

# CSO(2)-07-06 (p1) Annex

## Standing Order 1 - Presiding Officer and Deputy

### Election of Presiding Officer and Deputy

1.1 At its first meeting after an ordinary election, the Assembly shall elect a Presiding Officer and a Deputy.

Will need amendment to align language with that of the Bill. Clause 25 (1). i.e. Bill refers to a "general election".

1.2 Until the Presiding Officer is elected, the Assembly shall be chaired by the Clerk.

In normal circumstances, the outgoing PO will preside over the Assembly until the election of a PO at its first meeting after an election. This will happen after 2007 under clause 25 (3). N.B. The DPO only holds office until the Assembly is dissolved.

For the May 2007 election, there is an additional provision which requires the PO immediately before the election to be returned as an Assembly Member [Schedule 11 para 20]. This section will need amendment to comply with this provision.

However there may be circumstances where provision needs to be made for someone other than the outgoing PO to preside: for example, if he/she is unwilling to act; if not re-elected in May 2007; or is a candidate in the election for a new PO. In these circumstances the Clerk could preside, though he/she cannot deal with points of order. An alternative would be for the oldest member or the longest serving member to preside.

It may be difficult to establish who the longest serving Member is given that Members in the first Assembly were sworn in simultaneously and the precise times were not recorded. Choosing the oldest Member may mean that an inexperienced Member would be called upon to preside. On this basis the Clerk may be the most appropriate person to preside.

Q – Should the Clerk preside over the first meeting of each Assembly until the election of a PO in the event that the existing PO is unable or unwilling to preside, by virtue of choice or provisions in the Bill?

Q – Should the same provision apply to presiding over plenary for the election of a new or temporary PO in the event that the PO and DPO are unable to act or the offices are vacant? (Clause 25 (12) of the Bill)

Q – If the Clerk is to preside, should the Standing Order state that that person cannot take any points of order?

<p>1.3 At the election of a Presiding Officer or a Deputy, the chair shall invite nominations. A nomination shall in the first instance be valid only if seconded by a Member who is not a member of the political group to which the nominating Member belongs. If it appears that no Member is likely to be nominated and seconded by members of different political groups, the chair shall adjourn the meeting and may, on its resumption, accept nominations which are seconded by members of the same political group as the nominating Members.</p>	<p>No provision is made in the Bill for this procedure.</p> <p>Q - Consider whether this should remain in its present form. In particular whether any adjournment is necessary.</p>
<p>1.4 If there is only one nomination, the chair shall propose that the Member nominated be elected as Presiding Officer (or Deputy as the case may be). If that is opposed, or if there are two or more nominations, the chair shall make arrangements for an election to take place by secret ballot.</p>	<p>Appears to require no amendment.</p>
<p>1.5 If two Members have been nominated, the chair shall declare elected the Member who has secured the greater number of votes in the ballot.</p>	<p>Appears to require no amendment.</p>
<p>1.6 If more than two Members have been nominated and no Member receives more than half of the votes cast in a ballot, the candidate who has received the smallest number of votes shall be excluded and further ballots held until one candidate obtains more than half of the votes cast; and if there is an equality of votes between the two remaining candidates (or the only two candidates) a further ballot shall take place.</p>	<p>Appears to require no amendment.</p> <p>There is no provision in the event of a stalemate, but this has not been an issue so far, so SOs are probably best left silent on this.</p>
<p>1.7 The Member elected as Presiding Officer shall immediately take the chair.</p>	<p>Appears to require no amendment but Members might wish to consider whether it is necessary?</p> <p>Q – Is it necessary to state this in SOs?</p>

1.8 The Presiding Officer and Deputy may not represent the same party.

This will need amendment to comply with Clauses 25(7) & (9) of the Bill which states that the PO and DPO must not belong to:

- a) the same political group, or
- b) different political groups both of which are political groups with an executive role.

This provision can be overruled with a 2/3 majority in Plenary. Clause 25(9)

It is possible that once the FM has been nominated or following changes to political groups during an Assembly term the PO and DPO become members of the same political group or different political groups with an executive role.

Q – Should SOs set out what would happen following a change to political groups or the executive which would not comply with the provision in the Bill? One solution might be for SOs to provide for a fresh election in this event.

Q – Do SOs need to set out that the requirement for the PO and DPO to belong to different political groups can be overruled?

**Duties and Powers of Presiding Officer and Deputy (Bill states "functions" – consider whether the title should be amended to reflect this. See also 1.9 below. The term functions is used in the Scottish SOs)**

1.9 The duties and powers of the Presiding Officer are those set out in the Act and the Standing Orders. The Presiding Officer shall preside at plenary meetings of the Assembly, and shall fulfil the responsibilities specified in the Act and Standing Orders. The Presiding Officer shall determine any questions as to the interpretation or application of Standing Orders, and such determinations shall be final.

The Bill uses the word "functions" in relation to the PO. Current Standing Orders use "duties", "powers", "responsibilities" and "functions". It would seem appropriate to use consistent language when describing the role of the PO. The functions of the PO appear in the Bill in a number of places. The explanatory notes relating to Clause 25 set these out clearly.

