The Committee will meet at 10.30 am in Committee Room 2.

1. **Non-Executive Bills:** The Committee will consider possible witnesses for future meetings.

2. **Suspension of standing orders:** The Committee will consider a paper on possible changes to Rule 17.2.

3. **Oral questions in the Chamber (in private):** The Committee will consider a revised draft Report and draft changes to standing orders.

Andrew Mylne  
Clerk to the Committee  
Room 5.19 PHQ  
Ext 85175  
andrew.mylne@scottish.parliament.uk
The following papers are attached for this meeting:

**Agenda item 1**  
List of possible witnesses for future meetings  
PR/S2/03/9/1

**Agenda item 2**  
Paper on possible changes to Rule 17.2  
PR/S2/03/9/2

**Agenda item 3**  
Note by the Clerk *(private paper – members only)*  
PR/S2/03/9/3

2nd Draft Report *(private paper – members only)*  
PR/S2/03/9/4

Draft Annexe A: Changes to Standing Orders *(private paper – members only)*  
PR/S2/03/9/5

The following papers are attached for information:

Letter to the Convener from the Scottish Parliamentary Standards Commissioner  
PR/S2/03/9/6

Scottish Parliament (Constituencies) Bill – Note by the Clerk  
PR/S2/03/9/7

Minutes of the last meeting  
PR/S2/03/8/M
PROCEDURES COMMITTEE

Non-Executive Bills inquiry – possible witnesses

Note by the Assistant Clerk

Those with experience of introducing Members’ Bills

1. In considering which MSPs or former MSPs they would like to invite to give oral evidence to the Committee, members should refer to Annex A. The Annexe lists those MSPs that introduced Members’ Bills in Session 1 of the Parliament, excluding those whom are members of this Committee.

2. Where appropriate or available, some factual information has been included after the Title of each Bill. This is to illustrate to members any particular aspects of the Bill that may be of interest to the Committee in considering the effectiveness of the current non-Executive Bill procedures. For example, NEBU provides support to all non-Executive Bills to some extent, but does not necessarily draft every Bill, which is a significant and time-consuming task. Where NEBU has drafted a Bill, this is noted in the text.

3. At its last meeting, several members suggested inviting former MSPs who had introduced Members’ Bills, namely Keith Harding and Mike Russell. On the basis of this suggestion, the clerks have ascertained from these two former MSPs that they would both be happy to give evidence to the Committee, if it is decided to invite them.

Parliamentary Bureau and SPCB

4. Attached at Annex B is correspondence relating to the Committee’s invitation to the Parliamentary Bureau and the SPCB, inviting representatives of each body to attend to give oral evidence.

5. Members will see that the SPCB is not able to send a representative to give evidence at this meeting, but could do so in the New Year.

6. The Bureau has submitted a response which sets out the current position of the Bureau, which does not exhibit consensus across all Business Managers. Individual Business Managers would be happy to attend a future meeting of the Procedures Committee to give their own parties’ views.
### Annexe A: Members in charge of Members' Bills introduced in Session 1

