in the order in which those blocks of text would appear in the Bill if all such amendments were agreed to.
>
> Where the order of amendments to the same place in the Bill is not determined by the above rules, they are normally taken in the

order in which they are lodged, but with precedence given to those lodged by the member in charge of the Bill.

4.64 As stated, where the order of amendments to the same place in the Bill is not determined by the above rules, precedence will normally be given to the order in which they were lodged. This would only be diverged from if logic and context dictated a different order was sensible. Clerks of the Legislation Team, in consultation with Government officials, will decide how best to order amendments in cases like these.

4.65 For example, amendments would be marshalled as follows:

Section 12

In section 12, page 10, line 8, leave out subsection (1)

In section 12, page 10, line 8, leave out subsection (1) and insert—

<(1) Text of new subsection.>

In section 12, page 10, line 8, leave out <word>

In section 12, page 10, line 8, leave out <word> and insert <words>

In section 12, page 10, line 8, after <word> insert <words>

In section 12, page 10, line 8, at end insert <words>

In section 12, page 10, line 8, at end insert—

<( ) text of new paragraph;>

In section 12, page 10, line 8, at end insert—

<( ) Text of new subsection.>

Leave out section 12 and insert—

<**Title of new section**

Text of new section.>

Leave out section 12

Divide section 12 into two sections, the first (*Title of first new section*) to consist of subsections (1) and (2) and the second (*Title of second new section*) to consist of subsections (3) to (5)

Move section 12 to after section 14

After section 12

After section 12, insert—

<**Title of new section**

Text of new section.>

Daily lists of amendments

4.66 Where possible, all admissible amendments lodged on a particular day are published in the following day's Business Bulletin under the short title of the relevant Bill. Notice of amendments withdrawn is also included. The amendments in each daily list will normally appear in "marshalled" order, numbered consecutively from top to bottom of the list. Amendment numbers on a second daily list begin where the numbers on the first list left off. The exception to this numbering is for amendments to amendments, which are numbered by reference to the amendment to which they relate, so amendments to amendment 3 are 3A, 3B, etc.

Marshalled Lists

4.67 Normally, by the time a Marshalled List is published, all the amendments to be included will already have been published in a daily list. The Marshalled List is simply an amalgamation of the various daily lists (minus any amendments that have been withdrawn). At Stage 3, however, the Marshalled List contains only those amendments that have been selected for consideration by the Presiding Officer under Rule 9.10.8 (see paragraphs 4.74 and 4.75).

4.68 Amendment numbers act more as an identification code rather than a numerical listing of amendments. Because each daily list may contain amendments scattered throughout the Bill, and because amendment numbers do not change once assigned, amendments in a Marshalled List usually do not appear with consecutive numbering, but in an apparently random order. Although this may at first appear odd, it has significant advantages. The fact that each amendment is numbered as soon as it is first published makes it easier for members and others with an interest to follow the progress of the amendment. This is only possible because amendment numbers do not change once assigned.

4.69 Marshalled Lists are numbered by reference to the relevant print of the Bill. So the first Marshalled List at Stage 2 of SP Bill 3 will be SP Bill 3–ML1, the second ML2, and so on. If the Bill is amended at Stage 2

and reprinted as SP Bill 3A, the Stage 3 Marshalled List will be SP Bill 3A–ML. If the Bill is not amended, the Stage 3 Marshalled List will be numbered in the same sequence as those at Stage 2.

4.70 Where a Bill is considered over more than one meeting in different weeks, a separate Marshalled List is produced for each week. Second and subsequent Marshalled Lists include only those amendments not yet disposed of. Where a Bill is considered over more than one week at Stage 2, each Marshalled List includes only those amendments lodged prior to the deadline for that week's proceedings, and any manuscript amendments to provisions expected to be considered that week.

Grouping of amendments

4.71 The purpose of grouping amendments is to minimise repetition by debating together amendments on particular topics and to allow the committee (or the Parliament) the maximum choice. Some groups may consist of a single amendment. There are four principal grounds on which amendments are grouped together:

Amendments that stand or fall together, or are to a lesser extent dependent on each other, are grouped.

- For example, there might be a series of amendments throughout a Bill to change the name of an organisation, where there would be no point in agreeing to any one such amendment without also agreeing to all the others, and where a single debate on the issue is all that is required.
- Another clear case would be an amendment to insert a new schedule and the amendment to insert a provision introducing the schedule, where the Bill would be defective if it included one and not the other.
- A less clear case might involve an amendment to insert a new section, and a number of other amendments to insert cross-references to that new section in various existing provisions of the Bill. It might be that the new section would be ineffective without at least some of the other amendments, but members who support the new section might differ on which of the existing provisions of the Bill should be made subject to its procedures, and hence which of the associated amendments should be agreed to.

Amendments that represent alternative ways of addressing the same issue, or are otherwise closely related in terms of the issue they raise, are grouped.

- Here the clear case involves directly competing alternatives, where it would not make sense to agree to all of the amendments and where the issues raised are identical: for example, where the Bill makes provision for a specified period of notice (e.g. one month) and there are amendments to substitute different periods (e.g. two months, three months, six months).

- A less clear case would be where there are various amendments to a particular provision which are related only by the fact that their subject matter is determined by the provision. Some might make major changes to the provision, others only small changes; some might be mostly technical in nature (e.g. to improve the drafting), whereas others might involve major changes of policy. In this situation, there are likely to be various acceptable ways in which the amendments could be grouped.

Amendments to amendments are almost always grouped with the amendments to which they relate.

Similarly, amendments that would be pre-empted by other amendments (see paragraph 4.78) are never grouped in such a way that they could be pre-empted without ever having been debated. In practice this usually means that amendments are grouped with the amendments that would pre-empt them.

4.72 The groupings are decided by the convener or Presiding Officer (Rule 9.10.12). The clerks, in preparing a draft, may seek the views of members and the Scottish Government, but the convener's or Presiding Officer's decision is final. Lists of groupings are prepared as soon as possible after the Marshalled List is finalised and are published on the Parliament's website in advance of the meeting, alongside the Marshalled List and other documents relating to the Bill. Like Marshalled Lists, lists of groupings are numbered by reference to the Bill number (e.g. SP Bill 3-G1 for the first groupings list). At Stage 3, an updated version of the groupings, with information on the timetable for proceedings on amendments added, is published once the terms of the proposed timetabling motion (see paragraph 4.108) are known. This is usually the day before the proceedings.

4.73 The Groupings list also includes the text of the amendments arranged in group order. This is for guidance only, and the Marshalled List should still be treated as the definitive document on which the proceedings are based.

Selection of amendments

4.74 There is no selection of amendments at Stage 2 or Reconsideration Stage, and all admissible amendments may be debated. But at Stage 3 the Presiding Officer has the power to select which amendments of those that have been lodged (and are admissible) are to be taken (Rule 9.8.4). The decision of the Presiding Officer on selection is final and the reasons for selection are normally not given.

4.75 The purpose of selection is to ensure that proceedings on the Bill can be completed in a reasonable time and to avoid repeating unnecessarily discussion of issues fully debated at Stage 2. In making the selection, the Presiding Officer aims to apply the following criteria (striking a balance between them, if need be):

> Trivial amendments or amendments that are technically defective (e.g. “probing” amendments which, if agreed to, would leave the Bill in need of further amendment) should not be selected, to allow the debate to concentrate on the more important issues and on amendments that could improve the resulting legislation. Selection should not, however, reduce the range of important issues considered.
>
> Amendments which raise issues fully considered at Stage 2, particularly where the Stage 2 debate made it obvious that there was little real merit in the amendment or little support for it, should not be selected. The fact that an amendment was disagreed to on division at Stage 2 is less important than the nature of the issue raised, and the overall level of support expressed in debate should be the guide.
>
> An amendment that was fully discussed may, however, be selected if—
>
> - its wording has been revised to take account of criticisms made at Stage 2, where those criticisms were (or may have been) decisive in its not being agreed to at that Stage;

- the member in charge (or, if different, the Minister) gave an undertaking to reconsider the issue, particularly if no member-in-charge (or Government) amendment has been lodged;

- the response by the member in charge (or, if different, the Minister) to the earlier debate left genuine doubt as to the attitude of the member in charge (or the Government) to the issue; or

- there has been (or appears to have been) a change of Government policy on the issue, or a relevant material development, such that, had it applied when the Stage 2 debate took place, a different result might have obtained.

