

Emergency Bills: Research Briefing

January 2021



The Welsh Parliament is the democratically elected body that represents the interests of Wales and its people. Commonly known as the Senedd, it makes laws for Wales, agrees Welsh taxes and holds the Welsh Government to account.

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1. Government Emergency Bills

1.1. What is an Emergency Bill?

An Emergency Bill is a Government Bill that needs to be enacted more quickly than the Senedd's usual legislative process allows. 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 Senedd, be treated as a government Emergency Bill.

Special provisions and procedures apply to government Emergency Bills that are different to those that apply to Bills that go through the normal legislative procedure.

1.2. What is the difference between an Emergency Bill and one that follows the normal legislative process?

The purpose of introducing an Emergency Bill is to enable the quick enactment of urgent legal provisions. The Senedd's Standing Orders (the rules that govern how the Senedd operates) set out a streamlined version of the Senedd's usual law-making processes to avoid any delays.

The process for a Government Emergency Bill is outlined below:

- Before the Government is allowed to introduce an Emergency Bill to the Senedd, a member of the Welsh Government must first propose a motion to the Senedd asking for the Senedd to agree the Bill can be introduced as an Emergency Bill (Standing Order 26.95).
- That motion must be accompanied by a statement by the Government Member in charge of the Bill explaining:
 - why the Bill should be treated as an Emergency Bill; and
 - the estimated costs and other consequences of not doing so.
- The motion must be agreed by the Senedd before an Emergency Bill can proceed.
- When a Bill is introduced to the Senedd an Explanatory Memorandum is normally required to be published alongside it. For Emergency Bills the

Government can propose in the motion they table that the Bill should be introduced without an Explanatory Memorandum.

- Upon its introduction in the Senedd 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 Senedd's legislative competence. If at the time of introduction the Member in charge has laid an Explanatory Memorandum for the Bill, the relevant statement on legislative competence will normally be included within the Memorandum.

1.3. What is the timetable for an Emergency Bill?

If the Senedd agrees to a motion requesting that a Bill be treated as an Emergency Bill then the Government Member in charge must table a further motion proposing a timetable for the consideration of Stages 1 to 4 of the Emergency Bill. (Standing Order 26.98(ii))

If the Government believed it necessary, and if the Senedd agrees, all Stages could be taken on a single working day.

The Member in charge may also make subsequent changes to the timetable, but must provide reasons to the Senedd for doing so. 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 Senedd's Business Committee.

1.4. What scrutiny stages does an Emergency Bill go through?

The way in which the Senedd 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:

- Stage 1, the Member in charge must table a motion proposing that the Senedd agree to the general principles of the Emergency Bill. No option exists for the Bill to be referred to a Senedd Committee for consideration of the general principles.
- Stage 2 of an Emergency Bill must be considered by a Committee of the Whole Senedd, to be chaired by the Presiding Officer (as opposed to a Senedd Committee). All Members of the Senedd meet in a Committee of the Whole Senedd. The meeting will usually take place in the Siambur and will largely follow the same rules for its procedures as a normal Committee meeting.

- The normal gap of 15 working days between Stages 1 and 2 is not required when considering an Emergency Bill. The Standing Order requirement that Stage 2 starts on the first working day after Stage 1 is completed is also disapplied. Stage 2 proceedings can therefore take place immediately following the completion of Stage 1.
- A gap of 15 working days between Stages 2 and 3 is also not required when considering an Emergency Bill. The Standing Order requirement that Stage 3 starts on the first working day after Stage 2 is completed is also disapplied. Stage 3 proceedings can therefore take place immediately following the completion of Stage 2.
- There can be no report stage during the consideration of 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 Senedd at Stage 4.

1.5. What about the timing for tabling amendments?

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 a Member must give if he or she intends to table an amendment to an Emergency Bill.

1.6. Emergency Bills passed by the Senedd

As of 8 January 2021, the Senedd has only passed two Emergency Bills in its history:

1.6.a Agricultural Sector Wales Act 2014

The Fourth Assembly passed the Agricultural Sector Wales Bill in July 2013 but due to a legal challenge in the Supreme Court the Bill did not receive Royal Assent until July 2014.

The Bill was introduced on 8 July 2013. The Stage 1 debate took place on 9 July and Stage 2, which comprised a Committee of the Whole Assembly, took place on the 16 July. Stages 3 and 4 took place on 17 July.

1.6.b The Law Derived from the European Union (Wales) Act 2018

The Fifth Assembly, now Senedd, considered the Law Derived from the European Union (Wales) Act 2018 in March 2018. The Bill was introduced on 7 March 2018. The Bill was introduced following disagreement between the Welsh Government and UK Government on the UK European Union (Withdrawal) Act 2018.

The Stage 1 debate took place on 13 March and Stage 2 on 20 March. Stage 3 and 4 took place on 21 March. The Bill was subsequently referred to the Supreme Court but the legal challenge was withdrawn following an agreement reached between the UK and Welsh Governments on the UK EU Withdrawal Act 2018. The Bill received Royal Assent on 6 June 2018 but was subsequently repealed on 22 November 2018.