

STANDING ORDER 25 – Legislative Competence Orders in Council to be made under section 109 of the Act	
STANDING ORDER 25 – Legislative Competence Orders in Council to be made under section 109 of the Act	<p>Amend the title of this Standing Order Following the ‘yes’ vote in March’s referendum (and the approval of the Government of Wales Act 2006 (Commencement of Assembly Act Provisions, Transitional and Saving Provisions and Modifications) Order 2011), provisions of Part 4 of the Government of Wales Act 2006 commenced on 5 May 2011.</p> <p>Schedule 7 – which outlines the Assembly’s legislative competence – can be amended (for example to add new subjects, to expand or clarify existing ones or to remove exceptions) by an Order in Council under section 109 of the Act. This can only happen with the approval of the Assembly and both houses of the UK Parliament.</p> <p>A process is required by which Orders of this kind can be considered by the National Assembly for Wales where necessary. It is proposed that the process used during the Third Assembly for Orders in Council made under section 95 of the Act (referred to as “Legislative Competence Orders”) is retained (subject to the amendments listed below) for the purpose of Orders in Council to be made under section 109 of the Act.</p>
General	No amendment to sub-heading necessary
25.1 Standing Order 25 applies only to Orders in Council within the meaning of section 95 <u>109</u> of the Act.	Amend this Standing Order The reference to section 95 in current Standing Order 25.1 refers to Part 3 of the Act. The reference needs to be updated to reflect Part 4 provisions by replacing the reference to section 95 with a reference to section 109 of the Act.
25.2 A “proposed Order” is a proposal for an Order in Council that is to be subject to scrutiny under Standing Order 25.4 to	No amendment necessary

25.11.	
25.3 A “draft Order” is a draft Order in Council that is to be subject to approval by the Assembly under Standing Order 25.15.	No amendment necessary
25.4 Subject to Standing Orders 25.25 to 25.34, a proposed Order may be laid on any working day in a sitting week.	No amendment necessary
Form and Laying of Proposed Orders	No amendment to sub-heading necessary
25.5 At the same time as the Member in charge lays a proposed Order under Standing Order 25.4, he or she must lay an Explanatory Memorandum.	No amendment necessary
25.6 A proposed Order must not be laid unless it is in proper form in accordance with any determinations made by the Presiding Officer.	No amendment necessary
Detailed Consideration of a Proposed Order	No amendment to sub-heading necessary
25.7 The Business Committee must either: <ul style="list-style-type: none"> (i) refer the proposed Order for detailed consideration to a responsible committee established in accordance with Standing Order 16.1 (referred to within Standing Order 25 as “the responsible committee”); or (ii) by motion in plenary propose that there should be no detailed consideration of the proposed Order. 	No amendment necessary
25.8 The responsible committee must consider and report on the	No amendment necessary

<p>proposed Order.</p>	
<p>25.9 The Business Committee must establish and publish a timetable for the responsible committee’s consideration of a proposed Order and may make subsequent changes to that timetable as it considers appropriate but must give reasons for such changes.</p>	<p>No amendment necessary</p>
<p>25.10 If a motion under Standing Order 25.7(ii) is agreed, the Member in charge of the proposed Order may introduce a draft Order, which, in the view of the Presiding Officer, relates to the proposed Order, under Standing Order 25.12.</p>	<p>No amendment necessary</p>
<p>25.11 If a motion under Standing Order 25.7(ii) is proposed but not agreed, the Business Committee must refer the proposed Order for detailed consideration to a responsible committee established in accordance with Standing Order 16.1 (referred to within Standing Order 25 as “the responsible committee”).</p>	<p>No amendment necessary</p>
<p>Introduction of a Draft Order</p>	<p>No amendment to sub-heading necessary</p>
<p>25.12 A draft Order may be introduced by being laid on a working day in a sitting week, provided that:</p> <ul style="list-style-type: none"> (i) the draft Order is introduced in accordance with Standing Order 25.10; (ii) a committee has reported on a proposed Order to which the draft Order relates in accordance with Standing Order 25.8; or (iii) a committee has not so reported within the 	<p>No amendment necessary</p>

timetable set by the Business Committee in accordance with Standing Order 25.9.	
Explanatory Memorandum to Accompany a Draft Order	No amendment to sub-heading necessary
25.13 At the same time as the Member in charge introduces a draft Order, he or she must lay an Explanatory Memorandum.	No amendment necessary
25.14 The Explanatory Memorandum must include: <ul style="list-style-type: none"> (i) an explanation of how account has been taken of the recommendations made by any Assembly committee, any committee of the House of Commons or the House of Lords or any Joint Committee of both Houses of Parliament; and (ii) the reasons for any significant differences between the draft Order and the proposed Order to which it relates. 	No amendment necessary
Final Consideration	No amendment to sub-heading necessary
25.15 Not later than 40 working days after a draft Order has been introduced, the Assembly must consider a motion proposed by the Member in charge that the draft Order be approved.	No amendment necessary
25.16 A motion proposed under Standing Order 25.15 may be considered no earlier than ten working days after the draft Order has been introduced (not counting working days in a non-sitting week) unless, having consulted with the responsible committee, the Business Committee agrees otherwise.	No amendment necessary

