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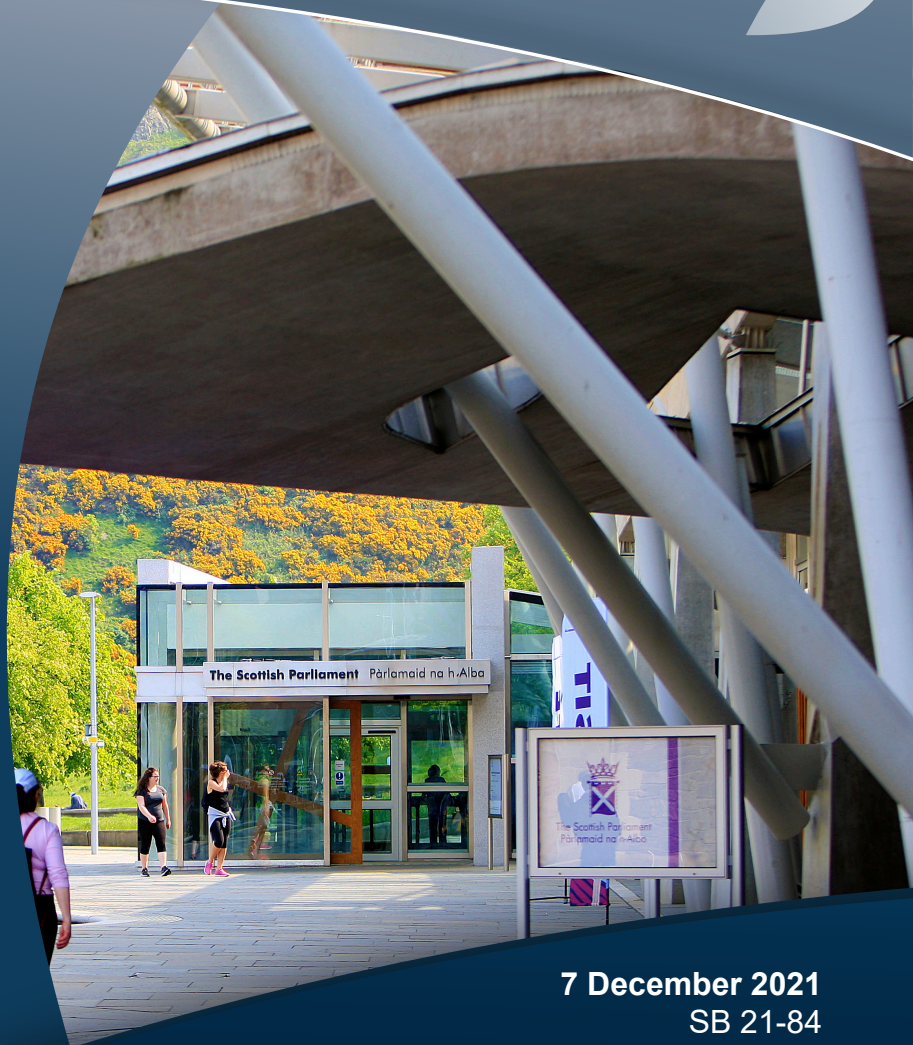
**SPICe Briefing**

**Pàipear-ullachaidh SPICe**

# How has the COVID-19 pandemic changed the way the Scottish Parliament works?

**Sarah McKay and Courtney Aitken**

This briefing considers the changes made to the way the Scottish Parliament works because of the Coronavirus (COVID-19) pandemic. It considers adaptations made in the early days of the pandemic as well as longer term adjustments which are in place to ensure that the Parliament can continue to operate safely through the pandemic. Examples of the ways in which other legislatures have changed as a result of the pandemic are also included.



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# Summary

Since the beginning of the Coronavirus (COVID-19) pandemic, the Scottish Parliament has had to adapt to new ways of working. This briefing examines how the Parliament has adapted to ensure that it can operate safely whilst continuing to function as a legislature at a time of national emergency.

The briefing looks at the immediate response of the Scottish Parliament; the changes required to allow the Parliament to sit as a virtual and hybrid Parliament and the impact of these changes as noted in the session five Standards, Procedures and Public Appointment Committee's report into the resilience of the Scottish Parliament's practices and procedures <sup>1</sup>.

Information is also given on how other legislatures across the UK and globally have responded to the pandemic and how their working practices have changed as a result.

## Session Five: Overview of key changes

Since the outbreak of COVID-19 the Scottish Parliament has had to make a number of changes to how it operates. In the latter part of session five, therefore, the parliament agreed to suspensions and variations of Standing Orders to ensure that it was able to continue to sit in light of the public health emergency - including meeting to pass emergency legislation in response to the pandemic.

The suspensions and variations made to Standing Orders in session five:

- enabled remote and hybrid participation in meetings of the Parliament and committees;
- enabled the introduction of a remote voting system for meetings of the Parliament;
- provided flexibility in relation to methods of voting in committees;
- suspended the requirement for public access to meetings of the Parliament and committees;
- provided flexibility on the nomination of committee substitutes;
- enabled the use of the electronic voting system in the Chamber for the election of an additional Deputy Presiding Officer;
- suspended the requirements in relation to the scheduling of Members', committee and opposition business.

“ After an initial hiatus, Chamber meetings began again after the Easter recess and since April 2020, the Chamber and committees of the Parliament have met in a mix of virtual, hybrid and socially-distanced formats to ensure that parliamentary business continues. In addition, technology has been developed to allow MSPs to participate in parliamentary votes in the Chamber via a virtual platform.”

The Standards, Procedures and Public Appointments Committee of the Scottish Parliament , 2021<sup>1</sup>

The approach to parliamentary business was led by the [Parliamentary Bureau](#) which is responsible for proposing the Parliament's business programme. Sitting arrangements are agreed by the Parliament considering Bureau motions. Membership of the Bureau includes:

- the Presiding Officer (chair)
- a member of parties or groupings with 5 or more MSPs.

# Immediate response - March 2020

In mid-March, the Parliamentary Bureau proposed that the priorities for parliamentary business in the weeks to follow should be the response to Covid-19 and other time-bound legislation<sup>1</sup>. The Parliament agreed a number of temporary procedural changes to allow it to focus on these priorities.

On 17 March 2020 the Parliament agreed to the suspension of a number of Rules under the [Standing Orders of the Parliament \(5th Edition, 7th Revision\)](#).