<table>
<thead>
<tr>
<th>Member</th>
<th>Short Title</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tommy Sheridan</td>
<td>Abolition of Poindings and Warrant Sales – controversial Bill, much amended by Executive at Stages 2 &amp; 3. - drafted by Mike Dailly (Govan Law Centre). School Meals (Scotland) – drafted by Mike Dailly (Govan Law Centre).</td>
<td>Passed (2001 asp 1)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Fell (Stage 1 vote)</td>
</tr>
<tr>
<td>Mike Watson</td>
<td>Protection of Wild Mammals (Scotland) – received assistance, including drafting, from outside organisation (Scottish Campaign Against Hunting with Dogs). Controversial Bill, much amended at Stages 2 &amp; 3.</td>
<td>Passed (2002 asp 6)</td>
</tr>
<tr>
<td>Tavish Scott</td>
<td>Sea Fisheries (Shellfish) Amendment (Scotland) – very small Bill, uncontroversial. Based on unsuccessful Westminster Bill.</td>
<td>Passed (2000 asp 12)</td>
</tr>
<tr>
<td>Robert Brown</td>
<td>Family Homes and Homelessness (Scotland) – drafted by Mike Dailly (Govan Law Centre).</td>
<td>Withdrawn</td>
</tr>
<tr>
<td>Adam Ingram</td>
<td>Leasehold Casualties (Scotland) – based on Scottish Law Commission draft Bill, supported by Executive.</td>
<td>Passed (2001 asp 5)</td>
</tr>
<tr>
<td>Alex Neil</td>
<td>Public Appointments (Parliamentary Approval) (Scotland) – drafted by NEBU.</td>
<td>Fell (Stage 1 vote)</td>
</tr>
<tr>
<td>Nicola Sturgeon</td>
<td>Tobacco Advertising and Promotion (Scotland) – based on unsuccessful Westminster Bill.</td>
<td>Withdrawn</td>
</tr>
<tr>
<td>Keith Harding</td>
<td>Dog Fouling (Scotland) – supported by Executive, drafted by NEBU.</td>
<td>Passed (2003 asp 12)</td>
</tr>
<tr>
<td>Tricia Marwick</td>
<td>Proportional Representation (Local Government Elections) (Scotland) – drafted by member’s researcher with assistance of Legislation Team</td>
<td>Fell (Stage 1 vote)</td>
</tr>
<tr>
<td>Robin Harper</td>
<td>Organic Farming Targets (Scotland) – drafted by NEBU.</td>
<td>Fell (Stage 1 vote)</td>
</tr>
</tbody>
</table>
LETTER FROM CONVENER TO PRESIDING OFFICER

As you may be aware the Procedures Committee is currently conducting an inquiry into the prioritisation of non-Executive Bills.

At its last meeting on 2 December, the Committee heard oral evidence from the Non-Executive Bills Unit, and agreed to invite a member of the SPCB and members of the Bureau to give oral evidence at its next meeting, which is scheduled to start at 10.30 am on 16 December.

The Committee is aware of the SPCB’s joint proposal with the Parliamentary Bureau that was submitted to the Session 1 Procedures Committee, and of the SPCB’s role in setting the criteria for the prioritisation of non-Executive Bills that NEBU has so far employed.

The Committee is also aware that previous discussions at the Bureau on this matter have not resulted in consensus, and would consider it helpful if more than one Bureau member could attend in order to reflect the range of views that exist.

I would be grateful if you could let me know which SPCB member and which Bureau members will attend this meeting, if possible, by Wednesday 10 December.

Iain Smith MSP
Convener
11 December 2003

REPLY FROM PRESIDING OFFICER

Thank you for your letter of 4 December inviting the SPCB to give evidence to the Procedures Committee on the prioritisation of non-executive bills on 16 December.

The SPCB is scheduled to meet on 16 December at the same time as the committee, and we have a number of significant issues to consider on the agenda. It will therefore not be possible for a Member of the SPCB to attend the meeting next week, but having discussed this with my colleagues we would be happy to give evidence early in the New Year if the date could be rearranged.

George Reid
10 December 2003
LETTER FROM MINISTER FOR PARLIAMENTARY BUSINESS

Procedures Committee – Non-Executive Bills Inquiry

I have been asked to write to you on behalf of the Business Managers.

Background

During the last session of Parliament the Business Managers had lengthy discussions on possible ways to manage the potentially high volume of Members’ Bills that could come before the Parliament. Following those discussions Business Managers agreed a paper which suggested a way that ensured the final decision on whether or not a Member’s proposal should be introduced as a Bill would rest with the Parliament as a whole. The paper also outlined a framework for a process of prioritisation which would be carried out by the Bureau, based on a series of thresholds. This process would allow a recommendation to be made to Parliament for decision.

The paper offered an approach which recognised the desire for Members to be given the chance to bring forward legislation while at the same time recognising that there were limited resources available in respect of Parliamentary time and drafting capacity. The paper was passed to the Procedures Committee towards the end of the last session and the current Procedures Committee has sought the views of the present Bureau on the proposal in the previous Bureau’s paper.

Current Bureau’s Position

The Business Managers have discussed the previous Bureau’s paper at length but have been unable to reach a consensus view on it or a way forward for dealing with Members’ Bills. Business Managers did, however, agree that the process had to be managed. They also agreed that there should be a mechanism for prioritisation of Members’ proposals/Bills and that it should be for the elected politicians of the Parliament to take decisions on the priority to be attached to the proposals submitted by Members. The when, how and by whom remain to be determined.