<p>25.17 No amendment to a motion under Standing Order 25.15 may be tabled if:</p> <p>(i) it would not be clear from a resolution of the Assembly approving the motion as amended by such an amendment that the Assembly has approved the draft Order; or</p> <p>(ii) it seeks to amend the draft Order.</p>	No amendment necessary
25.18 A draft Order cannot be amended.	No amendment necessary
Publication of Notice of Refusal	Remove this sub-heading
<p>25.19 The Presiding Officer must, as soon as reasonably practicable, publish any notice laid in accordance with section 95(8) of the Act.</p>	<p>Remove this Standing Order</p> <p>The requirement to publish any notice of refusal by the Secretary of State for Wales to lay a draft Legislative Competence Order was a requirement under Part 3 of the Government of Wales Act 2006. There is no equivalent requirement under Part 4 provisions of the 2006 Act therefore this Standing Order is no longer required.</p>
Withdrawal of a Proposed or Draft Order	No amendment to sub-heading necessary
<p>25.20 A proposed or draft Order may be withdrawn at any time by the Member in charge, except in the case of a committee proposed or draft Order, when the Member in charge must first obtain the agreement (by unanimous resolution of those voting) of the committee before withdrawing the Order.</p>	<p>No amendment necessary</p> <p>If the provision for committees to propose Orders is retained, this Standing Order must also be retained. This Standing Order ensures that any Order proposed by a committee cannot be withdrawn unless all members of the committee agree when a vote on the matter is held.</p>
Fall of a Proposed or Draft Order	No amendment to sub-heading necessary
25.21 A proposed or draft Order falls at dissolution.	No amendment necessary

25.22 Approval to lay a proposed Order in accordance with Standing Order 25.30 ceases at dissolution.	No amendment necessary
25.23 A proposed Order falls if the draft Order to which it relates is approved or falls.	No amendment necessary
25.24 A draft Order falls if it is not approved by the Assembly.	No amendment necessary
Committee Proposed and Draft Orders	No amendment to sub-heading necessary
25.25 Any committee may: <ul style="list-style-type: none"> (i) lay a committee proposed Order relating to its remit; or (ii) subject to Standing Order 25.12, introduce a draft Order relating to its remit. 	No amendment necessary This Standing Order ensures that any committee may propose an Order as long as it relates to its remit.
Member Proposed and Draft Orders	Option to amend these Standing Orders
25.26 Standing Orders 25.27 to 25.34 apply only to Member proposed and draft Orders.	Standing Orders 25.26 – 25.34 provided procedures for Members of the Third Assembly to propose Legislative Competence Orders under Part 3 of the Government of Wales Act 2006.
25.27 The Presiding Officer must from time to time hold a ballot to determine the name of a Member, other than a member of the government, who may seek agreement to lay a Member proposed Order under Standing Order 25.30.	Given that the Assembly is now able to legislate within the 20 subject areas listed in schedule 7 to the Act, it is anticipated that the need to bring forward Orders in Council to amend schedule 7 are brought forward is likely to be substantially reduced in comparison with the level of Legislative Competence Orders brought forward during the Third Assembly to amend schedule 5.
25.28 The Presiding Officer must include in the ballot the names of all those Members who have applied to be included and who have provided an outline proposed Order and an Explanatory Memorandum.	Given the difficulty experienced by individual Members in the Third Assembly in gaining legislative competence under schedule 5,
25.29 No Member who has previously had agreement to lay a	

<p>proposed Order in that Assembly may apply to be included in the ballot.</p>	<p>Business Managers are invited to consider whether a mechanism for individual Members to propose section 109 Orders is now necessary or whether Government proposed Orders and cross-party Committee proposed Orders are sufficient given the more limited likelihood of amendments to schedule 7 being required.</p> <p>If the Business Committee decides to limit the ability to propose section 109 Orders to the Government and cross-party committees only, Standing Orders 25.26 – 25.34 will need to be removed. If the Business Committee decides to retain the mechanism for Member proposed Orders, no amendments are necessary to these Standing Orders.</p>
<p>25.30 A Member who is successful in a ballot may, within 25 working days of the date of the ballot, table a motion that the Assembly agrees that the Member may lay a proposed Order, to give effect to the outline proposed Order to which it relates, and an Explanatory Memorandum.</p>	
<p>25.31 A motion under Standing Order 25.30 is not amendable.</p>	
<p>25.32 Time must be made available for a motion tabled under Standing Order 25.30 to be debated within 35 working days of the date of the ballot (not counting working days in a non-sitting week).</p>	
<p>25.33 Unless a motion under Standing Order 25.30 is agreed to, no further proceedings are to be taken on the proposed Order.</p>	
<p>25.34 If a motion under Standing Order 25.30 is disagreed to, then no Member may enter any ballot held under Standing Order 25.27 for a period of six months after the motion has been disagreed to if, in the opinion of the Presiding Officer, the proposed Order which he or she is intending to lay seeks to confer the same, or substantially the same, legislative competence as the proposed Order referred to in the motion which has been disagreed to.</p>	