The suspensions were agreed to by business motions [S5M-21283](#), [S5M-21284](#), [S5M-21285](#), and [S5M-21286](#). Each suspension was for “the duration of the public response to the Novel coronavirus COVID-19”.

Information on the changes made by each motion is set out below.

- Rules 5.6.1(a) (b) and (c) (by motion S5M-21283) were suspended. This meant that the Parliament did not have to dedicate specified amounts of time for special cases of parliamentary business, that is opposition days, committee debates and Members’ Business.
- Rules 11.9.4, 11.9.5, 11.9.13 and 11.9.16 were suspended (in accordance with Motion S5M-21284). These suspensions related to the ballot for an additional deputy Presiding Officer to be elected by the Parliament.
- Rule 6.3A.1 (by motion S5M-21285) was amended to include after “member” the words “or members”. This change allowed parties to have more than one substitute member on a Committee.
- Rule 6.3A.2 (by motion S5M-21285) was suspended so that a nomination for a substitute Committee member need not be made in writing to the Bureau.
- In Rule 6.3A.4 (by motion S5M-21285) the first sentence was suspended. This meant that a member was able to be a substitute on various committees at the same time if needed. Members are usually not allowed to be a substitute member on more than two committees at once.
- Rule 6.3A.5(d) (by motion S5M-21285) was amended to include a point (e) which allowed committee substitutes to cease being substitutes where “*a political party withdraws in writing to the Bureau that nomination of the member or members nominated for the purposes of the duration of the public response to the Novel coronavirus COVID-19.*”
- Rule 12.1.15 was amended (by motion S5M-21285) with the words “(other than a committee substitute)” omitted in both instances where they occur. This change allowed a committee substitute to be temporary convener of a committee if necessary.
- Rule 15.2.1 (by motion S5M-21286) was suspended. This suspension meant that members of the public did not have to be let into the public gallery when the Parliament was sitting. The Parliament remains closed to the public. (This Rule suspension remains in force - see section on Session six)

The Parliament continued to meet for reasons relating to COVID-19 and time sensitive legislation on 18 and 19 March 2020.

# First lockdown and emergency COVID-19 legislation

The UK lockdown began on 23 March 2020. On 24 March 2020 the Parliament met to discuss COVID-19 and time sensitive business.

The Parliament did not then meet until 1 April 2020 when it considered the [Coronavirus \(Scotland\) Bill 2020](#) as emergency legislation. All three stages were completed on 1 April 2020 with the Parliament passing the [Coronavirus \(Scotland\) Act 2020](#).

On [9 April](#) and [16 April 2020](#) virtual leaders' questions sessions were held. These gave party leaders the opportunity to ask questions of the First Minister. On 17 April 2020 a virtual members' questions session was held<sup>i</sup>.

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<sup>i</sup> No Official Report of this session is available given that the session was virtual and at the date of the session no changes to Standing Orders had provided that the Parliament could meet formally in a virtual manner. The Official Reports for the Leaders' Questions with the First Minister are designated as draft.

# Changes to Standing Orders

On 21 April 2020 the Parliament met to consider COVID-19 related business. On this date a number of further suspensions (see section on ['Immediate response'](#) for changes made immediately) and amendments to Standing Orders were agreed, including on virtual proceedings.

[S5M-21507](#) suspended rule 2.7.1 and replaced it with a rule which allowed for a virtual or hybrid Parliament to meet.

“ Subject to Rule 2.7.2 and 2.7.3, meetings of the Parliament shall be held either in the Debating Chamber of the Parliament, Holyrood, or remotely, by video conference in a virtual Debating Chamber hosted on such platform as may be provided by the Parliamentary corporation; and references in the Rules to ‘the Chamber’ are to be interpreted accordingly.”

S5M-21507 also amended Rule 11.7.1 with the words “the electronic voting system” being replaced with “an electronic voting system” and suspended Rule 12.3.2. replacing it with a rule which allowed committees of the Parliament to meet in hybrid.

The motion specified that these changes were for the duration of the response to Coronavirus – that being defined as “17 March 2020 up to and including 26 June 2020, and such further period or periods as are determined by the Presiding Officer from time to time following consultation with the Bureau and notified to the Parliament in the Business Bulletin.”

The Parliament also agreed by motion [S5M-21508](#) that in regard to motions S5M-21283, S5M-21284, S5M-21285 and S5M-21286 the references to “the duration of the public response to the Novel coronavirus COVID-19” be read as references to (a) the period from 17 March 2020 up to and including 26 June 2020 and (b) such further period or periods as are determined by the Presiding Officer from time to time following consultation with the Bureau and notified to the Parliament in the Business Bulletin. For more information see section ['Determinations by the Presiding Officer'](#).

The motion also specified that the suspensions and variances agreed by the Parliament on 17 March 2020 apply as appropriate, to meetings of the Parliament, including meetings of committees or sub-committees.

12 May 2020 the Parliament passed motion [S5M-21721](#). This suspended Rule 11.8.3 and replaced it with a rule to allow for Committees to vote electronically.



# Rules varied September 2020 to dissolution

On 1 September 2020 the Parliament agreed motion [S5M-22597](#) which further varied rule 12.3.2 (previously varied by motion S5M-21507) to allow for Committees to meet wholly remotely by video conference.

The extension of other Rule variances were agreed by the Bureau and determined by the Presiding Officer. See section '[Determinations by the Presiding Officer](#)'.

# Determinations by the Presiding Officer

A determination by the Presiding Officer was published in the Business Bulletin on [26 June 2020](#) indicating that, following consultation with the Bureau, the suspension and variation of Rules by [motion S5M-21508](#) would be extended until 9 October 2020.

At a meeting of the [Bureau on 29 September 2020](#) it was decided that the Standing Order suspensions and variations in light of COVID should be extended to apply until 24 December 2020.

“ Suspension and variation of Standing Orders: Extension – The Bureau considered the extension of the suspensions and variations of Standing Orders agreed by the Parliament as part of its response to the COVID-19. The Bureau noted that the suspensions and variations currently apply up to 9 October and agreed that the period for which they apply should be extended to 24 December. The Bureau noted that this extension would be confirmed in a determination by the Presiding Officer.”