Q – Should Standing Orders follow the Bill and refer only to "functions"?

It would not seem necessary or appropriate to re-state the functions of the PO in the Standing Orders other than those which are not in the Bill, namely:

-1 To preside at plenary meetings;

-2 To determine questions as to the

	<p style="text-align: center;">interpretation or application of Standing Orders.</p> <p>Q – Do members agree with this approach?</p>
<p>1.10 In the absence of the Presiding Officer or at his or her request, the Deputy shall perform the duties of the Presiding Officer and may exercise his or her powers.</p> <p>The Deputy shall fulfil the responsibilities attributed to that office in these Standing Orders.</p> <p>In the absence of, or at the request of, the Deputy the Presiding Officer may perform any function allocated to the Deputy, by the Standing Orders.</p> <p>Where the Presiding Officer has a duty or power under the Standing Orders relating to any matter in which he or she has any direct or indirect personal or financial interest registered under Standing Order 4, he or she shall request that the duty be performed or the power exercised instead by the Deputy. Where the Deputy has a duty or power under the Standing Orders relating to any matter in which he or she has a financial interest registered under Standing Order 4, he or she shall request that the duty be performed or the power exercised instead by the Presiding Officer.</p>	<p>The Bill allows for the functions of the PO to be exercised by the DPO if the office of PO is vacant or the PO is for any reason unable to act. Clause 25(10). It also provides for the PO to authorise the DPO to exercise the functions of the PO. Clause 25 (11) The DPO can carry out all functions of the PO except chair the Commission (unless he/she is a member of it). This last fact probably needs to be set out in the first sentence of the new SO.</p> <p>Q - Should the first sentence refer to "functions" see 1.9 above? Clause 25 (10) &amp; (11).</p> <p>Q - Is the second sentence necessary given that this is stated in the Bill? (same question is asked in relation to PO in 1.9 above)</p> <p>The third sentence probably needs no amendment.</p> <p>Q – Is the 4<sup>th</sup> sentence necessary, as provision is made elsewhere in this SO for the PO/DPO to carry out each others functions where necessary?</p>
<p>1.11. Any Member other than a member of the Assembly Cabinet may, at the request of the Presiding Officer or Deputy when either is presiding at a plenary meeting of the Assembly, temporarily preside for not more than a quarter of an hour on any one occasion; but a Member so presiding shall not perform any of the duties or exercise any of the powers of the Presiding Officer or Deputy except those contained in Standing Order 7 (Order in Plenary Meetings) except that if the</p>	<p>This provision has worked well so far. Current practice has been to ask a member of the Panel of Chairs to temporarily preside and in the absence of a formal Panel of Chairs this could just be a committee chair, but it is probably sensible to leave the SO as it is and refer to "any member" to provide flexibility.</p> <p>Q - Do members agree with this approach?</p>

Member so presiding believes that the conduct of a Member is such as to warrant his or her withdrawal, the Member presiding shall suspend the meeting until the Presiding Officer or Deputy shall have returned.

1.12 When presiding at plenary meetings, the Presiding Officer or Deputy may vote only by the exercise of a casting vote. Where there is an equality of votes a casting vote shall be given

(i) in the affirmative where further discussion of the matter before the Assembly is possible; and

(ii) in the negative where further discussion is not possible or where there is a vote on an amendment.

No provision is made in the Bill but Members might wish to consider whether both the PO and DPO should have only a casting vote at all times not just when they are presiding at plenary meetings. This would mean they would be unable to vote in plenary debates, although it would not affect their ability to take part in a debate if they were not presiding. This is linked to decisions taken on 1.8 above relating to party balance. In Scotland the PO does not have any vote at a meeting of the Parliament other than a casting vote. The Deputy Presiding Officers do not have a vote if they are in the chair but can vote in all other circumstances.

Q – Should the PO and DPO have any vote other than a casting vote?

1.13 If both the Presiding Officer and Deputy are temporarily unable to serve (other than under the provisions of Standing Order 1.11), the Clerk shall take the chair solely in order to arrange for the election of a Member to act as Presiding Officer and a person so elected shall perform the duties and may exercise the powers of the Presiding Officer or Deputy until either the Presiding Officer or Deputy becomes able to serve.

Q - Consider whether this is necessary if provision has been made under Clause 25(12). See possible 10a above.

Also see note on SO1.2 above regarding the Clerk taking the chair.

## Resignation of Presiding Officer or Deputy

1.14 The Presiding Officer or the Deputy may resign by giving notice in writing to the Clerk. If the Assembly resolves that it has no confidence in its Presiding Officer or its Deputy, that Officer shall immediately give notice of resignation by writing to the Clerk.

Appears to require no amendment.

### **Vacancies**

1.15 If either the office of Presiding Officer or that of the Deputy becomes vacant the Assembly shall as soon as may be elect a Member to fill the vacancy. Any such election of a Presiding Officer shall take precedence over all other business, and shall be conducted in accordance with this Standing Order.

Appears to require no amendment, although the phrase "as soon as may be" is very vague. This could be seen as both a good and a bad thing.

Q – Consider whether "as soon as may be" is appropriate.