

Amendments to Executive Bills: Guidance

Introduction

This section of the website explains how external organisations and individuals can contribute to the process of scrutinising and amending legislation that is being considered by the Scottish Parliament.

It gives advice on each stage of the process including:

- before the bill is introduced to the Scottish Parliament
- Stage 1: consideration of general principles
- Stage 2: section by section committee consideration
- Stage 3: consideration by the whole Parliament; decision whether to pass bill.

The Reference Section contains explanations of parliamentary terms (highlighted in italics), as well as advice on sources of further information.

The information here is primarily about Executive bills (bills introduced by the Scottish Government). However, it is also useful for understanding other bills with similar procedures, particularly Members' bills (bills introduced by individual MSPs) and committee bills (bills introduced on behalf of a committee), although procedure at Stage 1 of a committee bill is quite distinct.

It does not cover private bills (bills introduced by a private individual or body) or special cases such as emergency legislation. More information about these can be found among the sources of information listed in the Reference Section. Because this is a summary of a complex process, it does not deal with every possibility but outlines the typical course of action.

Before introduction of an Executive bill

Ministers in the Scottish Government will generally consult before an Executive bill is introduced (although there is no obligation for them to do so). This is the first opportunity to influence what is proposed. Such consultation, which is wholly the responsibility of Ministers in the Scottish Government and not of the Scottish Parliament, may be on policy proposals and/or it may be on a draft version of the bill. Any consultation documents published by the Scottish Government will be sent to key organisations and published on the Scottish Government's website – www.scotland.gov.uk. The document will indicate where comments are to be sent and the closing date for responses.

The [Standing Orders](#) of the Parliament require that any Executive bill be accompanied on introduction by a number of documents, including a Policy Memorandum. Amongst other things, this sets out what consultation has been undertaken.

Stage 1

Once the bill has been introduced it will be published by the Parliament, together with various accompanying documents, including the Policy Memorandum referred to above and Explanatory Notes, explaining what the bill does. Please refer to the Reference Section for details of how to acquire copies of bills.

The bill is then referred to a "lead committee" to report to the Parliament within a certain timescale. Other committees with an interest may also be asked to report to the lead committee before that committee reports to the Parliament. At this stage the committee's role is simply to report on the bill's general principles. In practice, however, the report usually recommends whether or not the Parliament should agree to these principles.

The committee also uses this stage to become familiar with the provisions of the bill and begin to identify where changes and improvements might be needed at later stages. However, it is not possible to amend a bill at Stage 1 so it is unlikely that the committee will focus on specific changes to the wording of the bill at this stage. Committees usually ask for written evidence to be provided by interested parties and will also hear oral evidence from invited parties and individuals.

Stage 1 is a key stage for external parties who are interested in the bill.

Those who are opposed to the proposed legislation should note that, if the Parliament votes to agree its general principles at Stage 1, amendments at Stages 2 and 3 may not be lodged if they are "wrecking" amendments, i.e. amendments inconsistent with the general principles already agreed to by the Parliament. (Other criteria for the admissibility of amendments also apply – see below.)

For organisations or individuals who support the general principles but hope to see specific changes made, this stage can be used to begin briefing MSPs on concerns and identifying who is likely to be particularly interested.

Contacting all MSPs is unlikely to be the most effective course. This is best done in a focussed way through succinct written briefings sent to, for example, the lead committee handling the bill or to other MSPs who are not on the committee but are known to have a particular interest in the area under consideration. Material submitted to the lead committee is likely to be treated as evidence to that committee and may be published with the committee's Stage 1 report. As noted above, committees usually invite written evidence from interested parties and this is an opportunity to raise issues of concern. (See the Reference Section for details of how to contact MSPs or lead committees.)

Once the lead committee has reported to the Parliament, a date will be set for a debate in the Parliament. At the end of the debate, the Parliament will decide whether or not to agree to the general principles. If these are agreed, the bill will

be referred to a committee for Stage 2 proceedings (usually the same committee as for Stage 1). If they are not agreed, the bill falls.

Stage 2

As soon as Stage 1 is completed, amendments to the bill can be lodged for Stage 2 consideration. The [Standing Orders](#) require that there is a minimum period of 11 sitting days¹ between the day when Stage 1 ends and the day when Stage 2 begins.

Amendments can only be lodged by MSPs so anyone else who wants to propose amendments to a bill needs to find an MSP who is willing to lodge the proposed amendment. It is likely that the bulk of non-Government amendments at Stage 2 will be lodged by members of the lead committee but non-committee members can and do lodge amendments at Stage 2 and can attend meetings of the committee to speak in favour of their amendments. However, only members of the committee can vote on an amendment.