Business managers also agreed that there should be a cut-off point in the session after which there should be a presumption against any Member’s Bill being introduced or if a Bill was introduced after this date it would be on the clear understanding that it would not make progress.

Business Managers welcome the Procedures Committee inquiry into this matter and hope that the Committee will find the current Bureau’s position helpful. The Bureau looks forward to the conclusion of the inquiry.

I am copying this letter to all Business Managers and the Presiding Officer.

Patricia Ferguson
10 December 2003
PROCEEDURES COMMITTEE

Suspension of Standing Orders

Note by the Clerk

The current Rule

1. The current Rule (Rule 17.2) – see Annexe A – has the following features:
   • a motion to suspend may be moved by any MSP or by the Bureau
   • suspension can only be of a Rule (“any of these Rules”)
   • suspension must either be for the purposes of a meeting (or part of a meeting) (para 1) or for purposes of an item of business (para 2)
   • Rules reflecting requirements of the Act cannot be suspended.

2. This Rule has been used on approximately 25 occasions so far. Full details of the relevant motions are given in Annexe B – please note that this list includes only motions to suspend standing orders which have been printed in advance in the Bulletin; on a few occasions, similar motions have been moved without notice.

3. The main problem with the Rule is its inflexibility about what can be suspended, and about what suspension involves.

What can be suspended at present?

4. It is not in fact entirely clear from Rule 17.2 what is the smallest “unit” that can be validly suspended. So far, clerks (with legal advice) have worked on the basis that whole Rules (e.g. Rule 17.4) or individual paragraphs (e.g. Rule 17.4.1) can be suspended, but that sub-paras (e.g. Rule 17.4.1(a)) or individual sentences within paragraphs cannot.

5. However, it can be argued that “any of these Rules” means that only whole Rules can be suspended and not even individual paragraphs – since, under Rule 18.3.1(b), although a paragraph can be properly referred to as “Rule 17.4.1”, that is a reference to a paragraph in a Rule and not to a Rule itself. So the first problem with the current Rule is an ambiguity about what it permits.

Suspension of smaller units?

6. However, even if that were resolved, there are many instances where greater flexibility than suspension at the level of whole Rules or paragraphs would be desirable. Many paragraphs consist of a number of separate sentences, which often deal with separate aspects of the procedure in question. Since the arrangement of these sentences into a single paragraph rather than separate paragraphs is essentially arbitrary
(or, at best, a drafting convenience), it would be useful to be able to suspend just those sentences that happen to present an obstacle in a particular situation.

7. In some cases, there may even be a case for suspending just a few words within a paragraph or sentence. For example, if there was a desire to enable the PO to select 7 questions for a particular FMQT, this could only be achieved by removing the words “up to 6” from Rule 13.6.6. That would surely be better than suspending the whole paragraph, thus also removing the only authority the PO has to select FMQs in the first place.

Suspension to specified extent?

8. Further flexibility could be provided by altering the way in which suspension operates. Even if the Rule provided flexibility to suspend not just Rules or paragraphs but also sentences or words, that would still make the practicability of suspension in a particular case dependent on the drafting. It would depend on whether, if a particular bit of wording was removed, what is left still provided a workable procedural framework for the outcome sought in the circumstances.

9. For example, Rule 15.2.4 (on public access to committee meetings) provides “This Rule [i.e. 15.2] shall apply to meetings of committees as it applies to meetings of the Parliament with such modifications as are appropriate.” The effect of this is that paragraphs 1 to 3 of that Rule apply to committee meetings as they apply to meetings of the Parliament, but with references to “the Parliament” read as references to “a committee” and with references to “the Presiding Officer” read as references to “the convener”. But, as a result of the drafting approach adopted, it would not be possible just to suspend one of those three paragraphs as it applies to a particular committee meeting – since there is no way of setting aside just some of the wording of Rule 15.2.4 to achieve that effect.

10. There might therefore be advantages in altering Rule 17.2 so it would enable a Rule to be suspended to whatever extent is necessary to achieve a desired effect. For example, a motion under such a more flexible Rule 17.2 could be “That Rule 15.2.4, to the extent that it applies Rule 15.2.2 to the meeting of the Procedures Committee on 16 December 2003, be suspended.”