Minutes of Bureau, 29 September 2020

A determination by the Presiding Officer was published in the Business Bulletin on [9 October 2020](#) indicating that the variation and suspension of Rules (motion S5M-21508) would be extended until 24 December 2020.

The suspensions and variations were in place until dissolution on 5 May 2020. The Bureau was consulted on this extension at its meeting on [8 December 2020](#) and the Presiding Officer's determination appeared in the [Business Bulletin of 23 December 2020](#).

# Inquiry into the resilience of the Scottish Parliament's practices and procedures

On 13 October 2020, the session five Standards, Procedures and Public Appointments Committee launched [an inquiry into the resilience of the Scottish Parliament's practices and procedures](#).

“ In undertaking this inquiry, the Standards, Procedures and Public Appointments Committee (the Committee) has sought to evaluate the changes made to the Parliament's practices and procedures with a view to recommending permanent and temporary rule changes to Standing Orders to ensure that the Scottish Parliament can continue to function as effectively as possible in the context of the ongoing public health situation. The Committee has also considered how the Parliament's practices and procedures can be changed to promote the resilience of parliamentary business in the future.”

The Standards, Procedures and Public Appointments Committee of the Scottish Parliament , 2021<sup>1</sup>

The Committee received a number of written submissions including submissions from political parties in the Parliament, individual MSPs, the Parliamentary Bureau and the Scottish Parliamentary Corporate Body (SPCB). The [written evidence received by the Committee is available online](#).

The Committee also took oral evidence from:

- Emily Death, Director, Global Partners Governance
- Dr Hannah White, Deputy Director, Institute for Government
- Professor Cristina Leston-Bandeira, Professor of Politics, University of Leeds
- Siwan Davies, Director of Senedd Business and
- Sian Wilkins, Head of Chamber and Committee Service, Senedd Cymru.

The Committee published its report '[Standing Order Rule Changes - Inquiry into the resilience of the Scottish Parliament's practices and procedures in relation to its business](#)' on 23 February 2021.

The inquiry considered the impact of the pandemic on the practices of the Parliament across a number of areas, including:

- Committees
- Chamber - interventions and debates
- Public engagement

# Recommendations from the inquiry into the resilience of the Scottish Parliament's practices and procedures

The Committee recommended five Standing Order rule changes as a result of its inquiry. Detail of these changes is provided below.

## New Rule 17.1A

The Committee recommended a new Rule 17.1A which would allow for temporary rule changes for a specified duration. The Committee suggested the new rule as a "balanced approach; protecting its role in relation to the rules while also providing flexibility in an emergency". The Committee also noted that this approach would "allow a future SPPA Committee to pilot potential rule changes before making any recommendation as to whether the rule changes should be made on a permanent basis." <sup>1</sup>

“ The Committee considers that the proposed rule change would ensure that its role in considering and reporting on the practices and procedures of the Parliament was preserved for all but emergency changes. Where emergency changes were proposed by the Bureau, the Committee would remain informed of those changes. The Committee would also have the role of reviewing any such changes, including Standards, Procedures and Public Appointments Committee Standing Order Rule Changes - Inquiry into the resilience of the Scottish Parliament's practices and procedures in relation to its business, 2nd Report 2021 (Session 5) 21 92. 93. 94. The location of meetings of the Parliament (including virtual and hybrid meetings) 95. 96. the length of time that such changes were in place (except in an emergency, where that could be done by the Parliamentary Bureau).”

The Standards, Procedures and Public Appointments Committee of the Scottish Parliament , 2021<sup>1</sup>

The Committee suggested a Rule 17.1A Temporary amendment to standing orders as:

“ 1. The Parliament may, on a motion of the committee mentioned in Rule 6.4 to this effect, amend these standing orders on a temporary basis (and specify the duration of any such amendment). The requirements set out in Rule 17.1 shall apply also in relation to any temporary amendment under this paragraph, and to the outcome of any review of it under paragraph 2. 2. Any temporary amendment made under Rule 17.1A shall be subject to review by that committee, which may, on a motion, recommend any revisions to it (including its duration). 3. In an emergency, the Parliamentary Bureau may, on a motion, recommend that these standing orders are amended on a temporary basis, or that revisions are made to any existing temporary amendment made under them (including the duration of such amendment). In these circumstances, the Parliamentary Bureau shall notify the committee mentioned in Rule 6.4 prior to the motion being moved. The Member moving the motion on behalf of the Parliamentary Bureau shall explain the need for the temporary amendment. 4. Any temporary amendment to the rules shall be annexed to these standing orders.”

[Standing Orders of the Scottish Parliament](#), 6th Edition, 2nd Revision

The change was agreed on 26 February 2021 by motion [S5M-24246](#). The Rule change to Standing Orders came into effect from 8 March 2021.

## Change to Rule 2.7.1

Rule 2.7.1. describes the location and arrangements for meetings of the Parliament. During session five the Rule was suspended and varied to allow for virtual and hybrid meetings of the Parliament. The variation to the Rule did not prescribe which format the Chamber should meet in. The Parliamentary Bureau took decisions about the most appropriate meeting format based on the circumstances at the time and Scottish Government guidance.

During the pandemic Chamber capacity has been reduced and capacity varied in line with social distancing requirements. During the course of the Committee's inquiry, the Parliamentary Bureau highlighted how varying this rule had been central to the Parliament's resilience and ability to meet.

The SPCB raised with the Committee the resource intensive nature of hybrid and virtual meetings and suggested that a full resource assessment should be carried out in relation to virtual and hybrid meetings.

The Committee recommended that Rule 2.7.1 be permanently changed to allow for meetings of the Chamber to take place in a virtual and a hybrid format, as well as physically in the Chamber. It also suggested that the session six Parliament may wish to give further consideration to how hybrid and virtual meetings could be improved and "whether there is a need for the development of criteria and/or guidance relating to the circumstances in which such meetings are held once the Covid-19 pandemic situation has improved".

As such, old Rule 2.7.1 has been deleted:

“ 1. Meetings of the Parliament shall be held in the Debating Chamber of the Parliament, Holyrood, subject to the following provisions.”

and replaced with:

“ 1. Subject to Rule 2.7.2 and 2.7.3, meetings of the Parliament shall be held— (a) in the Debating Chamber of the Parliament, Holyrood (all members meeting there collectively, or in part remotely by video conference hosted on such platform as may be provided by the Parliamentary corporation); or (b) wholly remotely by video conference hosted on such platform as may be provided by the Parliamentary corporation. References in the Rules to the "the Chamber" are to be interpreted accordingly.”