At this stage, the arrangements and any deadlines for lodging amendments will be announced in Section J of the Parliament's [Business Bulletin](#). Amendments need to be lodged no later than three sitting days before they are to be considered by the committee – i.e. on a Thursday for a Tuesday meeting, on a Friday for a Wednesday meeting, etc. In these examples, Thursday and Friday are both “final lodging days” and amendments on these days must be lodged no later than 12.00 noon. The deadline for lodging amendments before the final lodging day is 4.30 pm. (If an amendment is lodged after 4.30 pm it will be deemed to have been lodged on the following day.) That means getting an MSP to agree to lodge an amendment well in advance of the deadline – the earlier the better since, if an amendment is not admissible as proposed, the clerks will have time to advise the Member on possible re-wording.

The Scottish Government generally commits to lodge its amendments five working days in advance of the meeting at which those amendments will be considered. You may wish to examine these amendments in advance of preparing your own, as they will give you an idea of the Scottish Government's position on the matter in question.

The clerks cannot advise external organisations directly on the drafting of amendments. Nor can parliamentary staff help you to find a Member to lodge your amendment. However, as soon as a Member has decided to lodge an amendment, the clerks will work with them to ensure that it is admissible and in proper form. To help with this, you may want to copy to the relevant clerk any briefing, background, or draft amendments that you are circulating to MSPs.

¹ A sitting day is any day when the office of the Clerk is open but not when the Scottish Parliament is in recess or dissolved.

The [Guidance on Public Bills](#) sets out the principles for deciding whether or not amendments are admissible (sections 4.8–4.25). A key principle is relevance – the amendment must not go beyond the general purposes and scope of the bill.

The committee may meet several times at Stage 2, depending on the length of the bill and the number of amendments lodged. At each meeting, the committee will work through sections of the bill, making decisions in order on each amendment.

The *Marshalled List* shows the order in which amendments will be dealt with. However, to avoid repetition in debate, amendments on related issues are usually grouped and debated together.

For example, an amendment to section 2 and one to section 6 that deal with similar points might be grouped and debated together. The debate takes place when the first amendment in the group (in this example, the amendment to section 2) is reached on the *Marshalled List*. At the end of the debate, a decision is taken on whether to accept the amendment to section 2; but a decision on the amendment to section 6 would not be taken until sections 3, 4 and 5 had been considered (assuming the committee is considering the bill in the order that it is printed – see below). When an amendment is reached which has already been debated in an earlier group, the decision on it is taken straight away with no further debate.

The *Business Bulletin* will make clear which sections of the bill are being considered by the committee at each meeting. Only amendments to those sections will be dealt with at that meeting (other amendments that have been lodged will be dealt with at the appropriate meeting). You should therefore monitor the Business Bulletin carefully at Stage 2 to see what point in the bill the committee has reached. Please note that once a section or schedule has been debated, the committee cannot go back to it again at Stage 2. Further amendments can be lodged before each Stage 2 meeting, but only to sections and schedules of the bill that have not already been dealt with.

It is important to note that the committee will not necessarily consider the bill in the order it is printed. For example, it may decide to take certain particularly important or controversial sections near the beginning of its consideration. Section J of the *Business Bulletin* will set out the deadlines for lodging amendments for each meeting and detail which sections and schedules the committee intends to consider at that meeting.

Stage 3

Once the committee has completed Stage 2, the bill will return to the Parliament for Stage 3. If it has been amended, the bill will be republished showing the changes that were agreed to at Stage 2. The [Standing Orders](#) require that there

is a minimum period of 9 sitting days between the day when Stage 2 ends and the day on which Stage 3 starts.

The deadlines for lodging amendments at Stage 3 are slightly different from Stage 2: the final lodging date is the fourth sitting day before amendments are considered by the Parliament (e.g. Thursday for a Wednesday meeting), and amendments can be lodged up until 4.30 pm on any lodging day. Again, the Scottish Government generally commits to lodge its amendments five working days in advance.

The procedure at Stage 3 is similar to Stage 2, except that amendments are not automatically selected for debate at this stage, even if they are admissible. The decision on whether to select an amendment for debate is a matter for the Presiding Officer, whose decision is final. In selecting amendments, the Presiding Officer will consider for example:

whether the issue was fully considered at Stage 2

whether there was any undertaking by Ministers to reconsider the issue

whether the list of amendments selected reflects the concerns of all political parties.

Further guidance on selection is contained in the [Guidance on Public Bills](#) in sections 4.60 and 4.61.