Power to add or vary as well as to remove?

11. Even with the extra flexibility outlined above, Rule 17.2 would only allow requirements or other provisions to be temporarily taken out. It would not allow anything to be added in, nor does it allow Rules to be varied in specific circumstances.

12. The main obstacle in this context is section 22(1) of the Scotland Act, which states that “the proceedings of the Parliament shall be regulated by standing orders.” It was this provision in the Act that made it necessary to have a body of standing orders covering all aspects of Parliamentary
proceedings, from the outset – rather than giving the Parliament few or no Rules initially, and letting it adopt the Rules it wanted as it went along (although such an approach might in any case have been undesirable for other reasons).

13. It is worth noting in this context that the term “standing order” comes from Westminster. Initially, each House made “orders of the day” at the beginning of a day’s business to determine how business would be dealt with for the remainder of that day. After a while it was considered to be more efficient to make “standing” orders to the effect that e.g. certain types of business would always be taken at a particular time of day (to save having to make orders of the day on each occasion). Over time, the standing orders came to govern most of what happened. But orders of the day are still regularly used (particularly in the Commons), sometimes in conjunction with the suspension of a conflicting standing order.

14. The Scottish Parliament cannot simply follow Westminster in this respect – it is a creature of statute in a way that Westminster is not. In particular, it is not open to the Parliament just to make “orders of the day” that purport to govern proceedings in the same way as the Rules – at least not without a risk of being in breach of section 22(1) of the Act and hence vulnerable to legal challenge.

15. What might be done, however, is to provide a Rule that would authorise the Parliament (perhaps on a motion of the Bureau) to make specific Rules on specific occasions or for specific purposes that differed from the standing-order Rules that would otherwise apply. That would, for example, enable the Parliament, on a motion, to impose a different time-limit in a particular case – rather than (as at present) simply having the more extreme option of removing the time-limit altogether (by suspension of the relevant Rule).

Political safeguards

16. Any of the options suggested above would extend the Parliament’s ability to depart from the normal Rules in circumstances where it was convenient to do so. There are obvious political implications in increasing flexibility in such ways. The Rules are there to regulate the Parliament’s business in the interests of all members. Some of the Rules specifically limit, in particular, the rights of the Executive and protect the rights of opposition parties and backbench members. These should not be capable of being set aside too easily or too often.

17. Any extended Rule of suspension (or variation) of the Rules might therefore need to re-visit the current right under Rule 17.2 of any member to lodge a motion to suspend. Perhaps this could be limited only to the Bureau to ensure a good degree of cross-party agreement before any proposal to depart from the normal Rules was put to a majority vote.
Conclusion

18. The main options would appear to be:

- leave the Rule unchanged (though perhaps with clarification of its application to the suspension of paragraphs);
- amend the Rule to enable smaller units to be suspended (down to individual words);
- amend the Rule to enable Rules to be suspended to the extent specified in the motion;
- add a Rule enabling alternative provision to be made instead of or in addition to the suspension of some aspect of an existing Rule.

In each of the above options, the basic restrictions would remain that any suspension or alternative provision would be a one-off departure, applicable on a specified occasion or for a specified purpose only, with automatic reversion to the normal Rules. It would also remain impossible to suspend or alter any Rules in any way that would conflict with a requirement of the Act.

19. The Committee is invited to consider the options set out above, and decide whether it wishes to see Rule 17.2 amended to increase flexibility as outlined. It is also invited to consider restricting to members of the Bureau the right to move that a Rule be suspended (or alternative provision made).

20. If the Committee agrees in principle to any such revisions, draft Rule-changes could be prepared for consideration at a future meeting.
Annexe A: Current Rule 17.2

Rule 17.2 Suspension of standing orders

1. The Parliament may, on the motion of any member or of the Parliamentary Bureau, suspend any of these Rules for the purpose of a meeting of the Parliament or of a committee or sub-committee except any Rule which makes provision which the Act requires to be made by standing orders or which reflects a provision of the Act. Such a suspension shall apply only for the purposes of that meeting or of part of that meeting.

2. The Parliament may, on a motion of the Parliamentary Bureau, suspend any of these Rules for the purpose of any item of business except any Rule which makes provision which the Act requires to be made by standing orders or which reflects a provision of the Act. Such a suspension shall apply only for the purpose of the item of business as shall be specified in the motion.