[Standing Orders of the Scottish Parliament](#), 6th Edition, 2nd Revision

The change was agreed on 26 February 2021 by motion [S5M-24246](#). The Rule change to Standing Orders came into effect from 12 May 2021.

## Change to Rule 11.7.1

Rule 11.7.1 was varied during session five to allow for voting to take place using "an" electronic voting system, rather than referring solely to "the" electronic voting system in the Chamber.

The change allowed other voting systems provided for the purpose to be used in the

Chamber and meant that the Parliament could continue to sit effectively during the pandemic.

The Bureau recommended that this Rule change be made permanent to support the resilience of the Parliament. The Committee agreed with the recommendation.

As such, Rule 11.7.1 has been amended and now reads:

“ 1. Normally members shall vote at a meeting of the Parliament or of a Committee of the Whole Parliament using an electronic voting system.”

[Standing Orders of the Scottish Parliament](#), 6th Edition, 2nd Revision

The change was agreed on 26 February 2021 by motion [S5M-24246](#). The Rule change to Standing Orders came into effect from 12 May 2021.

## Change to Rule 12.3.2

Rule 12.3.2 is concerned with the location of a committee meeting. During session five the Rule was varied twice - to allow for committee meetings to take place virtually and to allow for hybrid meetings.

These variations were deemed by the Committee to "have been crucial to allowing committees to continue the full range of their scrutiny role, including evidence sessions and Stage 2 consideration of amendments <sup>1</sup> ."

The Committee report notes that the Conveners Group considered that the changes to allow committees to meet virtually, either on a remote or hybrid basis "had worked well, aside from a few technical issues".

The Conveners Group agreed that these changes had allowed committees to continue to carry out much of their work programmes and that there had been some benefits, including:

- increased opportunities for witnesses from across Scotland to participate in committee business without needing to travel to Edinburgh;
- supporting the Parliament's 'family friendly' values by enabling those members who live at a distance from the Parliament to take part in proceedings virtually;
- evidence sessions with Scottish Ministers could take on a different dynamic in instances where they were not accompanied by Scottish Government officials 'in the room'.

The Group did, however, also note some challenges with chairing virtual meetings, including:

- difficulties in managing remote or hybrid meetings with 11 members;
- concerns around how the dynamics of evidence taking from witness differs during a virtual meeting compared to 'in person' engagement;
- difficulties faced when managing larger panels of evidence, for example, around

witnesses' speaking order, and less traditional forms of gathering evidence, such as round tables.

The Committee recommended that Rule 12.3.2 be permanently changed to provide for hybrid and virtual meetings of committees. It also suggested that, in light of the concerns expressed by the Conveners Group and some individual members, the session six Parliament review this rule change when committees are able to meet fully again in a physical capacity.

As a result of the change, Rule 12.3.2 now reads:

“ 2. A committee shall meet— (a) in Scotland at such place as it may decide, with the approval of the Parliamentary Bureau and the Conveners Group (all members meeting collectively at such place, or in part remotely by video conference hosted on such platform as may be provided by the Parliamentary corporation) or (b) wholly remotely, by video conference hosted on such platform as may be provided by the Parliamentary corporation. 2A. A decision under Rule 12.3.2(a) shall, in the event of any disagreement between the Parliamentary Bureau and the Conveners Group, be referred to the Parliamentary corporation for a determination. The Parliamentary Bureau may require the Conveners Group to make a decision under Rule 12.3.2(a) within a specified period. If the Conveners Group does not make a decision within that period, the decision on the approval shall be made by the Parliamentary Bureau.”

[Standing Orders of the Scottish Parliament](#), 6th Edition, 2nd Revision

The change was agreed on 26 February 2021 by motion [S5M-24246](#). The Rule change to Standing Orders came into effect from 12 May 2021.

## Change to Rule 11.8.3

Rule 11.8.3 is concerned with how members must vote in committee. For the duration of the Covid-19 pandemic, Rule 11.8.3 has been varied to enable committees to vote in a number of different ways. For example, by show of hands, roll call or electronic voting.

The Committee considered that the variation has been particularly valuable to committees in considering amendments at Stage 2 and consulted on the change, seeking Members' views on whether it should be a permanent change or whether it could be made at the beginning of session six if required.

The Committee received no responses to its consultation indicating a preference for either course of action. As a result, and given the ongoing pandemic, the Committee considered that the rule change be made permanent to allow for electronic voting in the context of virtual or hybrid meetings. The decision as to the method of voting rests with the Convener.

Rule 11.8.3 now provides:

“ 3. Except as provided in any direction given to a committee by the Parliament, members of a committee (other than a Committee of the Whole Parliament) or subcommittee shall vote either by show of hands, or by means of a roll call vote as described in Rule 11.7.4, or by an electronic voting system. The convener shall determine at the start of each meeting which of those methods of voting the convener considers it appropriate, in all the circumstances of the meeting, to use for that meeting.”

[Standing Orders of the Scottish Parliament](#), 6th Edition, 2nd Revision

The change was agreed on 26 February 2021 by motion [S5M-24246](#). The Rule change to Standing Orders came into effect from 12 May 2021.

## Variations and suspensions not made permanent

The Committee considered two Rules which had been varied due to the pandemic and reached the conclusion that these changes should not be made on a permanent basis. These changes were:

- the suspension of Rules 5.6(a), (b) and (c) relating to special categories of business, which included oral question times and Members' business
- the variations to Rules 6.3A and 12.1.15 on committee substitutes (i.e. allowing other members to substitute in committee meetings rather than specific named substitute members).

Rules around special categories of business were suspended during the Parliament's immediate response to the pandemic and continued to the end of session five to accommodate the challenges of delivering meetings of the Parliament.

Rules were also varied to allow for more flexibility in Committee substitutes. See section on '[immediate response](#)' for more detailed information.

The Parliamentary Bureau felt that permanent effect should not be given to these Rules as the Parliament could put in place temporary changes if it was required. These suspensions fell at dissolution.

## Temporary Rules in place in session six relating to COVID-19

As part of the Parliament's immediate response to the pandemic, the SPCB made the decision that the public should not access the Parliament for health and safety reasons. As such, Rule 15.2.1 was suspended. This rule allows for members of the public to be admitted to the public gallery during any meeting of the Parliament.

