

National Assembly for Wales

[Business Committee](#)

September 2014

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



Amending Standing Orders: Standing Order 26 – Acts of the Assembly

Purpose

1. In accordance with Standing Order 11.7(iv), the Business Committee is responsible for making recommendations on the general practice and procedures of the Assembly, including any proposals for the re-making or revision of Standing Orders.
2. The report recommends amendments to Standing Order 26 in relation to Acts of the Assembly. The changes agreed by Business Committee are found in Annex A, and the proposal for a new Standing Order at Annex B.

Background

3. On 20 May the Business Committee considered a paper on recent experiences of legislative scrutiny, including whether any changes to Standing Orders might be required. At that meeting Business Managers agreed to consider further the provisions in Standing Order

26 in relation to Revised Explanatory Memoranda, and the time between final amending stages and Stage 4.

4. On 1 July the Business Committee considered proposals to amend Standing Order 26 to:

- require a Member in charge to lay a revised Explanatory Memorandum after Stage 2, and after Stage 3 if a Bill is to be considered at Report Stage, unless the relevant committee or the Assembly agrees otherwise, and;
- to reverse the current implication that moving immediately from the final amending stage to Stage 4 is the default position.

5. Business Managers agreed to consult with their groups on the proposals before returning to consider them on 15 July. At that meeting on 15 July, the Business Committee agreed in principle to the proposals to change Standing Order 26.

Proposals for changes to Standing Orders

Revised Explanatory Memoranda

6. The Business Committee agreed to amend Standing Orders to require a Member in charge to lay a revised Explanatory Memorandum (EM) after Stage 2, and after Stage 3 if a Bill is to be considered at Report Stage, unless the relevant committee or the Assembly agrees otherwise.

7. Standing Orders currently provide that if the provisions of a Bill have been substantially amended at Stage 2, the relevant committee may request that the Member in charge lays a revised Explanatory Memorandum, prior to Stage 3, to take account of changes made during Stage 2. The onus is on the committee to request that a

revised Explanatory Memorandum be laid, and the request is made in most cases. At present there is no provision for the Assembly, should it agree to consider a Bill at Report Stage, to request a revised Explanatory Memorandum be prepared prior to Report Stage proceedings to take account of changes made during Stage 3.

8. The proposals at Annex A amend Standing Orders 26.27 and 26.28 to require a new Explanatory Memorandum if a Bill is amended in any way at Stage 2, unless the committee decides that is not necessary. This differs from the current provision where a new EM is only required if there is a substantial alteration, and if the relevant committee requests it. The insertion of a new SO 26.46A is also proposed, to require a new EM to be laid if the Bill had been amended at Stage 3, and the Assembly agrees to consider amendments at Report Stage.

Time between the final amending stage and Stage 4

9. The Business Committee agreed to amend Standing Orders to reverse the current implication that moving immediately to Stage 4 is the default position.

10. Currently, if Stage 4 proceedings are taken immediately after the final amending stage, the text of the Bill approved or rejected by the Assembly is subject both to the inclusion of the amendments agreed during the final amending stage, and any printing corrections. Members do not therefore have the opportunity to consider the final text of a Bill before voting at Stage 4.

11. The mechanisms available to the Member in charge to resolve imperfections identified following amending stages, such as the use of

Further Stage 3 or Further Report Stage, are also ruled out by an immediate move to Stage 4. Introducing a pause between the final amending stage and Stage 4 would also mitigate the procedural risk to a Bill of an amendment inadvertently not being called. For most Bills, additional amending stages are not planned, but if Stage 4 is not scheduled immediately following the intended final amending stage, there is greater time and flexibility available to the Member in charge to consider whether to seek an additional amending stage.

12. To effect a reversal of the current implication that moving immediately to Stage 4 is the default position, amendments are proposed, at Annex A, for new Standing Orders 26.47 and 26.48.