The selected list should continue to reflect the major concerns of all political parties and of individual MSPs who have lodged amendments.

Selection may be used to reduce the number of alternative or overlapping amendments. But there need be no selection among a number of valid alternative amendments (which would in any case be grouped and debated together).

All Government amendments are normally selected. With Members' Bills or Committee Bills, member-in-charge amendments are also normally all selected.

Committee amendments (i.e. amendments lodged by the convener of a committee on behalf of that committee – see paragraph 4.52) are normally selected.

Proceedings on amendments – all Stages

4.76 The way in which proceedings on amendments are conducted is similar at all Stages, in committees and in the Parliament. In the description that follows, references to the convener should be read as references to the Presiding Officer, and references to the committee as references to the Parliament, in the context of proceedings at Stage 3 or Reconsideration Stage. Guidance that applies only at Stage 2 is set out at paragraphs 4.101–4.107, and guidance that applies only at Stage 3 at paragraphs 4.108–4.119.

Calling amendments

4.77 The convener calls amendments in turn from the Marshalled List. Each amendment is called – and, if moved, disposed of – individually in its place in the list.

4.78 The only situation in which an amendment on the Marshalled List may not be called is where it would be inconsistent with a decision already taken at the same Stage (Rule 9.10.11). Instances of this are described as "pre-emptions". This will arise in a case where one amendment would, if agreed to, remove the text on which the later amendment relies. An amendment to leave out subsection (1), for example, would pre-empt any amendment to that subsection. However, an amendment to leave out a section and insert a substitute is not considered to pre-empt an amendment that just leaves out the same section. Pre-emptions may also arise with amendments aiming at the same result but at different points in the Bill, where agreeing to the later amendment would be inconsistent with disagreement to the earlier. This would not, however, be treated as a pre-emption in any case where the later amendment may be regarded as the better means of achieving the shared intention. That is properly a matter for political debate. The rule will, therefore, be applied narrowly (see paragraph 4.25).

4.79 In any instance of pre-emption the convener will, before calling the earlier amendment, draw the committee's attention to the implications for the later amendment of agreeing to the earlier amendment. The published groupings will also provide notification of any pre-emptions, as well as of direct alternatives (see paragraph 4.77) below.

4.80 Rule 9.10.11 does not preclude all of a number of alternative amendments to the same place in the Bill being taken. Amendments to a provision setting a time limit (of, say, one month) might variously propose changing that limit to two, three and six months. Agreement to the first of those amendments would not prevent the others also being taken, so the later amendments are not regarded as pre-empted. Agreement to the first may be taken to involve only a decision that two months is better than one, which does not preclude a decision that three or six months is better still. Amendments of this sort (i.e. two or more amendments replacing the same text with different text) are referred to as "direct alternatives".

Moving and debating amendments

4.81 In any debate on a group of amendments, certain members have a right to speak. A member in whose name any of the amendments in the group appears has a right to speak. The member in charge of the Bill (for

Government Bills, the relevant Minister) and any other Minister present also have a right to speak. Other members who wish to speak may be called at the discretion of the convener (Rule 9.10.13). As with other business, members must make an oral declaration every time a declarable interest is sufficiently relevant to an amendment. A declaration is required where a member with a relevant interest moves an amendment or otherwise participates in the debate on an amendment. A declaration is not required if the member's sole contribution to the proceedings consists of attending and voting.

4.82 Debate on a group of amendments proceeds as follows:

- The convener calls the member who lodged the "lead" amendment in the group (i.e. the one in the group that appears first on the Marshalled List) to speak to and move that amendment, and speak to all other amendments (if any) in the group. The suggested form of words for moving an amendment, which is usually done at the end of the speech in support of it, is "Accordingly, I move amendment X".

- The convener then calls all other members who have amendments in the group to speak in the debate. (This may include the member in charge or the Minister if they did not move the lead amendment.). They are called in the order in which the first of their amendments in the group appears on the Marshalled List. They speak to (but do not move at this point) all their own amendments in the group, and may also comment on the lead amendment and other amendments in the group.

- The convener then has discretion to call other members (i.e. any member who does not have amendments in the group) who may wish to speak in the debate.

- If the Minister has not already spoken, they are called at this point to set out the Scottish Government's position on the amendments in the group. In the case of a Member's Bill or a Committee Bill (i.e. where the member in charge is not the relevant Government Minister), the Minister will be called to speak and then the member in charge.

- At the end of the debate, the convener gives the member who moved the lead amendment an opportunity to reply to points made by other speakers, and to indicate whether they wish to press for a decision on the lead amendment. (Where the lead

amendment is in the name of the member in charge or Minister, it is normally assumed that it will be pressed.)

Not moving an amendment when it is called

4.83 If the member in whose name an amendment appears does not wish to move it, the member should simply say "Not moved" when the amendment is called. In that event, any other member present (whether or not a member of the committee, and whether or not that member had formally lodged their name in support of the amendment) may move the amendment (Rule 9.10.14). If an amendment is not moved the convener proceeds to call the next amendment on the Marshalled List.

Withdrawing amendments which have been moved

4.84 At any time after an amendment is moved, but before the question is put, the member who moved it may seek to withdraw it (Rule 9.10.15). In that event, the convener must ask whether any other member present objects to the amendment being withdrawn. If any member (whether or not a member of the committee) objects, the amendment is not withdrawn and the question on it must be put. If no member objects, the amendment is withdrawn, and the convener proceeds to call the next amendment on the Marshalled List.

Putting the question and voting on amendments

4.85 After the debate is concluded, the convener "puts the question", normally by saying "The question is that amendment X be agreed to. Are we all agreed?" Members who agree say "Yes", those who disagree say "No". If no member disagrees, the amendment is agreed to without a division. If any member of the committee disagrees to the question on an amendment, the convener will call a division.

4.86 At Stage 2, divisions normally take place by a show of hands (Rule 11.8.3). The convener says "Those in favour?", "Those against?", "Those abstaining?", ensuring that hands are raised for long enough in each case to allow the clerks to note the names of those voting. Alternatives to a show of hands would be the Parliament directing that the committee use an electronic voting system for divisions at Stage 2, or the convener agreeing to a request by a committee member that a roll-call vote be taken. If a roll-call vote is taken, the committee votes by the convener calling members in alphabetical order, each responding "Yes", "No" or "Abstain".

4.87 When a committee is meeting in virtual form (i.e. some or all MSPs are participating remotely), then Stage 2 proceedings differ slightly in terms of the form of question asked and the means of recording the votes. At such meetings, the convener still "puts the question on the amendment" as described above but Members attending remotely who disagree record their dissent by typing "N" for "No" in the Chatbox function on the Parliament's videoconferencing platform that is used for virtual committee meetings. If any Member has disagreed, a division then follows with the convener asking "Those in favour?", "Those against?", "Those abstaining?" to vote in turn. For any Members present in the committee room itself, a show of hands is normally used to record their vote. For any Member attending remotely, the Chatbox is used with Members typing "Y" (for "Yes"), "N" (for "No") or "A" (for abstain). If a roll-call vote is taken, the committee votes by the convener calling members in alphabetical order, each responding "Yes", "No" or "Abstain" or using the Chatbox accordingly. After each Member has voted, for a virtual meeting, the convener will read out the result of the vote and will also state the name of how each member voted for the record. In this way, it is clear to all observing the meeting how each member voted as access to the Chatbox function is restricted to members and clerks.

4.88 At Stage 3, or in a Committee of the Whole Parliament at Stage 2, an electronic voting system is normally used (at the time of writing, an online system, which also allows remote Members to vote, is used). The normal practice is to have a five minute suspension on the first occasion when a pressed amendment is objected to. Division bells are rung and the five-minute suspension allows members time to get into the Chamber from other parts of the building. For Members who may choose to attend the meeting virtually, a virtual division bell is sent by e-mail to give them time to join the meeting on the online platform, BlueJeans. The division itself then lasts for 30 seconds, or 1 minute if there are also remote participants (known as a "hybrid" meeting). On subsequent occasions when, for the first time after a debate on a group a pressed amendment is objected to, a one-minute voting period is allowed. In every other case, for example when a number of previously-debated amendments are moved and objected to in quick succession, it is assumed that all members who wish to vote are already in the Chamber. Accordingly, each division is for only 30 seconds, or 1 minute if the meeting is hybrid. If disposal of amendments at Stage 3 extends over two or more days (or over both a morning and an afternoon), there will be a five minute suspension on the first occasion when a pressed amendment is objected to on each morning and afternoon in which amendments are considered.