In its report the Committee recommended that if the Parliament agreed to the provision for temporary rule changes (see section on [New Rule 17.1A](#)) the Bureau should propose a temporary rule change suspending public access to the Parliament until such time in session 6 as the newly established SPCB has taken a decision in relation to the admission of the public into the building.

There is only one temporary Rule in place at present as a result of the Coronavirus



(COVID-19) pandemic. This is Temporary Rule 3.

“ Temporary Rule 3 Access to the public gallery 1. In light of the ongoing public response to the Novel coronavirus COVID-19, members of the public shall not be admitted to the public gallery during any meeting of the Parliament until 24 December 2021. 2. Notwithstanding paragraph 1, the Presiding Officer may decide to admit members of the public to the public gallery in advance of 24 December 2021 if relevant legislation and public health guidance allow for it. 3. Where provisions contained in the temporary rule are in conflict with other standing order provisions, those in the temporary rule have precedence”

[Standing Orders of the Scottish Parliament](#), 6th Edition, 2nd Revision

The temporary Rule was initially in place until 9 October 2021, but by agreement of the Parliament by [motion S6M-01601](#) on 7 October 2021, the temporary Rule 3 was extended until 24 December 2021.

## MSP survey

The Scottish Parliamentary Corporate Body carried out a survey of MSPs in September and October 2021. An analysis of the responses is included in the Standards, Procedures and Public Appointments Committee Standing Order Rule Changes - Inquiry into the resilience of the Scottish Parliament's practices and procedures in relation to its business report <sup>1</sup>.

The survey sought members' views on the new ways in which parliamentary business was taking place. 51 MSPs - approximately 40% of all MSPs - responded to the survey.

The survey indicated that MSPs' experience was mixed, with differing assessments from Members. Around 50-60% of the MSPs who responded considered that the arrangements had worked well or very well for various forms of parliamentary proceedings, while a significant minority of 10-20% considered that the arrangements had worked poorly or very poorly.

The survey responses highlighted frustrations with the voting system, noting particular challenges during consideration of stage 3 amendments. There was, however, a recognition that while the system had flaws, many issues were due to user error as well as connectivity issues.

In relation to committees, the overall view was positive. There were, however, mixed views on how well committees were functioning in virtual and hybrid session. There was some frustration around not being in the same room as those that were giving evidence and at the reduction of personal interaction between committee members and witnesses. There was also a feeling that committee meetings were more stilted and that it was harder for Members to ask supplementary questions.

The survey looked to the future as well as seeking responses to questions about current working practices. MSPs were, for example, asked "In what circumstances (if any) should members be able to participate in Chamber business conducted with a hybrid approach". Of those who responded:

- 91% said to prevent travel in the event of a localised lockdown

- 78% said if at risk of COVID-19 infection or other public health incident
- 80% said in adverse weather conditions
- 76% said due to illness
- 78% said because of family circumstances
- 54% said due to urgency constituency business
- 39% said routinely
- 39% said because of attending other parliamentary business, and
- 17% said in other circumstances

# How have other legislatures adapted?

The SPPA Committee took evidence during Session five to understand how legislatures adapted to measures implemented to address the COVID-19 pandemic as part of its inquiry into the resilience of the Scottish Parliament's practices and procedures in relation to its business.

In the [SPPA Committee's report on the inquiry](#), the Committee noted: <sup>1</sup>

“ that many legislatures were constrained by their own practices and procedures which reduced their flexibility in meeting in other formats. In some legislatures, practices such as block-voting or significant levels of proxy-voting were adopted to ensure that legislative functions could still be carried out. While many legislatures were able to adapt quickly, and most have adapted over the course of the pandemic, the Committee recognises that a number are still not able to fulfil all of their functions in the way that they could before the pandemic. The Committee notes that many legislatures have had to adopt practise such as block voting or proxy-voting on a significant scale to ensure that plenary business can continue. It has generally been easier for committee business to continue, albeit primarily on virtual platforms.”

This section explores how legislatures in the UK have adapted to virtual and hybrid proceedings. In addition, the section explores examples from international legislature of changes in procedure for in-person meetings, remote voting, proxy voting and scrutiny of government responses to the pandemic.

## UK Legislatures

During the COVID-19 pandemic, the UK Parliament, Welsh Senedd and Northern Ireland Assembly all adapted their practices and procedures to allow them to fulfil their legislative and scrutiny functions effectively while abiding by the relevant requirements on meetings and social distancing. The following section provides an update of the changes to Standing Orders and procedures for proceedings in each of the legislatures of the United Kingdom:

- [House of Commons - UK Parliament](#)
- [Welsh Senedd](#)
- [Northern Ireland Assembly](#)

## UK Parliament - House of Commons

Temporary arrangements were in place until 22 July 2021 to ensure that proceedings in the House complied with public health guidelines relating to the coronavirus pandemic and that social distancing measures were in place.

A [motion, agreed on 16 June 2021](#), amended the end date of provisions for hybrid proceedings, proxy voting and remote meetings of select committees to 22 July 2021 (the date the House rose for summer recess).

When the House was recalled on 18 August 2021, [the Speaker confirmed that arrangements for hybrid sessions would cease and the House would return to usual](#)

## procedures.

“ the provisions which allowed for hybrid participation in the Chamber are no longer in place. All contributions to proceedings will once again be made from within this Chamber.”

UK Parliament Hansard, 2021<sup>2</sup>

Standing Orders to implement English Votes for English Laws procedures were suspended throughout most of the pandemic period. However, rather than their suspension lapsing and the procedures restarting, the Standing Orders were rescinded on 13 July 2021.<sup>3</sup>

The use of card (or pass) readers to record Members' voting in divisions has been retained as previous procedural changes have fallen away.<sup>4</sup> While making arrangements to adapt procedure that complied with public health guidelines, the House's use of the division lobbies for voting was identified as unlikely to comply with social distancing measures early in the pandemic.<sup>5</sup> The House used both remote and Chamber-based forms of voting before settling on a system using card readers based in the division lobbies. This was subsequently supplemented by an extension of proxy voting.<sup>6</sup>