Annexe B: Motions to suspend Standing Orders

Session 2

S2M-587 Patricia Ferguson on behalf of the Parliamentary Bureau: Suspension of Standing Orders—That the Parliament agrees that Rules 13.6.4 and 13.6.7 of the Standing Orders be suspended for the purpose of Question Time on Thursday 8 January 2004.

Session 1

S1M-3771 Patricia Ferguson on behalf of the Parliamentary Bureau: Suspension of Standing Orders—That the Parliament agrees that Rule 5.6.1(c) be suspended for the Meeting of the Parliament on Wednesday 29 January 2003.

S1M-3706 Fergus Ewing on behalf of the Rural Development Committee: Suspension of Standing Orders—That the Parliament agrees that Rule 10.6.5 be suspended for the consideration of motion S1M-3702 on Thursday 12 December 2002.

S1M-3577 Patricia Ferguson on behalf of the Parliamentary Bureau: Suspension of Standing Orders—That the Parliament agrees that Rules 13.6.4 and 13.6.7 of the Standing Orders be suspended for the purpose of Question Time on Thursday 9 January 2003.

S1M-3547 Patricia Ferguson on behalf of the Parliamentary Bureau: Suspension of Standing Orders—That the Parliament agrees that Rule 5.6.1(c) of the Standing Orders be suspended for the duration of the Meeting of the Parliament on Wednesday 13 November 2002.

S1M-3108 Patricia Ferguson on behalf of the Parliamentary Bureau: Suspension of Standing Orders—That the Parliament agrees that Rule
13.6.2 and Rule 13.6.3 of the Standing Orders be suspended for the meeting of the Parliament on Thursday 30 May 2002.

S1M-2659 Patricia Ferguson on behalf of the Parliamentary Bureau: Suspension of Standing Orders—That the Parliament agrees that Rule 5.6.1(c) of the Standing Orders be suspended for the duration of the Meeting of the Parliament on Wednesday 13 February 2002.

S1M-2543 Patricia Ferguson on behalf of the Parliamentary Bureau: Suspension of Standing Orders—That the Parliament agrees that Rule 13.6.4 be suspended for the purpose of Question Time on Thursday 10 January 2002.

S1M-2481 Mr Tom McCabe on behalf of the Parliamentary Bureau: Suspension of Standing Orders—That the Parliament agrees that Rule 9.5.3A of the Standing Orders be suspended for the purposes of the Scottish Local Government (Elections) Bill.

S1M-2452 Mr Tom McCabe on behalf of the Parliamentary Bureau: Suspension of Standing Orders—That the Parliament agrees that Rule 5.6.1(c) of the Standing Orders be suspended for the duration of the Meeting of the Parliament on Thursday 22 November 2001.

S1M-2384 Mr Tom McCabe on behalf of the Parliamentary Bureau: Suspension of Standing Orders—That the Parliament agrees that Rules 9.5.3B and 9.7.9 of the Standing Orders be suspended for the purposes of the Police and Fire Services (Finance) (Scotland) Bill.

S1M-2170 Mr Tom McCabe on behalf of the Parliamentary Bureau: Suspension of Standing Orders—That the Parliament agrees that Rules 9.6.2, 9.7.8, 9.7.9, 9.8.3, 9.10.2, 9.10.4 and 9.10.6 of the Standing Orders be suspended on Thursday 6 September 2001.

S1M-1975 Mr Tom McCabe on behalf of the Parliamentary Bureau: Suspension of Standing Orders—That the Parliament agrees that Rule 5.6.1(c) of the Standing Orders be suspended for the duration of the Meeting of the Parliament on Wednesday 13 June 2001.

S1M-1962 Mr Tom McCabe on behalf of the Parliamentary Bureau: Suspension of Standing Orders—That the Parliament agrees that Rules 9.5.3B and 9.7.9 of the Standing Orders be suspended on Wednesday 6 June 2001 for the purposes of the Scottish Local Authorities (Tendering) Bill.

S1M-1940 Mr Tom McCabe on behalf of the Parliamentary Bureau: Suspension of Standing Orders—That the Parliament agrees that rule 5.6.1(c) of the Standing Orders be suspended for the duration of the Meeting of the Parliament on Wednesday 23 May 2001.