Amendments in groups

4.89 Amendments are grouped in order to avoid repetition and to allow a single debate on the issue raised by a number of amendments. But grouping does not affect the requirement that each amendment is called, moved and disposed of in its place in the Marshalled List. The result is that a lengthy debate on a group of consecutive amendments may be followed by the disposal of those amendments in quick succession.

4.90 The debate on the group normally takes place on the first amendment in the group. (Where amendments have been lodged to the first amendment in the group, the debate normally takes place on the first such amendment to that amendment – see paragraph 4.92). If the first amendment in the group is not moved, the debate is deferred until the first occasion on which one of the remaining amendments in the group is moved.

4.91 The debate on a group is the only opportunity members have to comment on any of the amendments in the group. While the calling of speakers in a debate is at the discretion of the convener, members should generally assume they will be called only once in each debate. Members should therefore ensure that their speech relates to all the amendments in the group on which they wish to comment.

4.92 Where amendments are debated in a group because they are so closely related that they must stand or fall together then, if the first is agreed to, it is likely that the others will also be agreed to when they are called. But each must be called and moved before it can be agreed to. Similarly, if the first such amendment is disagreed to, the member(s) who proposed them may choose not to move the others when they are called. A member who has lodged a number of closely related amendments should, therefore, be present (or have a supporter present) not only to move the first in the group, but also – if the first is agreed to – to move the others when they are reached later in the proceedings. Grouped amendments may be scattered throughout the Marshalled List and so be taken on different days of a long Stage 2.

4.93 Where an amendment is called having already been debated earlier, it cannot be debated again (Rule 9.10.12). When it is called, the member should normally just say “Moved” or “Not moved”. The member may also make a brief comment to explain why the amendment is being moved or not. However, it is not appropriate to make a speech at this point since that would be unfair on other members who might wish, but be unable, to reply to substantive points raised.

4.94 Where a number of previously-debated amendments are consecutive in the Marshalled List, they may be moved *en bloc*. At Stage 2, because of the requirement to agree each section and schedule, amendments can only be moved *en bloc* if they are all to the same section or schedule. If no member of the committee objects, a single question on those amendments moved *en bloc* may also be put, but if any member does object, the amendments should be disposed of individually. If it is clear that a member objects only to some of the amendments being disposed of *en bloc*, those may be disposed of individually and the remaining amendments still disposed of *en bloc*.

4.95 If a member wishes not to move a series of previously debated amendments, that should normally be done individually one amendment at a time so that progress through the Marshalled List is clear and so that any other member present has the opportunity to move an amendment that is not moved by the member who lodged it. However, if it is clear that no member present wishes to move any of a sequence of previously debated amendments, they need not be called individually.

Amendments to amendments

4.96 Where there are amendments to an amendment, these will usually be grouped together. The procedure for disposing of them is similar to that described above, except that the amendments to the original amendment must be disposed of before the original amendment (Rule 9.10.10). For example, for a Government amendment number 35 to which two non-Government amendments (35A and 35B) have been lodged, the procedure would be as follows:

- The convener invites the Minister to move amendment 35, speak in support of it and address other amendments in the group.
- The convener invites the member who lodged amendment 35A to move and speak in support of it and address other amendments in the group.
- The convener calls other speakers – including the member who lodged amendment 35B.
- The final speakers are the Minister (to wind up on amendment 35) and the member who lodged amendment 35A (to wind up on it and on the debate in general). At this point, the member who lodged amendment 35A has the opportunity either to press it to a decision or seek to withdraw it.

- If the amendment is pressed, the convener puts the question "That amendment 35A be agreed to".

- The convener calls the member who lodged amendment 35B to move (or not move) it.

- If the amendment is moved, the convener puts the question "That amendment 35B be agreed to".

- Finally, the Minister has the opportunity either to press amendment 35 to a decision or seek to withdraw it. If it is pressed, the convener puts the question "That amendment 35 (or amendment 35 as amended) be agreed to".

Manuscript amendments

4.97 Amendments lodged after the normal deadline set out in Rule 9.10.2 or 2A are referred to as "manuscript amendments". All late amendments fall into this category, whether they are lodged only minutes after the deadline or immediately before the point in proceedings on the Bill when they would have to be moved. Like any other amendment, a manuscript amendment must be lodged in writing with the clerk, and is subject to the criteria of admissibility set out in Rule 9.10.5. A manuscript amendment at Stage 3 is also subject to selection by the Presiding Officer under Rule 9.8.4.

4.98 A manuscript amendment may be moved only with the convener's agreement. The convener gives that agreement only if the convener "considers it is justified, in the circumstances, taking account of the disadvantages of lack of proper notice" (Rule 9.10.6). In applying that test, the convener should keep in mind that, although there may be a justification for manuscript amendments in particular circumstances, their frequent use erodes the effectiveness of the normal deadline, the purpose of which is to ensure that adequate notice is given of all amendments, both to members and to outside parties with an interest in the Bill.

4.99 The disadvantages of reduced notice depend on the scope and complexity of the amendment, and are generally greater the less notice that is given – particularly at Stage 3 (or Reconsideration Stage), normally the final opportunity to amend the Bill. There is a particular disadvantage in taking a last-minute manuscript amendment at a meeting of the Parliament (or a Committee of the Whole Parliament), given the greater disruption that a suspension causes to Chamber

proceedings. A last-minute Stage 3 (or Reconsideration Stage) manuscript amendment may still be justified, however, if it would, for example, correct a defect in the Bill (such as a missed consequential) that had only just come to light. Agreement should not normally be given to move a manuscript amendment which could equally well have been lodged before the deadline. But where a non-manuscript amendment was lodged immediately before the normal deadline, and so is only published after that deadline has passed, agreement should normally be given to move any manuscript amendments which are lodged directly in response to that amendment, and on the first available day thereafter.

4.100 If a manuscript amendment is lodged in time for it to be included in the Marshalled List, (assuming the convener or Presiding Officer agrees to it being moved) it will be published with an asterisk beside its number to indicate that it is a manuscript amendment. If it is lodged after the Marshalled List has been finalised, the amendment will normally be made available separately in a supplement to the Marshalled List before it is moved. If the amendment is lodged during the proceedings, it may be necessary for the meeting to be suspended to allow the amendment to be made available. A manuscript amendment to leave out a section or schedule, however, may be moved without printed copies being made available to members.

Proceedings at Stage 2

Agreement to sections and schedules

4.101 Rule 9.7.3 requires every section and schedule to be agreed to at Stage 2. The question is put in the form “That section/schedule x be agreed to”. No motion is required for this.

4.102 The question on a section or schedule is only put if there is no amendment to leave out the section or schedule. In other words, any substantive decision on whether the section or schedule should remain in the Bill is taken on an amendment. If an amendment to leave out the section or schedule is disagreed to, the question that the section or schedule be agreed to is not put as the section or schedule is treated as agreed to as a result of the decision on the amendment (Rule 9.7.6). And if such an amendment is agreed to, it is no longer possible to agree to the section or schedule, since it no longer exists. The question on a section or schedule is still put after agreement to an amendment to “leave out section X and insert [new section]”.

4.103 Because the only mechanism available to leave a section or schedule out of a Bill is by means of an amendment, putting the question on each section and schedule is, in practice, a formality. There is no obligation on members to agree when the question is put on the section or schedule, but disagreement does not lead to a division and cannot result in the omission of the section or schedule from the Bill.

4.104 If no amendment to leave out the section or schedule has been lodged in advance, any member may lodge a manuscript amendment to leave it out. Any such amendment is still subject to the normal admissibility criteria in Rule 9.10.5, so an amendment to leave out a section containing provisions central to one of the principal purposes of the Bill may be inadmissible under Rule 9.10.5(c) – which precludes "wrecking" amendments. Any such manuscript amendment is also subject to the decision of the Convener under Rule 9.10.6 on whether it can be moved at the meeting.