## Welsh Senedd

On 1 April 2020, the Senedd became the first of the UK's legislatures to hold a fully virtual plenary session with a limited capacity of 28 Members of the Senedd (MS) taking part in the proceedings.<sup>7</sup> The decision to adopt a fully virtual format for plenary sessions in response to the COVID-19 lockdown measures was made by the Senedd's Business Committee. The Business Committee is responsible for the effective organisation of Senedd proceedings and is chaired by the Presiding Officer of the Senedd. Changes to Standing Orders were not required to allow remote plenary sessions in the Senedd.<sup>8</sup>

The Presiding Officer of the Welsh Parliament and the Senedd's Business Committee (consisting of the Minister responsible for Government business and a Business Manager from each of the other groups represented in the Senedd) agreed to move to a hybrid model for plenary meetings on 29 June 2020.<sup>9</sup> This format allows some Members to be present and socially distanced in the Chamber while other Members could continue to contribute virtually from outwith the Senedd. Plenary sessions have alternated between virtual and hybrid meetings as guidance and measures to address the COVID-19 pandemic have changed over time. Members can question Ministers after oral statements in both virtual and hybrid proceedings.

### Voting Procedures

The Senedd introduced [Standing Orders 34.10 and 34.11](#) to reduce the quorum required for plenary sessions and permit weighted voting with one member from a party group carrying the same number of votes as members of that group (see also section on [Proxy Voting](#)). This was implemented to reduce the number of members required in the Chamber. This system was used until [Standing Orders 34.14A-D](#) were introduced on 8 July 2020 to allow members to vote electronically from home. The latter Standing Orders remain in place.

### Committee Meetings

Welsh Senedd committees were suspended on 23 March 2020.<sup>10</sup> Following this, the Welsh Senedd prioritised arrangements for virtual plenary sessions. This meant that certain committee responsibilities in the legislative process were temporarily transferred to the plenary.<sup>8</sup> Committees reconvened virtually from 29 April 2020.<sup>8</sup> Hybrid committee meetings began from 2 October 2020. Committees have been conducting virtual and hybrid meetings since then.

## Northern Ireland Assembly

The Northern Ireland Assembly extended its temporary coronavirus procedures in the [Standing Orders until the end of the 2017-22 mandate](#). These procedures allow the Speaker to make provisions for hybrid plenary proceedings as a temporary measure to abide by social distancing measures. The temporary provisions allow for remote participation in debates, questions to Ministers, statements by Ministers, and in the passage of legislation.

The [Standing Orders as amended 5 July 2021](#) also provide for hybrid and virtual committee proceedings. These arrangements are currently in operation for committee business at the Northern Ireland Assembly.

### Voting Procedures

The Northern Ireland Assembly introduced temporary provisions in Standing Orders to allow amendments to voting in divisions and proxy voting to the end of the 2017-22 mandate as a result of the COVID-19 pandemic. [Standing Orders 112 and 115](#) allow for proxy voting (see also section on [Proxy Voting](#)) in the chamber and committees respectively (along with other measures for committees including voting by video-link or telephone).

## International Legislatures

The [Inter-Parliamentary Union](#) first published a "[Country compilation of parliamentary responses to the pandemic](#)" on 25 March 2020. This was last updated on 16 October 2020. The examples in this paper of legislatures adapting to the immediate impact of COVID-19 measures in various jurisdictions come mainly from this source. They are supplemented by additional information from the individual legislatures and the [Legislative Responses to COVID-19 Tracker](#) developed by the [Westminster Foundation for Democracy](#). This section on international legislatures updates a previous [SPICe briefing to the SPPA Committee on 12 November 2020](#).

Many of the changes that legislatures made to practices and procedures appear to fall into four broad categories:

- [Arrangements for physical, in-person meetings](#);
- [Remote meetings, remote voting and the use of technology](#);
- [Proxy Voting](#); and

- **Scrutiny of government responses to the pandemic**

Some of these changes have been made informally, by agreement between political parties and groups. Others have been made formally by amending rules and Standing Orders. Further details, including specific examples, follow.

## Arrangements for physical, in-person meetings

Most legislatures have continued to meet over the course of the pandemic, albeit with restrictions in place to maintain social distancing and comply with local health measures introduced to prevent or limit the spread of COVID-19.<sup>11</sup> Common restrictions include fewer sittings; fewer members physically in attendance; altered voting arrangements; and limiting parliamentary business to COVID-19 related matters or other urgent business.<sup>11</sup> The arrangements for physical, in-person meetings have varied in each country with changes in the rates of coronavirus cases and vaccinations.

Individual legislatures have approached these restrictions (and changes to restrictions) in different ways. Examples of the measures taken include:<sup>12</sup>

- On 25 March, the **German Bundestag** temporarily modified its Rules of Procedure to lower the quorum from 50% of the 709 Members to 25%. This modification was initially applicable until 30 September 2020 but has since been extended several times over the course of the pandemic. It is now [due to expire on 31 December 2021](#). The modification applies to both plenary and committee meetings.
- The rules of the **Israeli Knesset** do not allow for remote participation or voting in the plenary. From 30 April 2020, all 120 members were allowed to participate and vote, as long as social distancing was observed. Members were accommodated by using the press and public galleries as well as the plenary floor. Each member was given an assigned seat in one of these areas. The electronic voting system was routed to these new seats. The Speaker of the Knesset, who determines the [Rules of Procedure](#) for the Knesset and holds responsibility for ensuring the Knesset's operations during emergencies, [gave instructions to lift remaining COVID-19 measures and return the Knesset to full activity on 1 June 2021](#). Some measures like occupancy limits in committee rooms have since been reintroduced but there has not been an interruption to plenary business of the Knesset as a result of these measures.<sup>13</sup> Similarly, members are exempt from presenting a "Green Pass" confirming vaccination status or a negative coronavirus test on entry to the Knesset (when these rules are in operation), and thus are not prevented from taking part in Knesset business as a result of an inadequate vaccination status.<sup>14</sup>
- On 23 March 2020, the **Australian House of Representatives** resolved to allow the House to meet in "*a manner and form not otherwise provided by the Standing Orders (if the Leader of the House and the Manager of Opposition Business agree)*".<sup>15</sup> The way in which members may be present (including for quorum purposes) is to be determined by the Speaker. The resolution was used for the first time during the August-September sitting fortnight, to allow Members who could not be physically present in the chamber to contribute to House proceedings via video link. The resolution amends the [House of Representatives Standing Orders](#) for the duration of the "human biosecurity emergency period" in Australia. The emergency period was extended several times over the course of the pandemic and is [due to expire on 17](#)



