

GOVERNMENT OF WALES ACT 2006

EXPLANATORY NOTES

DETAILED COMMENTARY ON SECTIONS IN PART 4

Procedure

Section 110: Introduction of Assembly Bills

418. This section imposes certain requirements in relation to the introduction into the Assembly of Assembly Bills.
419. A Bill 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. Standing orders might restrict the ability of some of these persons to introduce a Bill, for example by requiring Bills giving rise to public expenditure to be introduced by Ministers.
420. The person in charge of a Bill must, on or before the Bill's introduction, make a statement expressing their view that the provisions in the Bill are within the Assembly's legislative competence.
421. The Presiding Officer of the Assembly must on or before introduction of a Bill, decide whether or not it is within the Assembly's legislative competence and state that decision.

Section 111: Proceedings on Bills

422. This section requires the Assembly's standing orders to contain certain provisions in relation to the consideration and passing (or approval, in the case of Bills which are reconsidered and amended) of Assembly Bills.
423. Standing orders must ensure that, generally, Bills must pass through three stages.
424. There must firstly be an opportunity for a general debate about the Bill by the Assembly, and for Assembly Members to vote on its general principles. This stage mirrors the Second Reading stage of Bills in the UK Parliament.
425. There must then be a stage involving consideration of, and an opportunity for Assembly members to vote on, the details of the Bill, corresponding to the committee stage of a Bill at Westminster.
426. Finally there must be a stage at which members can vote on whether to pass the Bill in its final form. This is equivalent to the Third Reading of a Parliamentary Bill.
427. Standing orders may allow a different procedure in the case of Bills which fall within certain categories, namely those which restate the law, those which repeal or revoke spent enactments and "private" Bills, that is ones which change the law only on a very localised basis. In the case of the first two, standing orders may well permit a streamlined procedure whilst in the case of "private" Bills they are likely to include an opportunity for individuals affected to make representations to the Assembly, as in the case of private Parliamentary Bills.

*These notes refer to the Government of Wales Act 2006
(c.32) which received Royal Assent on 25 July 2006*

428. Standing orders must include provision for securing that, except in specified circumstances (which are left to standing orders to define) a Bill can only be passed if the text of the Bill is in both English and Welsh.
429. Standing orders must provide for a Bill which has been passed by the Assembly to be reconsidered in certain circumstances. These are:
- a) where the Supreme Court has decided that the Bill is outside the Assembly's legislative competence, following the Counsel General or the Attorney General referring that issue to the Supreme Court under section 112;
 - b) where the Counsel General or the Attorney General has referred the issue of whether the Bill is within the Assembly's legislative competence to the Supreme Court under section 113, the Supreme Court has then referred an issue arising out of it to the European Court of Justice for a preliminary ruling, but the reference to the Supreme Court has been withdrawn following a decision by the Assembly that it wishes to reconsider the Bill;
 - c) where the Secretary of State has made an Order under section 114 prohibiting the Clerk of the Assembly from submitting a proposed Bill for approval by Her Majesty.
430. If a proposed Assembly Bill is, upon reconsideration, amended by the Assembly, then there must be a further final stage at which the amended Bill can be approved or rejected by the Assembly.

Section 112: Scrutiny of Bills by Supreme Court

431. This section provides a mechanism through which either the Counsel General or the Attorney General can obtain a decision by the Supreme Court as to whether a Bill or particular provisions of a Bill are within the Assembly's legislative competence. This may only be done within the four week period starting with the date the Bill was passed by the Assembly or, in the case of a Bill which has been reconsidered and approved by the Assembly, starting with the date the Bill was approved by the Assembly.
432. If the Counsel General or the Attorney General formally notifies the Clerk that he or she is not going to make such a reference then he or she is afterwards barred from doing so (unless the Bill has subsequently been reconsidered and approved).

Section 113: ECJ references

433. Where the Counsel General or the Attorney General has referred a Bill to the Supreme Court, and the Supreme Court has referred a question in connection with the matter to the European Court of Justice for a preliminary ruling then, provided neither of these references has been decided or otherwise disposed of, the Assembly may opt to reconsider the Bill under provision made under section 111(6). If it does so the person who referred the Bill to the Supreme Court (i.e. Counsel General or the Attorney General, as the case may be), must request the withdrawal of the reference. If, following reconsideration, the Bill were to be approved, in an amended form, and the Counsel General or Attorney General are not satisfied that the amendment has removed the cause for referring the Bill to the Supreme Court, a fresh reference may be made, within four weeks of that approval.

Section 114: Power to intervene in certain cases

434. This section gives the Secretary of State a power to prevent, in certain circumstances, a Bill being submitted for Royal Assent.
435. Subsection (1) sets out the circumstances in which the Secretary of State may make an order namely, where the Secretary of State has reasonable grounds to believe that the Bill contains provisions which :

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- a) would have an adverse effect upon any matter which is *not* listed in Part 1 of Schedule 7 to this Act, or which falls within any of the exceptions listed in that Part of the Schedule; or
 - b) might have a serious adverse impact on water resources in England, water supply in England or the quality of water in England; or
 - c) would have an adverse effect on the operation of the law as it applies in England; or
 - d) would be incompatible with any international obligations, or the interests of defence or national security.
436. Such an order may be made within four weeks of the passing of the Bill, or of the approval of the Bill following reconsideration under section 111(6) or, if a reference to the Supreme Court has been made under section 112, within four weeks of the reference being decided or otherwise disposed of. If the Secretary of State has formally notified the Clerk that no order is going to be made in relation to the Bill such an order is barred in relation to it (unless the Bill is reconsidered and approved by the Assembly under section 111(6) after that notification was given).

Section 114: Royal Assent

437. Once a Bill has been passed (or approved upon reconsideration) by the Assembly, it is for the Clerk to submitting it for Royal Assent. The Clerk may not however do so:
- a) if the Counsel General or the Attorney General is still entitled to refer to the Supreme Court under section 112 the issue of whether a provision in the Bill is within the Assembly's legislative competence (i.e. if the four week period for doing so has not expired and they are not both barred from making a reference as a result of having notified the Clerk that they do not intend to do so);
 - b) if the Counsel General or the Attorney General has made a reference to the Supreme Court under section 112 which has not yet been decided or disposed of;
 - c) if the Secretary of State is still entitled to make an order under section 114 (see the notes to that section) prohibiting the Clerk from submitting the Bill for Royal Assent.
438. The Clerk may not submit a Bill for Royal Assent in its unamended form if:
- a) the Supreme Court has ruled, on a reference under section 112, that the Bill, or any provision of it, would not be within the Assembly's legislative competence; or
 - b) such a reference has been withdrawn as a result of a decision by the Assembly that it wishes to reconsider the proposed Bill.
439. Once Royal Assent has been given the Clerk must write the date of that approval on the text of the Bill and must, in accordance with standing orders, notify the Assembly of the date of Royal Assent.

Section 116: Welsh Seal and Letters Patent

440. This section establishes a Welsh Seal and designates the First Minister as its keeper. The section also allows provision to be made by an Order in Council about the preparation and publication of the Letters Patent that signify that Royal Assent has been given to an Act of the Assembly.

Part 5: Finance

Overview of Part 5

441. **Part 5** puts in place new provisions, dealing with the administration of the finances of the Assembly and the Welsh Ministers. These draw on the relevant sections of the Scotland Act 1998. But the provisions concerning the manner in which the Assembly will decide on the spending plans of Welsh Ministers (and others) represent a new model.