4.105 Where there is a section or schedule to which no amendments have been lodged, the convener puts the question on that section or schedule at the appropriate point. This is immediately after the question on the previous section or schedule is dealt with or, if there are amendments to insert a new section or schedule after the previous section or schedule, after those amendments are disposed of (Rule 9.7.6). Where there are two or more consecutive sections or schedules to which no amendments have been lodged, a single question that they be agreed to may be put (Rule 9.7.3). But a manuscript amendment to leave out more than one section or schedule is not permitted – separate amendments would be required.

4.106 Although all amendments to a section or schedule are taken before the question is put on the section or schedule, amendments to divide or move the section or schedule are taken *after* the section or schedule has been agreed to. This is in order to allow the substance of the section or schedule to be finalised before deciding any issue of where in the Bill the section or schedule should go.

Consideration of the long title

4.107 At the end of Stage 2, any amendments to the long title are disposed of and the question is then put "That the long title be agreed to".

Proceedings at Stage 3

The timetabling motion

4.108 At Stage 3, it is usual for the Parliamentary Bureau to propose a motion (under Rule 9.8.4A) setting out time limits by which the debate on one or more groups must be concluded. Such a motion is moved before Stage 3 begins. The purpose of the timetabling motion is to seek to ensure a reasonable distribution of debating time, by anticipating which groups are likely to be most and least debated.

Presiding Officer's discretion to depart from the timetabling motion

4.109 In managing debate on amendments, the Presiding Officer will always seek to adhere to the time limits set out in the timetabling motion. However, the Presiding Officer has a power to depart from any time limits in the motion, to such extent as is considered necessary (Rule 9.8.4A). This can be for any one of three reasons:

- to enable those members given a right to speak on a group by Rule 9.10.13 to do so – i.e. the member moving the amendment leading the group; any other member intending to move an amendment in the same group; the member in charge of the Bill and (if different) any Minister present at proceedings;

- to prevent any debate on a group of amendments that has already begun from being unreasonably curtailed; or

- as a consequence of the non-moving of an amendment leading to a change in the order in which groups are debated.

4.110 The first two reasons above are intended to address circumstances where there is a danger of the timetabling motion forcing the debate to come to a premature end (or not even to take place at all). The first reason is intended to ensure that those having a right to speak to the amendments are able to do so, and that the "bare bones" of a debate on a group is therefore always possible. The second reason, unlike the first, can only be relied upon if the debate had already begun before the deadline was reached. It is likely to apply in respect of a particularly important group, where only a truncated debate has been possible within the deadlines set in the timetabling motion. The Presiding Officer may consider that it is important to allow the debate to continue, whether to enable the member leading the debate (and who has therefore already exercised their right to speak) to sum up or to allow the

debate to be opened up to members other than those who have a right to speak.

4.111 The third reason above addresses the specific, uncommon circumstance of the member called to speak to the lead amendment in a group not moving it, and no other member present doing so either. This has the potential (depending on which amendments immediately follow in the Marshalled List) to muddle the deadlines set out in the timetabling motion so that they apply to the "wrong" groups of amendments. The third reason allows the Presiding Officer to depart from the time limits to correct this.

4.112 If the Presiding Officer invokes the power to depart from any time limit under Rule 9.8.4A, this has no effect on subsequent time limits in the timetabling motion. They must continue to be adhered to, unless the Presiding Officer uses their discretion under the rule again. So spending additional time on early groups needs to be compensated for by using less time later in the proceedings. In theory, however, the Presiding Officer can use the discretion as often as is considered necessary to depart from subsequent time limits.

Extending time limits in a timetabling motion

4.113 Rule 9.8.4A allows departure from deadlines set out in the timetabling motion under certain circumstances. However, using that Rule does not in itself lead to more parliamentary time being spent on Stage 3 overall. Its purpose is to allow the reallocation of the total time allotted at Stage 3 so as to give the Presiding Officer greater flexibility to manage the debate than the timetable would otherwise allow. So, any extra time used for debate on any grouping must be compensated for either in debates on subsequent groupings or in the debate on whether to pass the Bill, or in both.

4.114 However, where it is considered that more debating time on amendments is needed overall at Stage 3, Rule 9.8.5A may be invoked. This Rule applies at any time during Stage 3 proceedings subject to a timetabling motion (i.e. during the debate on amendments, but not during the debate on whether to pass the Bill). It permits any member present to seek to move a motion without notice proposing that the next time limit to arise be extended by such amount of time (which cannot exceed 30 minutes) as the member specifies. Such a motion, which cannot be debated or amended, may only be taken with the agreement of the Presiding Officer. Any number of such motions may be sought and moved, but the total amount of time by which a Stage 3 may be

extended may not exceed 30 minutes. Additionally, where a motion to extend a particular time limit has been disagreed to, no further motion to extend that time limit may be moved.

4.115 While it is open to any member to seek to invoke Rule 9.8.5A at any time during timetabled stage 3 proceedings, the Presiding Officer may be minded to refuse a motion moved early in those proceedings, on the ground that it might yet be possible to overcome apparent timetabling problems by use of Rule 9.8.4A. If the Presiding Officer refuses a motion this would not stop a member from seeking to move another one later.

Effect of agreeing to a motion to extend the time limits in a timetabling motion

4.116 The effect of a motion under Rule 9.8.5A being agreed to is that the next deadline is moved forward by whatever amount of time the motion specified, as are any subsequent deadlines in the timetabling motion. Any previous statement from the Presiding Officer under Rule 9.8.4A that a particular deadline is being departed from for a particular amount of time is superseded by the agreement to the motion.

4.117 Agreement to a motion under Rule 9.8.5A has no automatic effect on any subsequent deadlines in the daily business list. This means (assuming that the debate on the motion to pass the Bill immediately follows the debate on amendments), that any time gained in debating amendments is lost in the debate on passing the Bill. Rule 9.8.5B, however, empowers the Presiding Officer to make such alterations to the daily business list, including altering the time of Decision Time, as are considered necessary or appropriate as a consequence of a motion under Rule 9.8.5A being agreed to. In practice, the Presiding Officer is likely to move all remaining deadlines in the daily business list to later in the day, by the same amount of time as was specified in the successful motion under Rule 9.8.5A.

4.118 The wording of Rule 9.8.5B would also allow the Presiding Officer to lengthen the debate on whether to pass the Bill. But the Presiding Officer is only likely to use this discretion sparingly, where it is clear not only that there was insufficient time to debate the amendments, but that the time proposed for the debate on the whole Bill is clearly inadequate too. The Presiding Officer may decide not to use this power if, for instance, moving the deadlines to later in the day would cause significant disruption to members.

4.119 The Presiding Officer is required to notify the Parliament of any changes to the daily business list made by way of Rule 9.8.5B. A clear spoken announcement would constitute sufficient notification under the rule. Before advising the Presiding Officer about use of this Rule, the clerks would normally consult parties' representatives on the Parliamentary Bureau.

Annex A: Form and content of Bills

(1) Presiding Officer determination (Public, Private and Hybrid Bills): proper form of Bills

(Reproduced from the Business Bulletin on 22 May 2017)

The Presiding Officer has determined, under Rules 9.2.3, 9A.1.4 and 9C.1.6 of Standing Orders, that the "proper form" of Bills is as follows. (Note: this determination supersedes previous determinations under these Rules).

Structure

The text of a Bill should be set out in numbered sections, supplemented where appropriate by schedules, which should be numbered unless there is only one. Bills may be divided into numbered Parts and Chapters (as may schedules). Each section, schedule, Part and Chapter should have a brief descriptive title. The sections of a Bill (or the paragraphs of a schedule) may also be grouped under italic cross-headings as a guide to the structure of the Bill (or the schedule).

Sections may be divided into numbered subsections, which in turn may be divided into paragraphs, sub-paragraphs etc. Schedules may be similarly divided into numbered paragraphs, sub-paragraphs etc.

Each Bill should be prefaced by a long title beginning "An Act of the Scottish Parliament to …".

Preambles to Bills are not permitted.