[December 2021](#). The **Australian Senate** agreed a similar provision.<sup>15</sup> An unofficial arrangement of pairing of Government and Opposition members has been used to maintain the party composition of the Houses when fewer members are present.<sup>12</sup> Practical changes to division procedures were also made to avoid members moving around the Chamber in order to vote.<sup>16</sup>

## Remote meetings, remote voting and the use of technology

Several legislatures have made clear that they are unable to organise remote or virtual plenary sessions due to the rules under which they operate or other legal requirements.<sup>11</sup> In Austria, the [Federal Constitution](#) requires members to be physically present in the chamber if they are to take part in proceedings.<sup>12</sup> Spain, Brazil, Norway and Finland all amended their laws to allow for remote sittings.<sup>17</sup> Virtual committee meetings are more common than virtual plenary meetings, with many parliaments amending their rules to allow these to take place.<sup>11</sup>

Despite this, there has been a trend towards hybrid sessions in a number of other legislatures, either in terms of how members attend (some physically and some virtually) or how business is taken (some business items taken virtually and other items with members in the chamber).<sup>11</sup> Some legislatures, like the UK Parliament's House of Commons, have transitioned back to the procedures in place before the COVID-19 pandemic. Other legislatures without specific rules prohibiting remote meetings and in jurisdictions particularly affected by the evolution of variants or varying vaccination rates have continued to make provisions for remote and hybrid meetings. For example, in New Zealand, procedures were adopted to allow oral questions to be lodged electronically and select committees to conduct meetings or other forms of decision making by electronic means.<sup>18</sup>

Examples of the measures taken to implement remote meetings and technology to facilitate voting are set out below.<sup>12</sup>

### Remote Sessions

- **Brazil's Chamber of Deputies** approved a law ([Resolution 14/2020](#)) on 17 March 2020 to establish virtual plenary sessions to accommodate 513 members while public health measures were in place to address the COVID-19 pandemic. The first virtual plenary was held on 25 March 2020. The "[Remote Deliberation System](#)" allows all aspects of the legislative and scrutiny process to occur virtually. For instance, the Remote Deliberation System verifies the Members' identity, allows members to participate in proceedings, submit motions and amendments, follow all aspects of the legislative process, and vote, from anywhere. The Chamber of Deputies uses a combination of proprietary videoconferencing software and a bespoke app to integrate with existing IT systems. Brazil's Chamber of Deputies continue to conduct routine virtual plenaries. **Brazil's Senate** introduced a similar remote plenary system. A [draft resolution is currently undergoing scrutiny](#) to amend internal Rules of the Federal Senate to permanently institute its [Remote Deliberation System](#).
- **Latvia's Saeima** moved to fully virtual plenary sessions during the pandemic, adapting its rules and procedures to do so. The Saeima is using an IT platform ([e-](#)

[Saeima](#)), developed specifically for the parliament, which allows members to debate and vote in real time. The system was launched in May 2020. A state of emergency is in place in Latvia until 11 January 2022. The Saeima has been continuing to meet remotely for plenary sittings via the e-Saeima platform. The system was intended to be a temporary measure but if it continues to be successful, it will be considered for use in regular plenary sittings in the future.

- Both houses of the **Parliament of the Republic of South Africa** (the National Assembly and the National Council of Provinces) [amended the Rules of Parliament](#) and moved to virtual and hybrid sittings for plenary (and committee) meetings in April 2020. The virtual and hybrid sittings of Parliament are still in operation to date.
- Australia's **House of Representatives'** [Standing Order 235\(b\)](#) already provided for virtual committees with parliamentary privilege in the proceedings prior to the COVID-19 pandemic. Some committees, having initially suspended their inquiries until more favourable conditions returned, are now resuming their regular inquiry work. Others continue to meet and take evidence virtually using videoconferencing arrangements.

### Remote voting

Remote voting, particularly in plenary sessions, would appear to be one of the most challenging new parliamentary procedures to introduce.<sup>11</sup> Standing Orders in most legislatures specifically rule it out while a combination of technological and security challenges often make it practically difficult.<sup>11</sup>

Further examples of remote voting arrangements include:

- Before the pandemic, the **Spanish Cortes Generales** appears to have been the only European legislature with provisions in [Standing Orders](#) permitting remote electronic voting. This was limited to specific circumstances – pregnancy, maternity and paternity leave, and serious illness. Even in those circumstances, remote voting was only allowed if a member was unable to exercise their parliamentary functions and the Bureau considered it sufficiently justified. Following the outbreak of the pandemic these provisions were extended to all Senators and Deputies unable to attend parliament due to COVID-19.<sup>19</sup>
- On 20 March, the Bureau of the **European Parliament** agreed that the President could approve a derogation from the Rules of Procedure to enable an alternative electronic voting procedure. Under the new system, MEPs receive a voting paper by e-mail. This voting paper is then completed, signed, scanned or photographed and returned from their official European Parliament e-mail address. Once the result of the vote has been established it is recorded in the minutes and published. The first three votes under the new procedure were held on 26 March 2020.<sup>19</sup> The remote voting and participation procedures were initially in place until the end of March 2021 but have since been reintroduced.<sup>20</sup>

## Proxy Voting

Voting by proxy has long been used in various parliaments around world to maintain the



balance of power between different political groups if members are absent from legislative proceedings. Proxy or substitute voting is available in a number of legislatures as a result of changes in procedures to abide by measures to address the COVID-19 pandemic.<sup>12</sup>

- The **New Zealand Parliament's House of Representatives** has had a system of proxy voting set out by the [Standing Orders](#) since 1996. The procedures for proxy voting were amended to accommodate circumstances which may arise from COVID-19 measures.<sup>21</sup> The proxy vote system in the House of Representatives is based on a party vote system linked to the mixed-member proportional system used to elect members to the House of Representatives. When a party vote is held, votes are cast as a block by party representatives on behalf of each of the various parties recognised in the House. The changes to the Standing Orders now mean that the Business Committee can waive or adjust the rules on proxy voting.<sup>21</sup> The usual practice was for proxy votes to be used for a maximum of 25% of a party's membership in the House. This has been suspended so that maximum limit does not apply and proxy votes can be used for the entirety of a party's membership in the House. Proxy voting is also permitted for personal votes on conscience issues, or in circumstances where both a party and personal vote is held in tandem after consideration by the Speaker. In these circumstances, the member who is unavailable for the vote authorises another member to cast a vote or abstention in their name. There is no limit on the number of proxy votes that may be cast during personal votes.
- **France** has a long tradition of permitting proxy voting in both houses of the National Parliament (Sénat and Assemblée nationale). On 17 March 2020, the [President of the Assemblée convened the Conference of Presidents](#) to establish changes in arrangements and procedures to allow for democratic and legislative continuity with the onset of measures to address the COVID-19 pandemic in France. The result of these proceedings extended the provisions for proxy voting to allow for a single member to cast the votes of all the members of their political group.