It will be seen from this that there are more opportunities to influence legislation at Stage 2 than at Stage 3. Because Stage 3 is the final stage, it is particularly important that amendments agreed to at this stage are legally watertight; at Stage 2, in contrast, an amendment with minor flaws could be accepted in the expectation that it will be further corrected at Stage 3.

Once all amendments have been dealt with, the Parliament will debate whether the bill should be passed. (This debate is on the merits of the bill as a whole, rather than on particular amendments to it.) After the debate, MSPs will be asked to agree whether the bill should be passed.

After Stage 3

If a bill is passed at the end of Stage 3, there is normally a period of four weeks before it can be submitted to the Queen for royal assent. (If the bill is not passed, it falls.) The bill becomes an Act when the Queen's signature is recorded shortly thereafter.

The date of royal assent will be announced in the *Business Bulletin*. The printed Act will be available from Blackwell's Bookshop shortly thereafter (see Reference

Section for more details) or from the the Office of Public Sector Information (OPSI) website at:
<http://www.opsi.gov.uk/legislation/scotland/s-acts.htm>

Reference Section

Parliamentary terms and sources of information

The Parliament's website – www.scottish.parliament.uk – is an invaluable resource for anyone who wants to follow the progress of a bill.

Access to the internet is available at all of the Scottish Parliament's [Partner Libraries](#) situated around Scotland. Details of the Partner Libraries can be obtained from the Public Information Service (see contact details below) or from the Parliament's website.

Information available on the website includes:

- the text of [bills](#) as introduced and any subsequent reprints, plus the accompanying documents published with the bill
- a page on each bill (updated weekly), which tracks the bill's progress through the Parliament, including the dates when it was considered by committees and the full Parliament. The individual bill pages can be accessed from the [Current Bills](#) section
- detailed [Guidance on Public Bills](#) – a guide aimed primarily at MSPs that contains more detailed information on the parliamentary process than is covered here
- [Guidance on Private Bills](#) – a guide aimed primarily at MSPs, with detailed information on the parliamentary process for such bills
- the Parliament's [Standing Orders](#), which govern all its proceedings
- [Official Reports](#) – substantially verbatim reports of all public proceedings in the Parliament and in committees
- the [Business Bulletin](#), which is published each sitting day. Section J includes a list of bills in progress. This indicates the stage that has been reached by each bill before the Parliament and any dates that have been set for future consideration. Section J is also used at Stage 2 and Stage 3 for information such as the deadlines for lodging amendments and the contact details for the committee clerks dealing with a particular bill
- each Marshalled List showing in order all amendments which are to be considered (a separate Marshalled List is published for each meeting at which a bill is to be considered at Stage 2 or 3). These appear on the webpage of the relevant bill (see the [Current Bills](#) section)

- a homepage for each [committee](#), which includes committee membership, the name of the clerk, committee reports, agendas, papers, minutes and the Official Reports for all meetings
- [MSP](#) profiles showing each Member's background, interests, membership of committees and cross-party groups.

Printed copies of official publications

Many official publications are also available for purchase in hard copy from Blackwell's Bookshop (call 0131 622 8283 or 0131 622 8258) or can be accessed through the Parliament's [Partner Libraries](#) around the country. Details of the Partner Libraries can be obtained from the Public Information Service (see contact details below) or on the website.

Attending meetings

All meetings of the Parliament, and all committee meetings considering legislation, are open to the public.

Information on access arrangements is available in the [Visit, Learn, Interact section of the Parliament's website](#) or by contacting Visitor Services (see contact details below).

Further information on the legislative process

Further information on the legislative process of the Scottish Parliament can be obtained from the Legislation Team on 0131 348 5235 or from the clerks to the committee handling a particular bill.

Contact Details

Contacting MSPs

In writing (to named individuals) at: The Scottish Parliament, Edinburgh, EH99 1SP.

By email: every MSP has a public email address. The standard format is

firstname.lastname.msp@scottish.parliament.uk

There are some exceptions to this format which you can check on the website (under the [MSPs section](#)) or by contacting the Public Information Service (see contact details below).

By telephone: call the **Public Information Service** on 0131 348 5000 (Typetalk calls welcomed) and ask to be put through to a named, individual MSP. More information about MSPs such as their direct dial numbers or constituency contact details is available on the website (in the [MSPs section](#)) or through the Public Information Service (email: sp.info@scottish.parliament.uk).

Contacting committees

If you wish to contact a committee, e.g. the lead committee at Stage 1, you can do this through the committee clerk. You can obtain details from the [committees' homepages](#) on the Parliament's website or through the Public Information service.

Contacting Visitor Services

You can arrange tickets to attend meetings of the Parliament and its committees by calling Visitor Services 0131 348 5200 or emailing sp.bookings@scottish.parliament.uk.