Style and presentation

Section numbers and titles should appear in bold, with each section title appearing above the text of the section. Units of text smaller than sections and schedule paragraphs should appear as indented blocks of text with straight left margins.

(2) Presiding Officer's recommendations on the content of Bills

The Presiding Officer has made the following recommendations about the content of Bills. (Note: these recommendations do not form part of

the determination of “proper form” and supersede previous recommendations about the content of Bills).

Style and content

A Bill should be drafted so that, when read with any relevant existing statutory provision, its intended legal effect is clear.

A Bill should include provision for the short title by which the Act is to be known. The long title should set out the principal purposes of the Bill.

The text of a Bill – including both the short and long titles – should be in neutral terms and should not contain material intended to promote or justify the policy behind the Bill, or to explain its effect. The text of the Bill itself should be identical to the text of the Act to which it is intended to give rise and, in particular, should refer to the Bill as “this Act”.

Any Bill that has such severe deficiencies in drafting that it could not readily be understood or, if enacted, would be manifestly incapable of consistent legal application, should not be introduced.

A Bill whose principal purpose (or one of whose principal purposes) is to make provision manifestly outside the legislative competence of the Parliament should not be introduced.

A Public Bill, other than a Hybrid Bill introduced by the Scottish Government under Rule 9C.1, should not normally contain provisions that would adversely affect a particular private interest of an individual or body in a manner different to the private interests of other individuals or bodies of the same category or class.

Any Bill intended to extend other than to the whole of Scotland should set out that intended extent.

Any Bill intended to come into force other than on the day after Royal Assent should either (a) give a date or dates for commencement, or (b) make provision for the appointment of the relevant date or dates. Under the Interpretation and Legislative Reform (Scotland) Act 2010 the default provision for commencement where a Bill is silent on the point is for the Bill to come into force on the day after Royal Assent. This does not, however, prevent the Bill from expressly providing for commencement on that day.

Any Bill containing provisions that would confer power to make subordinate legislation should specify what powers, if any, the

Parliament is to have to approve or reject the subordinate legislation (or draft subordinate legislation) laid before it under those provisions.

Any Bill introduced to give effect to a proposal for a Member's Bill (under Rule 9.14) or a Committee Bill (under Rule 9.15) should only contain provisions that are broadly in conformity with the terms of the successful proposal.

Preparation for introduction

The text of a Bill should be submitted to the Clerk in sufficient time before the proposed date of introduction to allow it to be prepared for printing. No Bill may be published under the authority of the Parliament except by the Clerk.

The Clerk will ensure that the published version of the Bill conforms to the following presentational conventions:

- The text of Bills (sections, schedules and the long title) should appear in Times New Roman font, fully justified. The text size should be 11.5 point when the Bill is printed at A4 size.
- There should be a running header throughout the body of the Bill containing the Bill's short title and page number together with, where appropriate, any Part and Chapter titles or schedule and schedule Part titles.
- Bills of more than around six sections should be published with a Contents page or pages.
- The text of the Bill, including the long title, should be published with line numbers every fifth line.
- The Bill should be published with a back sheet setting out the short and long titles, the name of the member who introduced it, the names of any supporters, the date of introduction, and the type of Bill.

Annex B: Structure and drafting of Bills

Structure of Bills

Sections

The main components of all Scottish Bills and Acts are known as sections.[1] The sections are consecutively numbered throughout the Bill. The section number appears in bold, followed by the section title.

Subsections

Sections may be divided into two or more numbered subsections, (1), (2) etc. The text of each subsection (or of the section, if it is not divided into subsections) consists of a whole sentence (or occasionally more than one sentence). The division of a section into subsections is *exhaustive*: that is, the subsections make up the whole of the section without remainder.

Paragraphs etc.

Within each subsection (or within a section which is not divided into subsections), further divisions are possible. These divisions, however, are never exhaustive. Instead, they are devices to make the structure of the subsection (or section) clearer and easier to follow. The divisions in question are paragraphs, sub-paragraphs, sub-sub-paragraphs (sometimes known as “heads”) and so on. Each is further indented than the last and are numbered according to the following convention: (a), (b), (c) etc., then (i), (ii), (iii) etc., then (A), (B), (C) etc. There must be at least one word of text at each “level” of this structure before any such division, and the text may also resume after any such division (this is known as a “full-out”).

Although paragraphs are normally numbered (a), (b) etc., they may on occasion be divided into un-numbered paragraphs, for example in a list of definitions. Where such a paragraph is itself divided, the sub-paragraphs are numbered (a), (b) etc. rather than (i), (ii) etc. – since that is the first level of numbering available. By contrast, where a subsection breaks into paragraphs for a second time, these are numbered (i), (ii) etc to ensure that each paragraph within the subsection is uniquely numbered, and so can be referred to unambiguously.

[1] In UK Parliament Bills, they are known as “clauses”.

Schedules

After all the sections, there may be a schedule or schedules. Schedules are used to set out supplementary or consequential provisions (although they have the same status in law as the sections). Every schedule must be introduced by a section (or a part of a section). There is a reference below the schedule title to the provision that introduces it.

Schedules are usually divided into paragraphs (not to be confused with paragraphs within subsections) which are consecutively numbered within each schedule. Paragraphs of schedules may consist of a number of sub-paragraphs, which may be divided in turn into smaller components in exactly the same way as subsections.

Parts, Chapters etc.

Larger Bills are often divided into Parts, which may in turn be divided into Chapters. Chapters cannot exist except within Parts; and some Parts may consist of Chapters and other Parts not. Each Part or Chapter consists of a whole number of sections, plus any schedules introduced by those sections. Parts and Chapters are numbered 1, 2, etc., and may be further subdivided under a number of italic cross-headings.

The division of a Bill into Parts and Chapters can have formal significance in determining the scope of certain provisions. For example, there may be a section entitled “Interpretation of Part 2” containing definitions applicable only to that Part. Italic cross-headings, by contrast, are merely convenient navigational aids to the reader.

Individual schedules may also be divided into Parts (or Parts and Chapters), while the paragraphs making up the schedule may also be grouped together under a number of italic headings.

The long and short titles

Every Bill has a long title and a short title. The long title is set out at the beginning of the Bill and begins “An Act of the Scottish Parliament to …”. It consists of a single sentence, divided if necessary by semi-colons into various limbs, each of which deals with a principal purpose of the Bill. With large and complex Bills, it is common for the long title to end with a form of words such as “and for connected purposes”. A connected purpose is something that the Bill does that is not sufficiently distinct to merit a limb to itself, but which does not fall entirely within one of the

preceding limbs. The long title should accurately describe what the Bill does and, as such, is a guide to the scope of the Bill.

The short title is set out at the top of the Bill and in the running header on each page. It is also cited in the text of the Bill itself, usually in the final section. This citation provision is given in the form “This Act may be cited as the Example (Scotland) Act 2001” – the year being that in which Royal Assent is expected to be given.

Common features of drafting

There are certain aspects of drafting style, familiarity with which will aid comprehension of the Bill. What follows is a basic introduction to this subject, which assumes that Scottish Bills and Acts are similar in the relevant respects to UK legislation. Ultimately, of course, it is a matter for the Parliament, in its consideration of Bills, to determine the style in which Scottish statutory provision is made.

Legislative style

The principal concern in drafting a Bill is to achieve the intended legal effect. Normally, this involves making provision that is as clear, certain and unambiguous as possible, leaving minimal scope for the courts to determine what legal effect the provision has. There are, however, cases where statute law explicitly leaves it for the courts to determine how a provision is to be applied – for example, what constitutes a “reasonable” fee. Considerations other than achieving the intended legal effect, including comprehensibility and accessibility of language, are necessarily secondary. Making a Bill’s intended effects obvious to the lay reader is never easy; where the legal concepts involved are complex, or where the appropriate mechanism involves amendments to existing Acts, it may be impossible.

More clear-cut are issues of economy and neutrality. Bills rarely if ever include provisions that do not have legal effect (except for entirely non-substantive provisions, such as indexes of defined expressions). Nothing is said merely by way of explanation or background (except for parenthetical descriptions of legislative provisions – e.g. “section 2 of that Act (which provides for exemptions in certain cases)”). Nothing is repeated unnecessarily or given textual emphasis (e.g. by italicisation), since this would inevitably give rise to uncertainty of application. Equally importantly, evaluative or subjective terminology is never used: however politically controversial the policy behind the Bill, the aim of the Bill itself

is simply to state, clearly and objectively, how that policy is to be given legal effect.