13. The new SO 26.47 would allow any Member to table a motion that a Bill be passed, but prevents this motion from being considered until at least five working days after the completion of Stage 3 or Report Stage. The motion could be tabled at any time up to the working day before it is debated, and would be subject to the usual Standing Order requirements in terms of scheduling and accompanying documents etc.

14. At the same time, the new Standing Order 26.48 provides a mechanism whereby Stage 4 can immediately follow Stage 3 where appropriate. This would involve any Member, with the Presiding Officer's agreement, being able to move a motion without notice that the Bill be passed.

15. The effect of the proposed changes would be for the default position to be that there is at least a week between Stage 3/Report Stage and Stage 4 proceedings, and that Stage 4 takes place on a tabled motion, but that a Stage 4 motion without notice could still be

taken immediately after Stage 3/Report Stage with the Presiding Officer's agreement.

16. The existing provisions in Standing Orders, that motions under 26.47 and 26.48 may not be amended, and that no motion that a Bill be passed may be moved unless the text of the Bill is available bilingually, are retained.

Action

17. The Business Committee formally agreed the changes to Standing Orders on 16 September 2014 and the Assembly is invited to approve the proposal at Annex B.

Annex A

STANDING ORDER 26 – Acts of the Assembly	
Stage 2: Detailed Consideration by a Committee	
<p>26.27 If a Bill is amended at Stage 2 proceedings, so as to insert a section or schedule, or substantially alter any existing provision, the committee considering Stage 2 proceedings may request that a <u>the</u> Member in charge <u>must</u> prepare a revised Explanatory Memorandum, <u>unless the committee considering Stage 2 proceedings resolves that no revised Explanatory Memorandum is required.</u></p>	<p>Amend this Standing Order</p> <p>The effect of the draft change would be to require a new EM if a Bill is amended in any way at Stage 2, unless the committee decides that isn't necessary. This differs from the current provision where a new EM is only required if there is a substantial alteration, and if the relevant committee requests it.</p>
<p>26.28 Any revised Explanatory Memorandum requested prepared under Standing Order 26.27 must be laid at least five working days before the date of the first meeting of the Assembly that considers Stage 3 proceedings.</p>	<p>Amend this Standing Order</p> <p>Consequential on above. Revised EMs will no longer be requested.</p>
Report Stage	
<p>26.46A If a Bill is amended at Stage 3 proceedings, and the Assembly agrees to consider amendments at Report Stage, the Member in charge must prepare a revised Explanatory Memorandum, unless the Assembly resolves that no</p>	<p>New Standing Order</p> <p>The new Standing Order would require a new EM to be laid if the Bill had been amended at Stage 3, and the Assembly</p>

<p><u>revised Explanatory Memorandum is required.</u></p>	<p>agrees to consider amendments at Report Stage.</p> <p>If the changes were minor, the Assembly could resolve that no revised EM was required. This could happen on a motion without notice moved by the Member in Charge at the end of Stage 3, or one subsequently tabled and debated between Stage 3 and Report Stage.</p>
<p>26.46B <u>Any revised Explanatory Memorandum prepared under Standing Order 26.46A must be laid at least five working days before the date of the first meeting of the Assembly that considers Report Stage proceedings.</u></p>	<p>New Standing Order</p> <p>Replicates the provision in 26.28</p>
<p>Stage 4: Final Stage</p>	
<p>26.47 Subject to Standing Order 26.50, immediately after the completion of Stage 3 proceedings, or Report Stage proceedings where undertaken, any Member may without notice move that the Bill be passed.</p> <p><u>A motion that the Bill be passed may be tabled by any Member, and may not be considered until at least five working days after the completion of</u></p>	<p>Replace this Standing Order</p> <p>The new Standing Order allows any Member to table a motion that a Bill be passed, but prevents it from being considered until at least five working days after the completion of Stage 3.</p> <p>This would be the normal mechanism for the Assembly to</p>