Information on proxy voting in UK legislatures is provided in the following sections.

## Scottish Parliament

To date, proxies have not been used in the Scottish Parliament. The issue of proxies is, however, one which the Standards, Procedures and Public Appointments Committee has taken an interest in.

In 2019, the Committee considered the issue in response to correspondence from an MSP in 2019. At that time, the Committee decided to await the results of the House of Commons proxy voting pilot before revisiting the issue. In March 2020, [the Committee wrote to all MSPs](#) to consult them on the matter of proxy voting. This may be something which the session six Standards, Procedures and Public Appointments Committee considers.

## House of Commons

The House of Commons [agreed](#) to make permanent arrangements for proxy voting on 23 September 2020. Proxy voting is available to MPs absent from Westminster due to childbirth, caring for a newborn or recently adopted child, or complications associated with childbirth. This decision came after the Procedure Committee reviewed the pilot scheme

which had been in place since 29 January 2019.<sup>22</sup>

The [Proxy Voting Scheme](#) is available on the parliamentary website. It allows a proxy vote to be cast:

- in any division in the House or in any legislative grand committee, except for the purposes of counting a quorum or for allowing the closure;
- in secret ballots for electing a Speaker, Deputy Speaker, select committee chair or chair of the Backbench Business Committee.

Proxy votes can only be cast if the Speaker has issued a certificate confirming that the MP is eligible and are indicated in division lists.

The House of Commons also agreed that proxy votes should be available for medical or public health reasons related to the pandemic on 23 September 2020.<sup>22</sup> This extended temporary arrangements that had been in place since June 2020, until 3 November 2020. On 22 October 2020, these arrangements were extended until 30 March 2021<sup>23</sup>.

More information on the scheme is also available in a [House of Commons Library paper Proxy voting in divisions in the House](#).

## Welsh Senedd

The Standing Orders of the Senedd allow for proxy voting during parental leave<sup>24</sup>. In these circumstances, a proxy vote cannot be cast where legislation requires a resolution or motion to be passed on a vote in which the number of Members voting in favour of it is at least two-thirds of the total number of Senedd seats.

Temporary Standing Order Rule 34 is in place until August 2022. It provides for emergency procedure in light of the Coronavirus (COVID-19) pandemic. Proxy voting is also allowed under Rule 34.11 in plenary where one member of a group may carry the votes for all members of the group (see also section on [Welsh Senedd](#))<sup>25</sup>.

“ Standing Order 34 makes temporary provisions to facilitate the continuation of Senedd business during the COVID-19 outbreak. Standing Order 34 will cease to have effect on 1 August 2022, or when the Senedd so resolves, whichever is sooner. Where provisions contained in Standing Order 34 are in conflict with other Standing Order provisions, those in Standing Order 34 must have precedence.”

[Standing Orders of the Welsh Senedd](#), November 2021

## Northern Ireland Assembly

On 31 March 2020, Temporary Standing Orders introduced proxy voting in plenary. The requirements for proxy votes included informing the Speaker about who will vote on behalf of a member and for how long. The temporary Standing Order is in place until the end of the session in March 2022<sup>26</sup>.

## Scrutiny of government responses to the pandemic

The pandemic and government responses to it are impacting almost every area of public policy. Many legislatures around the world have established special COVID-19 committees to focus scrutiny directly on that broader picture.<sup>11</sup> This is in addition to existing subject committees which may or may not be conducting their own inquiries into specific aspects of the pandemic. In some cases, these new coronavirus-focused committees were established at least in part because their respective legislatures were in lockdown and not sitting in plenary.<sup>11</sup>

Examples of this approach include:

- In **New Zealand, the House of Representatives** amended Standing Orders to establish an [Epidemic Response Committee](#) to scrutinise the government's response to COVID-19. The committee was chaired by the Leader of the Opposition and consisted of a majority of opposition members. It met by videoconference several times a week from 25 March 2020 (when New Zealand went into a nationwide lockdown). It was supported by expert staff to ask questions of ministers about the full breadth of the government's response. The committee produced two reports and was disestablished on 26 May 2020.
- In **Canada, the House of Commons** approved a motion on 20 April to create a [Special Committee on the COVID-19 Pandemic](#). While most parliamentary committees have just 12 members, all members were appointed to the new committee with the Speaker acting as Chair. The committee first convened on 28 April 2020 and held its final meeting on 18 June 2020. The committee met twice a week – once in the chamber and once by videoconference and functioned as a forum for Ministers to make announcements and members to present petitions and question the Prime Minister and other Ministers of the Crown.
- On 16 March 2020, the **Norwegian Storting** made use of existing powers under its Rules of Procedure to set up a [Special Committee](#) to consider all urgent matters relating to the coronavirus crisis. The committee consisted of the President of the Storting and one MP from each of the nine parliamentary party groups.
- The **Houses of Oireachtas in Ireland** established the [Special Committee on Covid-19 Response](#) on 6 May 2020 to consider and take evidence on the State's response to the Covid-19 pandemic. The Committee published its final report and laid it before the Houses of the Oireachtas on 8 October 2020. The areas the committee recommended as requiring ongoing oversight and accountability fell to the various sectoral joint committees of the Houses of Oireachtas.

A [COVID-19 Committee](#) was also formed in session five and considered the Scottish Government's handling of the Coronavirus (COVID-19) pandemic.

The Scottish Parliament also has a [COVID-19 Recovery Committee](#), the remit of which is:

“

- the Scottish Government’s response to COVID-19 and actions to recover from the pandemic”
- Government legislation introduced in response to the pandemic”
- legislation or policies aiming to help Scotland recover from the pandemic”
- how Government departments work together to respond and recover from the pandemic”

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