There are many common drafting conventions in Bills and Acts. For example, where an ASP delegates powers to the Scottish Government, it will normally say "the Scottish Ministers may …" – rather than specifying a particular Minister. This reflects the convention of collective Cabinet responsibility, given expression by section 52(1) and (3) of the Scotland Act 1998. The equivalent term in UK Acts is "the Secretary of State may" and has a formal foundation in the Interpretation Act 1978, which provides a statutory basis for interpreting certain terms in all UK Acts. The Interpretation Act only applies to ASPs to the limited extent provided by paragraph 16 of Schedule 8 to the Scotland Act 1998; however, other interpretation provisions are provided in the Interpretation and Legislative Reform (Scotland) Act 2010 ("the 2010 Act"). Other drafting conventions are less formal and have evolved as a practice amongst the Scottish Government drafters. These include the standard form of words used for the short title provision and for creating offences.

Many Bills employ shorthand terms for individuals or bodies, dates (e.g. "the appointed day") or existing Acts (e.g. "the 1997 Act"), with a single interpretation or definition provision (often at the end of the Bill) to explain what each such term means or refers to. In order fully to understand a provision of a Bill, it may be necessary to find the appropriate interpretation provision (and there may be different interpretation provisions for particular Parts, Chapters or even sections). Larger Bills often include, towards the end, an "index of defined expressions" to guide the reader to where particular terms are defined.

Provisions amending existing Acts

Bills frequently contain provisions to amend existing Acts (or, occasionally, subordinate legislation). Where this involves inserting text into an existing Act, the text to be inserted will be set out exactly as it would appear in that Act, in double quotation marks. Where the inserted text consists of a block of text beginning on a new line (e.g. an inserted section), it will appear in the Bill indented. Where inserted text extends over more than one page of the Bill, care is needed to identify what text is inserted text and what text is simply the text of the Bill.

Provisions in a Bill that make amendments to existing Acts usually follow certain conventions of wording (although the style depends on the drafter). New provisions are "inserted", "added" or "substituted"; existing provisions are "repealed", "omitted" or "cease to have effect" (all amount

to the same in legal terms). New sections, subsections etc. to be inserted into an Act are numbered in such a way that the existing provisions of the Act do not require to be re-numbered (so, for example, a new section after section 12 is 12A).

Standard provisions in Bills

There are certain standard provisions that feature in most or all Bills, familiarity with which is useful in gaining an understanding of how the Bill works.

Commencement provisions

There is an important distinction between the enactment of a Bill and its commencement. The former is when, on receiving Royal Assent, it is converted from a Bill to an Act: in loose terms, when it becomes part of the "statute book". The latter is when it comes into force and so becomes the law of the land. Some provisions of Acts are never brought into force, though they may remain on the statute book for years before being repealed.

Commencement is usually dealt with in one of the final sections of the Bill. In most cases, some general provisions (including, for example, the short title section) are brought into force immediately while others (including the main substantive provisions) are brought into force later. The various possibilities for commencement are:

- after a specified period – e.g. "Sections 1 and 2 come into force at the end of the period of two months beginning with the date of Royal Assent" ;

- on a specified day – e.g. "Sections 3 and 4 come into force on [date]";

- on a day (or days) to be determined after enactment by subordinate legislation – e.g. "Sections 5 and 6 come into force on such day as the Scottish Ministers may by regulations appoint"; or

- immediately – "This Act comes into force on the day after Royal Assent".

With a Scottish Parliament Bill, the interval between the passing of a Bill and Royal Assent is less predictable in advance than it would be in relation to a UK Parliament Bill – because of the possibility of a reference to the Supreme Court under section 32A or 33 or an order

under section 35 of the Scotland Act 1998. Partly for that reason, most Bills provide for commencement by order made under the resulting Act. (This also allows the timetable for implementing a Bill to be adjusted according to the speed at which preparatory work is completed.) Commencement on (or immediately after) Royal Assent is used only rarely, where there is a particular need to bring the Act into force with minimum delay.

Standard schedules

There are certain standard schedules that feature regularly in larger Bills. In particular, there is often a schedule of "minor and consequential amendments" to existing Acts, those Acts being listed in order of year and chapter/asp number. Also common are repeal schedules, listing all provisions of existing Acts (and statutory instruments) to be repealed (or revoked) by the Bill. This is often set out in two columns, the short title of the Act in the left column and the provisions to be repealed (or revoked) in the right column. (In many Bills, some repeals will instead be provided for in the body of the Bill.) It is quite common for schedules to consist of, or contain, text in columns, tables or lists (rather than text in sentences).

Subordinate legislation provisions

Most Bills contain provisions conferring powers to make subordinate legislation. The principle behind such legislation is that it may not be a good use of the Parliament's time to consider the minutiae of some policy proposals, or some matters of administrative or procedural detail, and so the Parliament may allow the Scottish Ministers to give effect to the details of certain policy proposals, within the limits imposed by the parent statute. It also enables the Scottish Ministers to put certain provisions into place at a later date, taking account of changing circumstances, and to adapt provisions more easily as circumstances change, without the need for a Bill on each occasion.

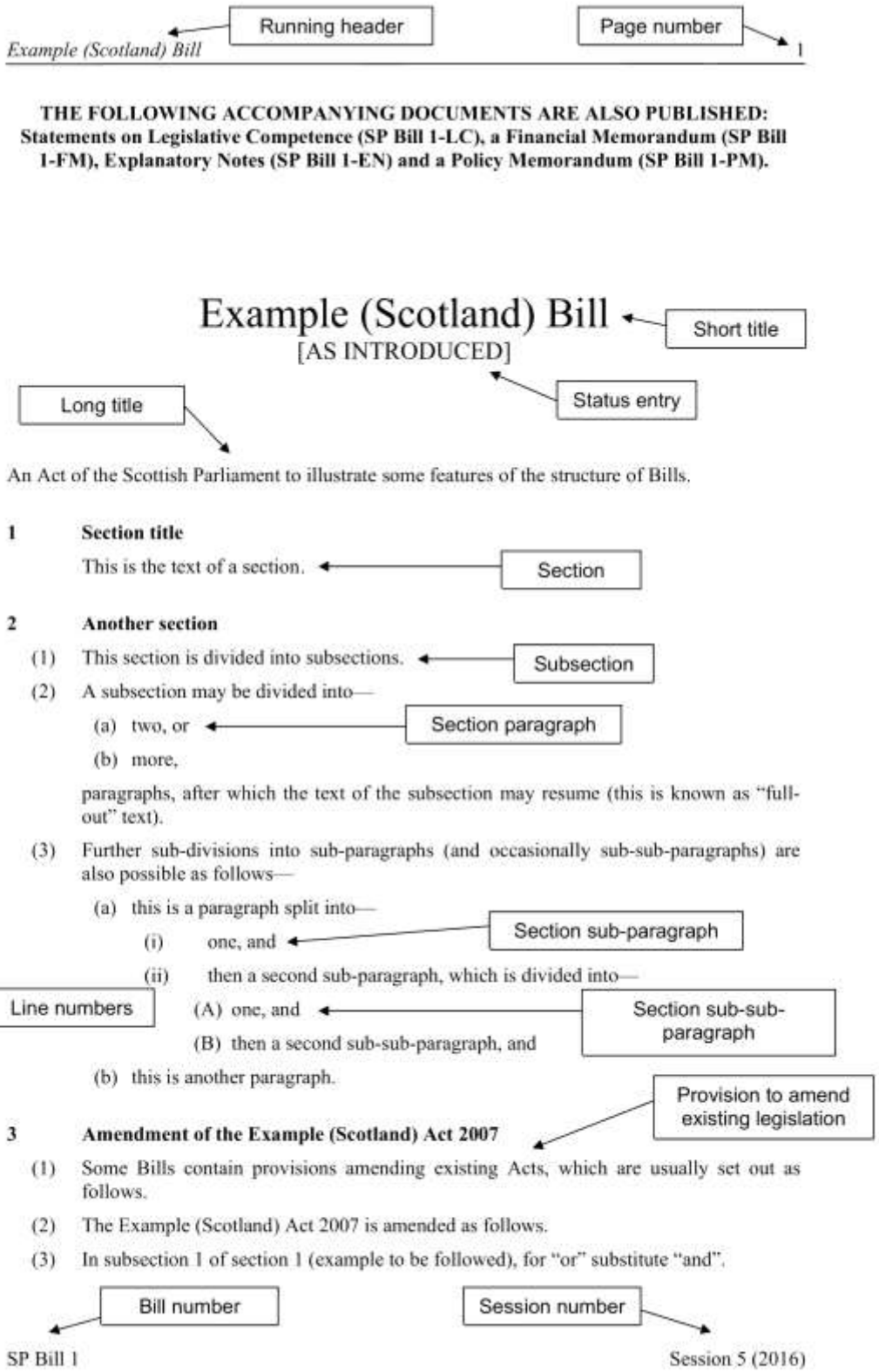
The Parliament has an interest in ensuring that an Act does not delegate to the Scottish Ministers powers that are unnecessary or inappropriate, since that would undermine the Parliament's primary legislative role. So provisions in a Bill conferring powers to make subordinate legislation are likely to come in for particularly close scrutiny. Those provisions will specify to what, if any, parliamentary scrutiny subordinate legislation made under the provisions of the Bill will be subject. The two main variants are:

- the affirmative procedure (under section 29 of the 2010 Act) – where the subordinate legislation is in the form of a statutory instrument which is laid before the Parliament "for approval by resolution". Most such instruments are laid in draft and cannot be made or come into force until the Parliament has approved them.

- the negative procedure (under section 28 of the 2010 Act) – where the subordinate legislation is in the form of a statutory instrument which must be laid before the Parliament and is "subject to annulment". Most such instruments are laid as made instruments (i.e. not in draft form) and come into force (or remain in force) unless the Parliament annuls them within a period of 40 days from the day that they are laid.

Some statutory instruments made under the powers in an Act only require to be laid before the Parliament but are not subject to any parliamentary control (section 30 of the 2010 Act); and some need not even be laid. Occasionally, an Act may give the Scottish Ministers power, by subordinate legislation, to amend the Act itself (or other primary legislation). Such provisions in Bills – known colloquially as "Henry VIII provisions" – are regarded by many parliamentarians with particular caution.

Annex C: Illustration of the principal components of a Bill



(4) After section 1, insert—

"**1A Inserted section**

This is a new section to be inserted into an existing Act.".

4 Supplementary provision

The schedule makes supplementary provision.

Provision to introduce schedule

5 Commencement

(1) This section and section 6 come into force on the day after Royal Assent.

(2) Section 3 comes into force at the end of the period of two months beginning with the day of Royal Assent.

(3) The other provisions of this Act come into force on such day as the Scottish Ministers may by regulations appoint.

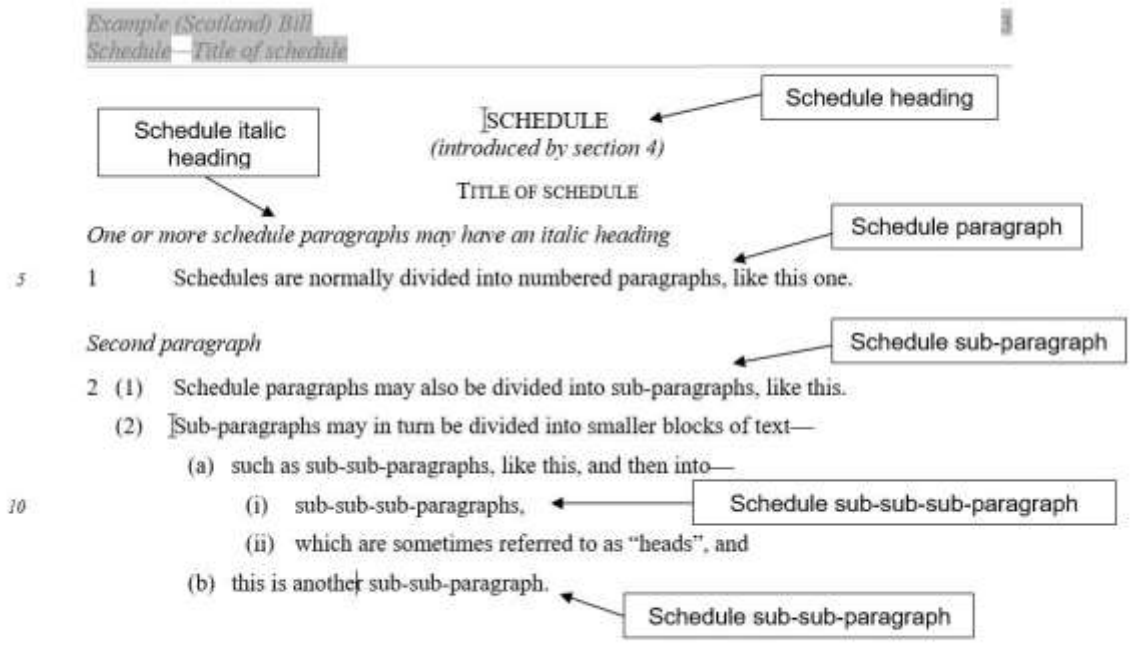
(4) Regulations under this section may—

(a) include transitional, transitory or saving provision,

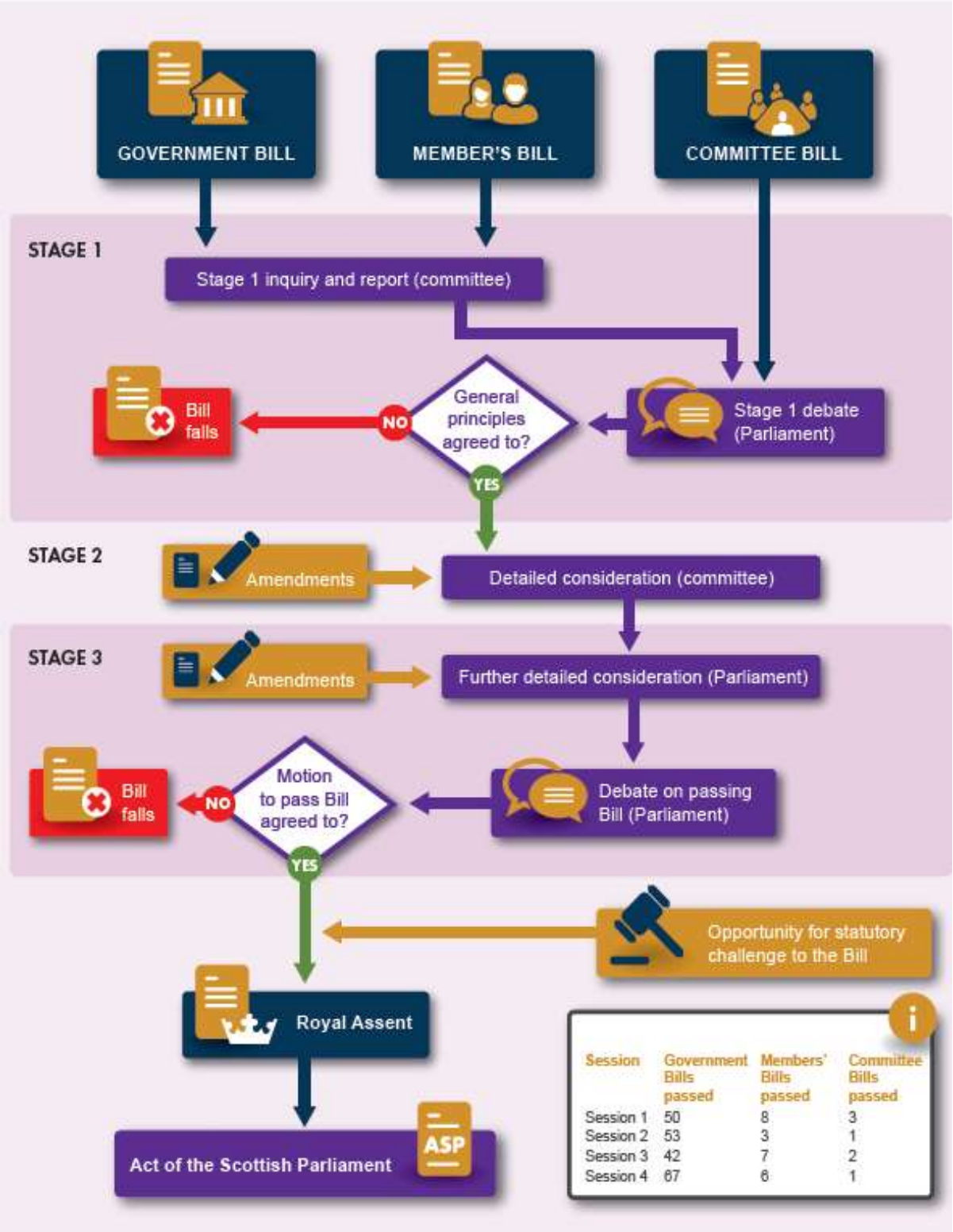
(b) make different provision for different purposes.