<p><u>Stage 3 proceedings, or Report Stage proceedings where undertaken.</u></p>	<p>agree that a Bill be passed, though there is also the option of moving a motion without notice under SO 26.48A.</p>
<p>26.47A <u>A motion under Standing Order 26.47 must be tabled at least one working day before it is debated.</u></p>	<p>Insert New Standing Order</p> <p>The new Standing Order allows a motion that the Bill be passed to be tabled the day before it is debated, rather than the usual five days, to allow time for the final text of the Bill to be available and thereby comply with SO 12.25.</p>
<p>26.48 If no motion is moved under Standing Order 26.47, or if a motion is moved under that Standing Order but no decision is taken upon it, the government or the Business Committee must determine (under Standing Orders 11.12 or 11.7(ii) as the case may be) when a motion under 26.47 that the Bill be passed is to be considered in plenary.</p> <p><u>Subject to Standing Order 26.50, immediately after the completion of Stage 3 proceedings, or Report Stage proceedings where undertaken, any Member</u></p>	<p>Replace Standing Order</p> <p>The draft new Standing Order 26.48 provides a mechanism whereby Stage 4 can immediately follow Stage 3 or Report Stage. This would involve any Member moving a motion without notice that the Bill be passed. As for other items of business without notice under SO 12.16, the Presiding Officer's agreement would be required before the motion could be moved.</p> <p>The effect of the proposed changes would be that the default position would be that there is at least a week between Stage 3 and Stage 4 proceedings, but that a Stage</p>

<p><u>may, with the agreement of the Presiding Officer, move without notice that the Bill be passed.</u></p>	<p>4 motion could be taken immediately after Stage 3 or Report Stage with the Presiding Officer's agreement.</p>
<p>26.49 A motion that a Bill be passed may not be amended.</p>	<p>Retain Standing Order</p> <p>This Standing Order is included for information.</p>
<p>26.50 No motion that a Bill be passed may be moved unless the text of the Bill is available in both English and Welsh.</p>	<p>Retain Standing Order</p> <p>This Standing Order is included for information.</p>
<p>26.51 No motion under Standing Order 12.31(ii) may be moved in any Stage 4 proceedings.</p>	<p>Retain Standing Order</p> <p>This Standing Order is included for information. It prevents the use of a procedural motion to refer a Bill back to a committee at final Stage 4 proceedings.</p>

Annex B

Standing Order 26 – Acts of the Assembly

Stage 2: Detailed Consideration by a Committee

26.27 If a Bill is amended at Stage 2 proceedings the Member in charge must prepare a revised Explanatory Memorandum, unless the committee considering Stage 2 proceedings resolves that no revised Explanatory Memorandum is required.

26.28 Any revised Explanatory Memorandum prepared under Standing Order 26.27 must be laid at least five working days before the date of the first meeting of the Assembly that considers Stage 3 proceedings.

Report Stage

26.46A If a Bill is amended at Stage 3 proceedings, and the Assembly agrees to consider amendments at Report Stage, the Member in charge must prepare a revised Explanatory Memorandum, unless the Assembly resolves that no revised Explanatory Memorandum is required.

26.46B Any revised Explanatory Memorandum prepared under Standing Order 26.46A must be laid at least five working days before the date of the first meeting of the Assembly that considers Report Stage proceedings.

Stage 4: Final Stage

26.47 A motion that the Bill be passed may be tabled by any Member, and may not be considered until at least five working days after the completion of Stage 3 proceedings, or Report Stage proceedings where undertaken.

26.47A A motion under Standing Order 26.47 must be tabled at least one working day before it is debated.

26.48 Subject to Standing Order 26.50, immediately after the completion of Stage 3 proceedings, or Report Stage proceedings where undertaken, any Member

may, with the agreement of the Presiding Officer, move without notice that the Bill be passed.

26.49 A motion that a Bill be passed may not be amended.

26.50 No motion that a Bill be passed may be moved unless the text of the Bill is available in both English and Welsh.

26.51 No motion under Standing Order 12.31(ii) may be moved in any Stage 4 proceedings.