S1M-1936 Mr Tom McCabe on behalf of the Parliamentary Bureau: Suspension of Standing Orders—That the Parliament agrees that rule
9.5.3B is suspended for the purpose of taking Stage 3 of the Regulation of Care (Scotland) Bill.

**S1M-1408 Mr Tom McCabe on behalf of the Parliamentary Bureau:** Suspension of Standing Orders—That the Parliament agrees that Rule 12.3.3 of the Standing Orders be suspended from 12.30 pm until 2.30 pm on Thursday 30 November 2000 to allow the Education, Culture and Sport Committee to meet.

**S1M-1381 Mr Tom McCabe on behalf of the Parliamentary Bureau:** Suspension of Standing Orders—That the Parliament agrees that Rule 5.6.1(c) of the Standing Orders be suspended for the duration of the Meeting of the Parliament on Thursday 23 November 2000.

**S1M-1277 Mr Tom McCabe on behalf of the Parliamentary Bureau:** Suspension of Standing Orders—That the Parliament agrees that Rules 13.6.2 and 13.6.3 of the Standing Orders be suspended for the duration of the Meetings of the Parliament for the week beginning Monday 23 October 2000 and that Rule 5.6.1(c) of the Standing Orders be suspended for the duration of the Meeting of the Parliament on Thursday 26 October 2000.

**S1M-1277.1 Alasdair Morgan: Suspension of Standing Orders**—As an amendment to motion (S1M-1277) in the name of Mr Tom McCabe, leave out from “Rules 13.6.2 and 13.6.3” to “and that”.

**S1M-1176 Mr Tom McCabe on behalf of the Parliamentary Bureau:** Suspension of Standing Orders—That the Parliament agrees that Rule 5.6.1(c) of Standing Orders be suspended for the purpose of taking members’ business on Thursday, 14 September 2000 at 2.00 p.m.

**S1M-969 Mr Tom McCabe on behalf of the Parliamentary Bureau:** Suspension of Standing Orders—That the Parliament agrees that Rule 9.5.3 of the Standing Orders be suspended for the purposes of the Regulation of Investigatory Powers (Scotland) Bill and the Bail and Judicial Appointments etc (Scotland) Bill.

**S1M-968 Mr Tom McCabe on behalf of the Parliamentary Bureau:** Suspension of Standing Orders—That the Parliament agrees that Rule 5.6.1(c) of the Standing Orders be suspended for the duration of the Meeting of the Parliament on Thursday 22 June 2000.

**S1M-865 Mr Tom McCabe on behalf of the Parliamentary Bureau:** Suspension of Standing Orders—That the Parliament agrees that Rule 5.6.1(c) of the standing orders be suspended for the duration of the Meeting of the Parliament on Thursday 1 June 2000.

**S1M-585 Mr Tom McCabe on behalf of the Parliamentary Bureau:** Suspension of Standing Orders—That the Parliament agrees to suspend Rule 10.7.1 of the Standing Orders for the period of the debate on the Local Government Grant Distribution – Local Government Finance Order (and

S1M-552 Mr Tom McCabe on behalf of the Parliamentary Bureau: Suspension of Standing Orders—That the Parliament agrees to suspend Rule 8.6.1, Rule 10.7.1 and Rule 11.4.1 of the Standing Orders for the period of the debate on the Census (Scotland) Order 2000 on 16 February 2000.
Dear Mr Smith,

Procedures committee “leaks”

Further to my letter of 19th November, I have now learned from the Standards Committee that it considered my report on the 25th November along with your own letter and report on the question of the “leaks”. While expressing strong disapproval of the practice of leaking confidential information, the Committee concluded that an investigation into the matter would not be likely to be productive in terms of being able to identify an MSP responsible for the leak.

The Standards Committee have directed me under Section 7(7) of the Scottish Parliamentary Standards Commissioner Act 2002 to dismiss the complaint as inadmissible for failing to meet the second test in the Act [Section 6(5)(c)].

I have not lost sight of the issue of seeking a more comprehensive approach to the investigation of leaks where others as well as MSPs could be involved and I will take this up with the Parliamentary authorities.

