

Quick guide

The Constitution – Assembly Measures

April 2007

What are Assembly Measures?

Under Part 3 of the Government of Wales Act 2006 (“the Act”) the Assembly can pass legislation, known as “Assembly Measures”, in matters where it has legislative competence.

Section 95 of the Act, along with Schedule 5, set out the extent of the Assembly's legislative competence by listing devolved “Fields” and “Matters” within each Field. Schedule 5 may be amended to add “Matters” and thus extend the legal competence of the Assembly. This may be done either by an Act of Parliament, or by a Legislative Competence Order (LCO) approved by the National Assembly for Wales and by both Houses of Parliament. (See [Constitutional Quick guide on Legislative Competence Orders](#))

Provided it complies with the limits set by Section 95 and Schedule 5, an Assembly Measure can have the same effect as an Act of Parliament. In other words it can, for example, modify existing Acts of Parliament or other enactments and it can make new provision not covered by existing statutes.

However, the ultimate right of Parliament to legislate in relation to Wales, even on a matter over which legislative competence has been conferred on the Assembly, is preserved.

Procedures for Assembly Measures

Requirements in the Act

The Act imposes certain requirements in relation to the introduction into the Assembly of proposed Assembly Measures.¹ It states that a proposed Assembly Measure may, subject to provisions of Standing Orders, be introduced by the First Minister, any of the Welsh Ministers, any Deputy Welsh Minister, the Counsel General or any Assembly Member.

The person in charge of a proposed Assembly Measure must, on or before the Measure's introduction, make a statement expressing their view that the provisions in the Measure are within the Assembly's legislative competence.

The Presiding Officer must, on or before introduction of a proposed Measure, decide whether or not it is within the Assembly's legislative competence and state that decision.

The Act requires the Assembly's Standing Orders to contain certain provisions in relation to

¹ *Government of Wales Act*, s.97, 98.

the consideration and passing of Assembly Measures, one of which is that a Measure must, generally, pass through three stages.

- There must be a general debate and a vote on its general principles;
- There must then be a stage involving consideration of and a vote on, the details of the Measure;
- There must be a stage at which members can vote on whether to pass the Measure in its final form.²

Standing Orders must include provision that a proposed Assembly Measure can only be passed if the text of the proposed Measure is in both English and Welsh (although Standing Orders may specify exemptions).

Different types of Assembly Measure

Standing Order 23 sets out the detailed procedures for scrutiny of proposed Measures by the Assembly.³ It provides that different terms will be used to describe a proposed Measure depending on who is responsible for introducing it. These are:

- Government proposed Measures.
- Committee proposed Measures.
- Commission proposed Measures.
- Member proposed Measures.

A member of the Welsh Assembly Government cannot be the Member in charge of a Committee proposed Measure; a Commission proposed Measure or a Member proposed Measure.

Introducing a Measure

A proposed Measure must be introduced by being laid in its proper form in accordance with any determinations made by the Presiding Officer. It must also be accompanied by a statement in English and Welsh by the Presiding Officer which must:

- indicate whether or not the provisions of the proposed Measure would be, in his or her opinion, within the legislative competence of the Assembly; and
- indicate any provisions which, in his or her opinion, would not be within the legislative competence of the Assembly and the reasons for that opinion.

A proposed Measure must be introduced in both English and Welsh, except in the following cases:

- when, in respect of a Government proposed Measure, the Member in charge states in

² Government of Wales Act 2006, section 98(1)

³ Standing Orders Committee, Report, 31 January 2007, SO23

writing that, for specified reasons, it would not be appropriate in the circumstances or reasonably practicable for the proposed Measure to be introduced in both languages;
or

- when not doing so is in accordance with determinations issued by the Presiding Officer.

Documentation to Accompany a Proposed Measure

At the same time as a Member introduces a proposed Measure, he or she must also lay an Explanatory Memorandum which must contain a range of detailed information including their view of whether the provisions of the proposed Measure would be within the legislative competence of the Assembly; the policy objectives of the proposed Measure; the detail of the proposed Measure and estimates regarding costs.

Consideration of a Proposed Measure

Stage 1: Consideration of General Principles

Once a proposed Measure has been introduced, consideration of its general principles will be undertaken by a Measure Committee (although this part of the process can be bypassed). Once a Measure Committee has reported (or if this is bypassed) the Assembly will vote in plenary on whether to agree to the general principles.

Stage 1 is completed when the general principles of the proposed Measure have been agreed to or the Measure falls under Stage 1.

Stage 2: Detailed Consideration by Committee

If the Assembly has agreed to the proposed Measure's general principles it is then given detailed consideration either by a Measure Committee or by a Committee of the Whole Assembly. A proposed Measure may be amended at this stage. All amendments tabled are considered.

Stage 2 is completed when the last amendment has been disposed of or the last section or schedule has been deemed to be agreed by the committee, whichever is the later.

Stage 3: Consideration of proposed Measure in Plenary

Stage 3 proceedings of a proposed Measure must be considered by the Assembly in plenary. A proposed Measure may be amended at this stage. The Presiding Officer may select amendments to be considered.

Stage 3 is completed when the last amendment has been disposed of or the last section or schedule has been deemed to be agreed by the committee, whichever is the later.

Stage 4: Final stage

Immediately after the completion of Stage 3 proceedings, a motion may be moved that the proposed Measure be passed. Alternatively, the vote on whether to pass the proposed Measure can be scheduled for a later date.

If a proposed Measure has been passed by the Assembly, the Clerk submits it for approval by the Queen in Council. Once it has been approved the Clerk must write the date of that approval on the text of the Measure must publish the instrument by which the Measure was approved and must, in accordance with Standing Orders, notify the Assembly of the date of the approval.

Members' Ballot for a Member proposed Measure

The Presiding Officer must from time to time hold a ballot to determine the name of a Member, other than a member of the Welsh Assembly Government, who wishes to introduce a Member proposed Measure.

The Presiding Officer must include in the ballot the names of all Members who have applied to be included and who have tabled pre-ballot information, which is the proposed title of the proposed Measure and an Explanatory Memorandum outlining its policy objectives and details of any support received, including any consultation carried out.

If a successful in a ballot the Member must seek leave of the Assembly to introduce the proposed Measure.

No Member who has previously won the ballot can apply again in the same Assembly.

Further information

For further information on aspects of the Constitution, please contact **Alys Thomas** (Alys.Thomas@Wales.gsi.Gov.UK), Members' Research Service.

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