

Emergency Bills

Quick Guide

June 2013

What is an Emergency Bill?

An Emergency Bill is a Government Bill that needs to be enacted more quickly than the Assembly's usual four stage legislative process allows. A definition of an Emergency Bill is not provided in the *Government of Wales Act 2006*¹ ("the 2006 Act") or in the Assembly's Standing Orders, however Standing Order 26.95 states that:

If it appears to a member of the government that an Emergency Bill is required, he or she may by motion propose that a government Bill, to be introduced in the Assembly, be treated as a government Emergency Bill.²

As with all Assembly Bills, Emergency Bills must relate to one or more of the 20 Subjects contained in Schedule 7 to the 2006 Act in order for it to be within the scope of the Assembly's legislative powers.

Scrutiny of an Emergency Bill

As the purpose of introducing an Emergency Bill is to enable the quick enactment of urgent legal provisions, the Assembly's Standing Orders set out a streamlined version of the Assembly's usual legislative processes to avoid any time delays. This process is outlined below:

- Prior to the introduction of an Emergency Bill in the Assembly, the Member in charge (which in this instance has to be a member of the Welsh Government) must first propose a motion asking for it to be treated by the Assembly as an Emergency Bill. Such a motion may also propose that the Emergency Bill in question is introduced without an Explanatory Memorandum, as is normally required with non-emergency Assembly Bills. The motion must be agreed by the Assembly before an Emergency Bill can proceed.
- Upon its introduction in the Assembly, an Emergency Bill must be accompanied by a statement from the Member in charge stating that, in his or her view, the provisions of the Bill are within the Assembly's legislative powers. At the same time, the Member in charge must also propose a timetable for the consideration of Stages 1 to 4 of the Emergency Bill, which can be taken on a single working day in a sitting week. This is different to the usual process for establishing a timetable for the consideration of a non-emergency Bill, where it is decided by the Business Committee. The Member in charge may also make subsequent changes to the timetable, but must provide reasons to the Assembly for doing so.

¹ *Government of Wales Act 2006* (Chapter 32)

² National Assembly for Wales, *Standing Orders*, Standing Order 26.95, July 2011

- The way in which the Assembly considers an Emergency Bill broadly follows the usual four stage legislative process, but with some significant alterations to speed them up. These are outlined below:
 - At **Stage 1**, the Member in charge must table a motion proposing that the Assembly agree to the general principles of the Emergency Bill. **No option exists for the Bill to be referred to an Assembly Committee for detailed consideration.**
 - **Stage 2** of requires an Emergency Bill to be considered by a Committee of the Whole Assembly (as opposed to an Assembly Committee), to be chaired by the Presiding Officer.
 - A gap of 15 working days between Stages 2 and 3 is **not required** when considering an Emergency Bill. **Stage 3** proceedings can therefore take place immediately following the completion of Stage 2.
 - There is **no report stage** during the consideration of an Emergency Bill.
 - The usual requirement for **amendments** to be tabled at least five days before they are due to be considered is **disapplied** in relation to the consideration of Emergency Bills. Instead, the Presiding Officer is allowed discretion to determine the amount of notice an Assembly Member must give if he or she intends to table an amendment to an Emergency Bill.
 - The text of an Emergency Bill does **not** have to be available in both English and Welsh for it to be passed by the Assembly at **Stage 4**.

Examples of Emergency Bills elsewhere

The use of Emergency Bills (also known as expedited or fast-track legislation) at Westminster and at the other devolved legislatures is rare and only usually occurs in response to crises and/or specific events, court rulings or emergencies. The House of Lords Select Committee, in their 7 July 2009 **report on fast-track legislation**, set out the following justifications for fast-tracking legislation:³

- Relating to the Northern Ireland peace process and devolution settlement (the single largest category in terms of numbers of expedited Bills)
- To remedy an anomaly, oversight, error or uncertainty that has come to light in legislation;
- To respond to the effects of a court judgement
- To ensure that legislation is in force in time for a forthcoming event;
- To deal with economic crisis
- To change a public authority's borrowing or lending limit or other funding issues;
- To deal with a crisis in prisons as a result of industrial action
- To respond to international agreements
- To implement Treasury announcement in the Budget or autumn statement;

³ A full list of expedited legislation considered by the House of Commons since 1979 is set out in the House of Commons Library **Standard Note – Expedited legislation: Government Bills receiving their Second and Third Reading on the same day in the House of Commons**, March 2013

- To respond to public concerns
- Counter-terrorism related

Examples of expedited legislation at Westminster include:

- **The Jobseekers (Back to Work Schemes) Act 2013:** The Bill was introduced in the House of Commons on 14 March 2013 and all Commons stages took place on 19 March 2013. The Bill received its Second Reading in the Lords on 21 March and all remaining stages in the Lords took place on 25 March. The purpose of the Act is to reverse a judgment of the Court of Appeal which quashed certain 'Back to Work Schemes' regulations on grounds that they were *ultra vires* (i.e. outside the scope of the statutory regulation-making power) because they failed to make provision for schemes of a 'prescribed' description, as required by the parent Act.
- **Police (Complaints and Conduct) Act 2012:** The Bill was introduced in the House of Commons on 22 November 2012 and all Commons stages took place on 5 December 2012. The Bill received its First Reading in the Lords on 6 December 2012 and all remaining stages took place on 11 December 2012. The purpose of the Act is to give the Independent Police Complaints Commission ('IPPC') new powers to require a serving police officer to attend an interview as a witness and to enable the IPPC to investigate certain old cases where the Police Complaints Authority was involved. The Bill was introduced in light of a report published in September 2012 by the Hillsborough Independent Panel which found evidence of extensive alteration of police records and due to a subsequent response from the IPPC that it was not able to investigate all aspects of the police's conduct under the current legal framework.
- **The Northern Ireland (St Andrews Agreement) Act 2006:** This Act was passed by the UK Parliament to allow for provisions in the St Andrews Agreement to take effect and for devolution in Northern Ireland to be restored. The Bill was introduced in the House of Commons on 16 November 2006 and received Royal Assent on 22 November 2006. It was modified by another Emergency Act, the *Northern Ireland (St Andrews Agreement) (No.2) Act 2007*, in order to extend the deadline for the restoration of devolution, as originally set by 2006 St Andrews Agreement Act, to 8 May 2007.

An example of an Emergency Bill considered by a devolved legislature, includes the following, which was considered by the Scottish Parliament in 2010:

- **The Criminal Procedure (Detention, Legal Assistance and Appeals) Act 2010:** The Bill was introduced in the Scottish Parliament on 26 October 2010 and all stages of the Bill were taken on 27 October 2010. The Act legally requires police in Scotland to provide access to a lawyer, and increases the period of time someone can be detained without charge from six to 12 hours, with the possibility of a further increase to 24 hours. It was passed by the Scottish Parliament in urgent response to a Supreme Court ruling which upheld an appeal by a teenager, Peter Cadder, whose assault conviction was based on evidence gained before he spoke to his solicitor. The Emergency Bill was therefore required in urgent response to concerns that almost 3,500 cases in Scotland could be open to appeal under the "Cadder ruling".⁴ The Bill was introduced in the Scottish Parliament on 27 October 2010 and received Royal Assent on 29 October 2010.

⁴ For further background see BBC News, *MSPs pass an emergency bill on Cadder ruling*, 27 October 2010

Further information

For further information about **EMERGENCY BILLS**, please contact **OWAIN ROBERTS** (owain.roberts@Wales.gov.uk), Research Service.

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Author name Owain Roberts