Yours sincerely,

Dr J A T Dyer
Scottish Parliamentary Standards Commissioner
PROCEDURES COMMITTEE

Scottish Parliament (Constituencies) Bill

Note by the Clerk

1. At the last meeting, there was some discussion about the Government Bill to preserve the number of MSPs at 129 when the number of Scottish MPs is reduced, and whether the Bill affords any opportunity to seek other changes to the Scotland Act (i.e. unrelated to the issue of election of MSPs).

2. An example of the changes that might be sought related to section 19(1) of the Act, which specifies that there shall be two Deputy Presiding Officers. This, it was suggested, might be re-visited to enable the Parliament to appoint a third DPO if (for example) the Presiding Officer is unavailable for a period due to illness. Other possible changes might involve loosening some of the provisions of the Act requiring certain matters to be covered in standing orders, to give the Parliament more control over its own procedure.

3. The Government Bill was introduced in the House of Commons on 27 November by the Secretary of State, Alastair Darling (Bill 4). Hard copies, together with the explanatory notes, can be obtained from the Document Supply Centre; the Bill is also available on the UK Parliament website (www.parliament.uk – go to “Bills before Parliament”, click on “Public Bills before Parliament”, and scroll down to S).

4. The Government made clear its intention when the Bill was first proposed to keep it as narrow in scope as possible, precisely to prevent it being used as a vehicle for other changes to the Scotland Act.

5. The rules on “scope” of Bills in Westminster are similar to those that apply here. Broadly speaking, where a Bill is introduced with only one or two purposes, it is not permitted to bring forward amendments that would add in a whole new purpose that is unrelated to the existing purpose or purposes. (Bills with three or more purposes when introduced can be amended in such a way.)

6. I have consulted colleagues at Westminster, and their view is that the scope of the Scottish Parliament (Constituencies) Bill is very narrow indeed. Its long title is “A Bill to replace Schedule 1 to the Scotland Act 1998 making new provision in relation to the constituencies for the Scottish Parliament”, and it is clear that the scope of the Bill is limited to that single purpose. That Schedule deals only with the system of election of MSPs.

7. On that basis, it would appear that there is no prospect of this Bill being open to amendment to achieve unrelated changes to the Scotland Act.
8. Incidentally, in view of the recent debates in the Parliament about the expected reduction in the number of Scottish MEPs from eight to seven, it is worth noting that the new Schedule 1 proposed in the Bill leaves the electoral regions by reference to which list MSPs are elected unchanged. The Bill therefore ensures that the reduction in MEPs has no knock-on effect on the number of MSPs.
Present:

Mr Richard Baker  Mark Ballard
Cathie Craigie  Bruce Crawford
Karen Gillon (Deputy Convener)  Iain Smith (Convener)

Apologies were received from Jamie McGrigor.

The meeting opened at 10.30 am.

1. **Non-Executive Bills**: The Committee took evidence from—

   David Cullum, Head of the Non-Executive Bills Unit;

   Mark Richards, Senior Legal Adviser, Non-Executive Bills Unit.

   It agreed to invite members of the SPCB and the Parliamentary Bureau to give oral evidence at the next meeting, when consideration would also be given to other possible witnesses, including members (or former members) with experience of being in charge of non-Executive Bills.

2. **Work programme**: The Committee agreed that its next major inquiry would be on aspects of the legislative process, including issues of timetabling and deadlines and whether the process provides sufficient opportunity for considering the effects of amendments. This would be followed by an inquiry on Sewel motions. The Committee also agreed that it would consider specific problems that had been identified with Chapter 9A of the Standing Orders (Private Bill procedure), at a future meeting. A paper would be prepared relating to whether the forthcoming Westminster Bill to amend the Scotland Act in relation to the number of MSPs provided an opportunity to seek further amendments to that Act aimed at giving the Parliament greater control over its own procedures.
The Committee agreed that it no longer considered changing its own remit as a work priority.

3. **Scottish Civic Forum Participation Summit:** The Committee considered feedback from members of the Committee who attended the Scottish Civic Forum Participation Summit on 25 November.

4. **Item in private:** The Committee agreed to consider, in private, a final draft report on Oral Questions in the Chamber at its next meeting.

5. **Oral questions in the Chamber (in private):** The Committee considered a draft report. Decisions were made between alternative conclusions and other changes were agreed to.

The meeting closed at 1.30 pm.

Andrew Mylne
Clerk to the Committee