



DAW/PSP/mb

The Commission Secretariat
Commission on Parliamentary Reform
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The Scottish Parliament
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Dear Sir or Madam

COMMISSION ON PARLIAMENTARY REFORM

1. ICAS welcomes the opportunity to contribute to the Commission's work – through this written evidence and through attendance at the roundtable discussion event on 7 February 2017. We are a leading professional body for chartered accountants with over 21,000 members working across the UK and internationally. Almost two thirds of our working membership work in business; others work in accountancy practices ranging from the “Big Four” firms to the small practitioner in rural areas of the country.
2. ICAS' Charter requires us to act primarily in the public interest, a duty to act not solely for its members but for the wider good. From a public interest perspective, our role is to share insights from ICAS members in the many complex issues and decisions involved in tax and financial system design, and in various aspects of business, and to point out operational practicalities.
3. Our approach to assisting and influencing on matters of policy would therefore be to focus on the workability of the legislative or other proposals and to assess the likelihood of achieving the stated policy outcome objectives. We would not normally comment on party political matters or, for example, on the setting of tax rates – except to highlight possible impacts on the workability of the proposals.
4. We support the work of the Commission. This is a critical time for the Scottish Government and for the Scottish Parliament, with the devolution of greater taxation powers and consequently a much higher reliance by the Government on the performance of the Scottish economy in driving tax revenues to support the public finances. Moreover, it is likely that further powers will be devolved to the Scottish Parliament as a result of the UK's departure from the EU. It is timely that the procedures which were designed to handle the initial range of devolved powers are now reviewed and strengthened to cope with the new, increased responsibilities.
5. The experience of the Parliament operating with a majority Government between 2011 and 2016 has also been informative, and we feel it is timely to consider how the Parliament can be more effective in scrutinising and challenging legislation in such a situation and more generally.
6. With the increasing powers being devolved to the Scottish Parliament, comes a responsibility to ensure that the exercise of those powers is undertaken in a sensible, effective and robust manner, that appropriate consultation with experts and the public has taken place and that the resulting legislation is workable and likely to achieve the policy outcome objectives.

KEY POINTS*Engagement*

1. In our view, the Scottish Parliament engages effectively with people and organisations within Scotland. We have provided input and evidence on a range of matters, especially in relation to devolved areas of taxation.
2. Parliamentary committees should continue to invite experts and relevant members of the public to give evidence as required, to allow the committees to better understand the issues behind the implementation of the legislation and the extent to which it will achieve its policy objectives. Reaching out to new sources of evidence from a broader base and not just “the usual suspects”, could help the committees in scrutinising draft legislation from different perspectives.
3. It is helpful to see in Committee reports how the evidence which has been provided has been utilised in the development of the Committees’ conclusions.

Professional Body Perspective

4. As a professional body representing a range of expertise across a wide range of sectors, there are a few specific perspectives which we would highlight:
 - Providing comments on detailed areas based on specialist expertise can be greatly assisted by the opportunity to explain the points verbally to a Committee, and clarification can be enhanced by addressing the questions from Committee members;
 - Detailed points based on the experience and expertise of specialists can be difficult to fully appreciate and may on the surface appear to be pedantic for those not working within the specialism, but they can often be critical to the workability of proposed legislation;
 - On occasions, the points being made by professional bodies appear to be taken as self-serving in protecting or enhancing the interests of members: nevertheless, they might be critical to the workability of the legislation and should not be dismissed lightly;
 - We perceive that the Parliament and the Parliament’s Information Centre often request information and evidence from the academic community. Whilst we respect the independence and rigour of the academic community, we would also advocate more frequent approaches to professional and representative bodies, whose members have greater experience of the application of legislation in practice and the practical problems that can occur.
5. We have found that informal information and discussion sessions appeared to have been well received by the Finance Committee when looking at devolved taxation matters. This allowed us to share some of our experience and expertise and highlight issues in relation to the workability of tax policy and collection arrangements.

Committee Appointments

6. In order to improve the challenge and scrutiny of legislation, and the perception of such, in Scotland’s unicameral system we suggest that consideration be given to prohibiting the appointment of Committee Chairs from the Party in Government (or the lead Party in a coalition Government). Subject to this, the Chair should be elected by the Committee based on the “best person for the job”.
7. For each piece of legislation, we suggest consideration be given to nominating a formal Reporter (or “Rapporteur”) within the Committee to champion the legislation and to support it through the development process. There should also be a formal Challenger who leads the challenges to the legislation and co-ordinates proposed amendments.

Committee Role & the Development of Legislation

8. Demographics and ongoing funding constraints will require cost efficiencies and careful prioritisation in Government spending. The Government will need to focus better on securing policy outcomes in the most efficient way. We suggest that Parliament should conduct full system efficiency reviews of large blocks of Government spending on a rolling basis. These should seek to identify efficiencies in the system, but importantly should seek to assess whether the inputs being applied and the outputs being generated are achieving the desired policy outcomes.

9. One of the key roles for Committees is to ensure that the Government has considered other policy tools to achieve its desired policy outcomes: legislation is not always the most appropriate means of achieving these.
10. Financial memoranda which summarise the financial impact of proposed legislation should be clearer and more robust, with better quality estimates. These should be carefully scrutinised by the Finance Committee and other relevant committees to ensure that they are not unduly optimistic.
11. We have observed an increasing tendency to address issues of importance in secondary legislation rather than using secondary legislation simply for implementation measures – so that such issues receive less scrutiny than the primary legislation process would allow. Whilst this might be an efficient way of implementing legislation when parliamentary resources are stretched, in our view, secondary legislation should only be used to set out the detail of how primary legislation should be implemented. For changes to primary legislation and legislation on new matters of principle, or where powers are to be awarded to the Executive or to other bodies, the full primary legislation process should be followed, with appropriate levels of challenge and scrutiny.
12. We are concerned that towards the end of the legislative process, there is no overall consideration of how all the accumulated amendments are likely to interact with each other and affect how the legislation will apply in practice. We suggest that a new intermediate step should be included in the 3rd stage of legislative development – where the proposed amendments from the 2nd (Committee) and 3rd (Plenary) stages are considered in totality (by the relevant parliamentary committee), prior to the motion to pass the Bill (i.e. final approval) in the Scottish Parliament.
13. Parliamentary committees should consider as a matter of routine whether they wish to express their approval for a Bill on the condition that it contains a requirement for an independent review after a certain time on how effective it has been in achieving the desired policy outcomes. Certainly, after an appropriate period – possibly 3, 4 or 5 years – it would normally be appropriate for the Scottish Government to undertake an analysis of whether legislation has achieved, or is helping to achieve, the policy outcomes intended. For some pieces of legislation, it may be appropriate to insert a “sunset clause” so that the legislation expires after a certain time unless it is formally renewed.

Committee Membership and Workload

14. We recognise the limitation on the number of MSPs available to sit on Committees and the wide range of many of the committee remits. Furthermore, with greater devolution and a potentially greater role in post-legislative scrutiny, the workloads of each committee are likely to increase. If work continues to be conducted in the same way, it may be that further resources will be required. Alternatively, further evaluation of what work is conducted and how it is conducted may be needed.

I hope the above comments are helpful to you in taking forward the work of the Commission. We would be happy to discuss any points further, if that would be of assistance.

Yours faithfully



DAVID A WOOD
Executive Director, Policy Leadership