6 Short title

The short title of this Act is the Example (Scotland) Act 2021.


Example (Scotland) Bill
Schedule—Title of schedule
Schedule heading
Schedule italic heading
SCHEDULE
(introduced by section 4)
TITLE OF SCHEDULE
One or more schedule paragraphs may have an italic heading
Schedule paragraph
1 Schedules are normally divided into numbered paragraphs, like this one.
Second paragraph
Schedule sub-paragraph
2 (1) Schedule paragraphs may also be divided into sub-paragraphs, like this.
(2) Sub-paragraphs may in turn be divided into smaller blocks of text—
(a) such as sub-sub-paragraphs, like this, and then into—
(i) sub-sub-sub-paragraphs,
Schedule sub-sub-sub-paragraph
(ii) which are sometimes referred to as "heads", and
(b) this is another sub-sub-paragraph.
Schedule sub-sub-paragraph

Annex D: Stages in the passage of a Public Bill



Annex E: Form of amendments

Presiding Officer determination (Public and Private Bills): Form of amendments

(Reproduced from Business Bulletin No. 65/2001, 25 April 2001)

The Presiding Officer has determined, under Rules 9.10.1 and 9A.12.1 of the Standing Orders, that the form of amendments to Bills is as follows.

Each amendment shall propose only one change to the text of the Bill; and each amendment to an amendment shall propose only one change to the text of that amendment.

No amendment shall leave out or insert more than one section of, or schedule to, the Bill.

Amendments to leave out sections of, or schedules to, the Bill shall be in the form “Leave out section/schedule x”; and amendments to substitute new such sections or schedules for existing ones shall be in the form “Leave out section/schedule x and insert— [text of new section/schedule]”.

Amendments to insert new sections or schedules in the Bill shall normally be in the form “Before/After section/schedule x, insert— [text of new section/schedule]”.

Amendments to existing sections of, or schedules to, the Bill shall normally begin “In section/schedule x, page y, line z, …” and shall be to “leave out”, “leave out and insert” or “insert” blocks of text or words.

In all amendments, words in the Bill referred to and text to be included in the Bill shall be framed with angle brackets (e.g. after <word> insert <words>).

Amendments to leave out whole subsections of, or paragraphs of schedules to, the Bill shall do so by reference to those subsections or paragraphs, but amendments to leave out other defined blocks of text shall do so by reference to lines. Amendments to leave out words shall do so by reference to those words or, where appropriate, by reference to the first and last words to be left out.

In amendments to leave out words and insert new words, the first or last words to be inserted shall not normally be the same as the first or last words to be left out.

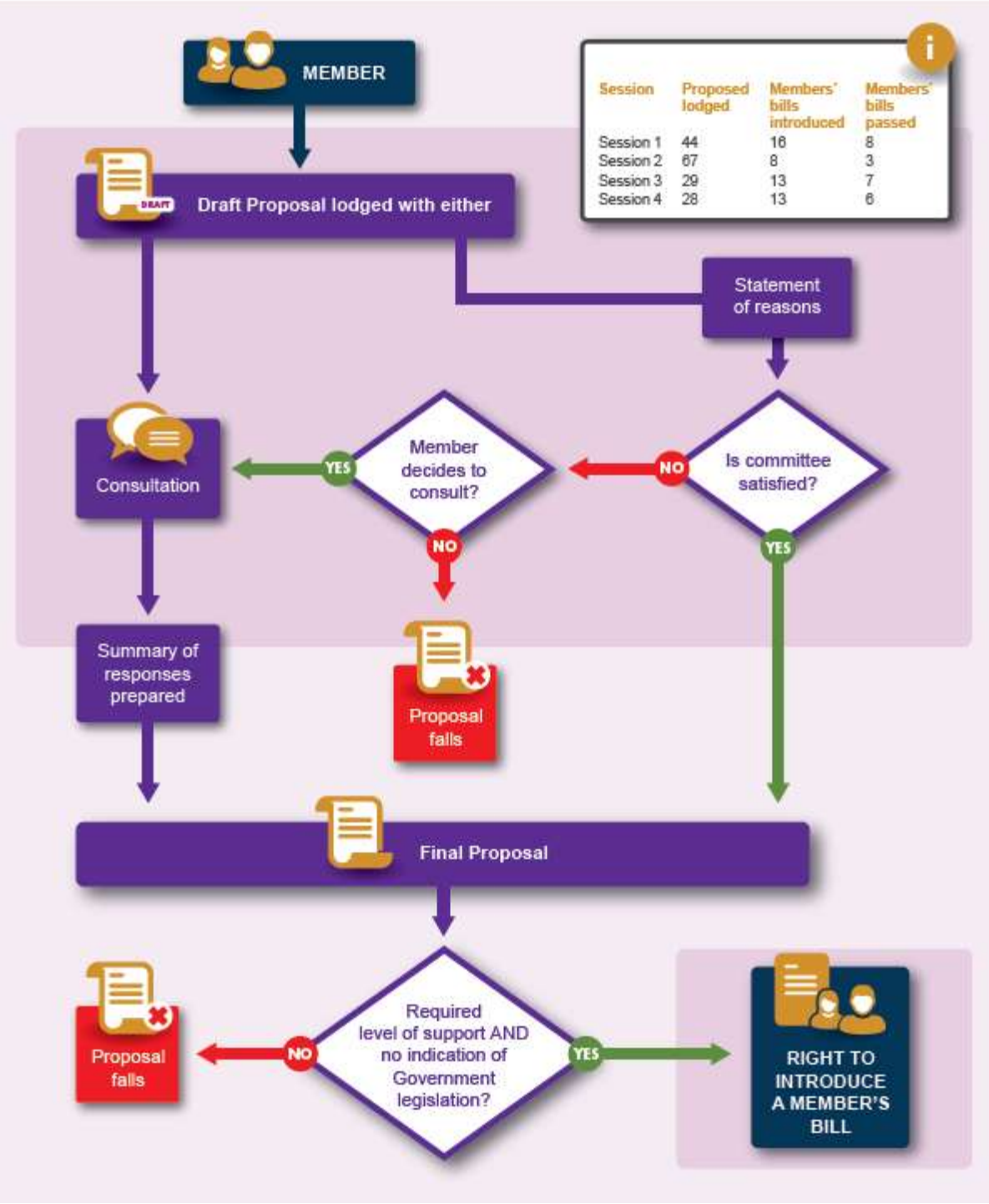
No amendment shall leave out or insert any item of text smaller than a word.

Amendments to insert blocks of text into the Bill shall set out those blocks of text in the form in which they would appear in the Bill, except that blocks of text that would, if part of the Bill, be numbered shall either be un-numbered in the amendment or numbered so as not to require re-numbering of existing provisions of the Bill.

Amendments to the long title shall begin “In the long title, page x, line y, …”.

Amendments to amendments shall begin “As an amendment to amendment x, …” and shall, where appropriate, refer to the text to be amended by reference to subsection, schedule paragraph or line.

Annex F: Proposals for Members' Bills



Session	Proposed lodged	Members' bills introduced	Members' bills passed
Session 1	44	16	8
Session 2	67	8	3
Session 3	29	13	7
Session 4	28	13	6

Annex G: Proposals for Committee Bills