

Research Briefing
**Assembly Acts and the
Legislative Process -
A Constitution quick guide**

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National Assembly for Wales
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The National Assembly for Wales is the democratically elected body that represents the interests of Wales and its people, makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

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Assembly Acts and the Legislative Process

What are Assembly Acts?

Under **Part 4 of the Government of Wales Act 2006** (“the 2006 Act”), as amended, the National Assembly can pass primary legislation, known as “Assembly Acts”, in matters where it has legislative competence.

Section 108 of the 2006 Act, along with **Part 1 of Schedule 7**, set out the extent of the Assembly's legislative competence by in 21 Subject areas. This is known as a ‘conferred powers’ model of devolution.

However, the **Wales Act 2017** moves the National Assembly to a ‘Reserved Powers’ model of devolution, as currently exists in Scotland and Northern Ireland. The ‘Reserved Powers’ model allows the National Assembly to enact laws on any matter not specifically reserved by the UK Government. This model will take effect from 1 April 2018 (which is sometimes referred to as the **Principal Appointed Day**).

An Assembly Act has the same legal force and status as an Act of the UK Parliament. In other words it can, for example, modify existing Acts of Parliament or other enactments in devolved areas and it can make new provision not covered by existing statutes.

However, the UK Parliament preserves the right to legislate in relation to Wales, even on matters over which the National Assembly has legislative competence. In these cases it usually seeks a ‘Legislative Consent Motion’.

Introducing a Bill

Sections 110 and 111 of the 2006 Act impose certain requirements in relation to the introduction of proposed Assembly Bills before the National Assembly. It states that an Assembly Bill may, subject to provisions in 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 an Assembly Bill must, on or before the Bill's introduction, make a statement expressing their view that the provisions in the Bill are within the National Assembly's legislative competence.

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

Section 111 of the 2006 Act requires the National Assembly's Standing Orders to contain certain provisions in relation to the consideration and passing of Assembly Acts, one of which is that a Bill must, generally, pass through at least three stages:

- There must 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 Bill; and
- There must be a stage at which members can vote on whether to pass the Bill in its final form.

A Bill must be introduced in both English and Welsh except in the following cases:

- when, in respect of a Government Bill, the Member in charge states in writing that, for specified reasons, it would not be appropriate in the circumstances or reasonably practicable for the Bill to be introduced in both languages; or
- when not doing so is in accordance with determinations issued by the Presiding Officer (Llywydd).

At the same time as a Member introduces a Bill, 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 Bill would be within the legislative competence of the Assembly; the policy objectives of the Bill; the detail of the Bill and estimates regarding costs.

Different types of Assembly Bills

Assembly Bills are:

- Public - seeking to change the general law; or
- Private - seeking powers for a particular individual or organisation that are in excess of or in conflict with the general law; or
- Hybrid (a Public Bill which includes provisions which are similar in nature to those of a Private Bill).

To date, all Bills considered by the Assembly have been Public Bills.

Standing Order 26 sets out the detailed procedures for scrutiny of Public Bills by the National Assembly. It provides that different terms will be used to describe a Public Bill depending on who is responsible for introducing it. These are:

- Government Bills.
- Committee Bills.
- Commission Bills.
- Member Bills

A member of the Welsh Government cannot be the Member in charge of a Committee Bill, a Commission Bill or a Member Bill.

Super-majority requirement for certain legislation

Section 9 of the *Wales Act 2017* creates a super-majority requirement for any Bills that deal with protected subject-matter. The super-majority requirement means that a Bill, dealing with protected subject-matter, is not passed unless two-thirds of the total number of Assembly seats vote in favour of it at the final stage.

These matters are:

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- (a) the name of the Assembly,*
 - (b) the persons entitled to vote as electors at an election for membership of the Assembly,*
 - (c) the system by which members of the Assembly are returned,*
 - (d) the specification or number of constituencies, regions or any equivalent electoral area,*
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(e) the number of members to be returned for each constituency, region or equivalent electoral area, and

(f) the number of persons who may hold the office of Welsh Minister appointed under section 48 or the office of Deputy Welsh Minister.

The Presiding Officer (Llywydd) is responsible for deciding whether a Bill deals with protected subject-matter or not.

Consideration of a Bill

In concordance with Section 111 of the 2006 Act, Standing Order 26 sets out that a Bill goes through **several stages before it becomes an Act.**

Stage 1: Consideration of General Principles

Once a Bill has been introduced, consideration of its general principles will be undertaken by a responsible committee (although this part of the process can be bypassed by the Business Committee). Once the responsible committee has reported (or not if this is bypassed) the National Assembly will vote in plenary on whether to agree to the general principles.

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

Stage 2: Detailed Consideration by Committee (amending stage)

If the National Assembly has agreed to the Bill's general principles it is then given detailed consideration, including through the tabling of amendments to the Bill, and a committee's detailed consideration of such amendments. Amendments will be considered by a responsible committee (usually the same one that considered it at stage 1).

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 responsible committee, whichever is the later.

Stage 3: Consideration of Bill in Plenary (amending stage)

Stage 3 proceedings of a Bill must be considered by the National Assembly in plenary. A Bill may be amended at this stage in the same way as it was amended during Stage 2. During Stage 3, the Presiding Officer (Llywydd) selects which amendments are to be considered (to date, the Presiding Officers of the Fourth and Fifth Assembly have chosen to select all amendments tabled to Bills).

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

Following Stage 3 proceedings, the Member in charge may move that the National Assembly considers further amendments at Report Stage before the Bill is voted upon at Stage 4. Amendments considered during Report Stage are subject to the same processes and procedures as amendments considered during Stage 3 proceedings.

Stage 4: Final stage

Following the completion of Stage 3 (or Report Stage) proceedings, a motion may be tabled that the Bill be passed. Such a motion may not be considered until at least five working days after the completion of Stage 3 (or Report Stage).

Alternatively, with the agreement of the Presiding Officer (Llywydd), a motion may move that the Bill be passed immediately after the completion of Stage 3 (or Report Stage). If a Bill has been passed by the National Assembly, there is a 4 week period, during which:

- the Counsel General or Attorney General can refer the question of whether the Bill, or any provision of the Bill, is within the Assembly's legislative competence to the Supreme Court for a decision; and
- the Secretary of State for Wales may make an order prohibiting the Bill from being sent for Royal Assent.

Subject to there being no such challenge, the Clerk of the National Assembly submits the Bill for Royal Assent by the Queen in Council (after 1 April 2018, it will be the Presiding Officer (Llywydd), rather than Clerk, that submits the Bill for Royal Assent). Once the Bill has received Royal Assent (approval), the Clerk of the National Assembly must write the date of that approval on the text of the Act, must publish the instrument by which the Act was approved and must, in accordance with Standing Orders, notify the National Assembly of the date of the approval.

Further information about the Assembly's legislative process can be found at: [Stages of Public Bills](#).

Member Bills

The Presiding Officer (Llywydd) must from time to time hold a ballot to determine the name of a Member, other than a member of the Welsh Government, who wishes to introduce a Member Bill.

The Presiding Officer (Llywydd) 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 Bill and its policy objectives.

If a successful in a ballot the Member must seek leave of the Assembly to introduce the Bill. In the Fourth Assembly this process resulted in the [*Nurse Staffing Levels \(Wales\) Act 2016*](#), and the [*Mobile Homes \(Wales\) Act 2013*](#).

Further information about the Member Bill process can be found at: [Member Bills](#)

Further information

For further information on any aspect of the constitution, please contact Alys Thomas (alys.thomas@assembly.wales).