

# Guide to the legislative process

June 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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[www.senedd.wales](http://www.senedd.wales)

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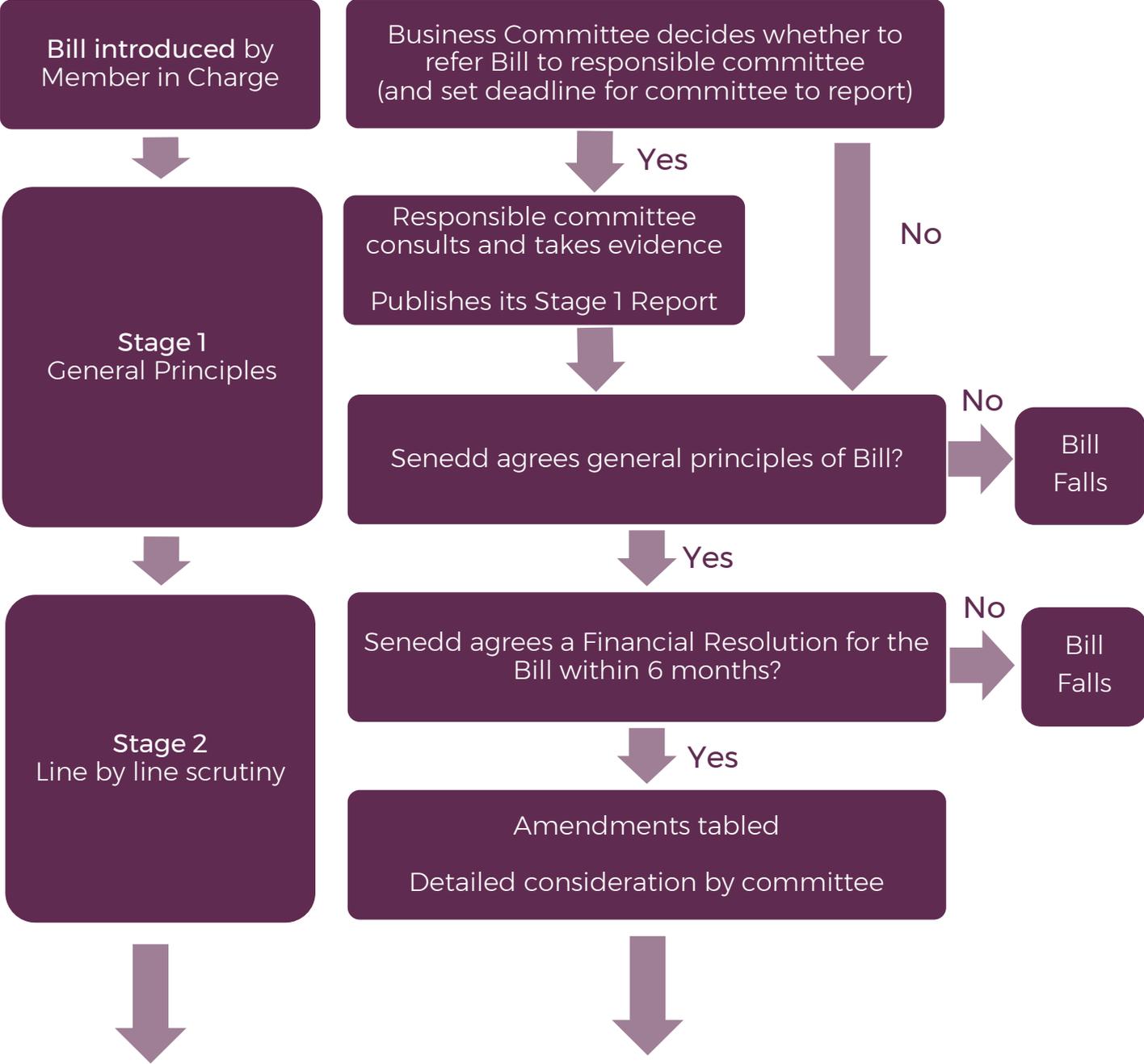
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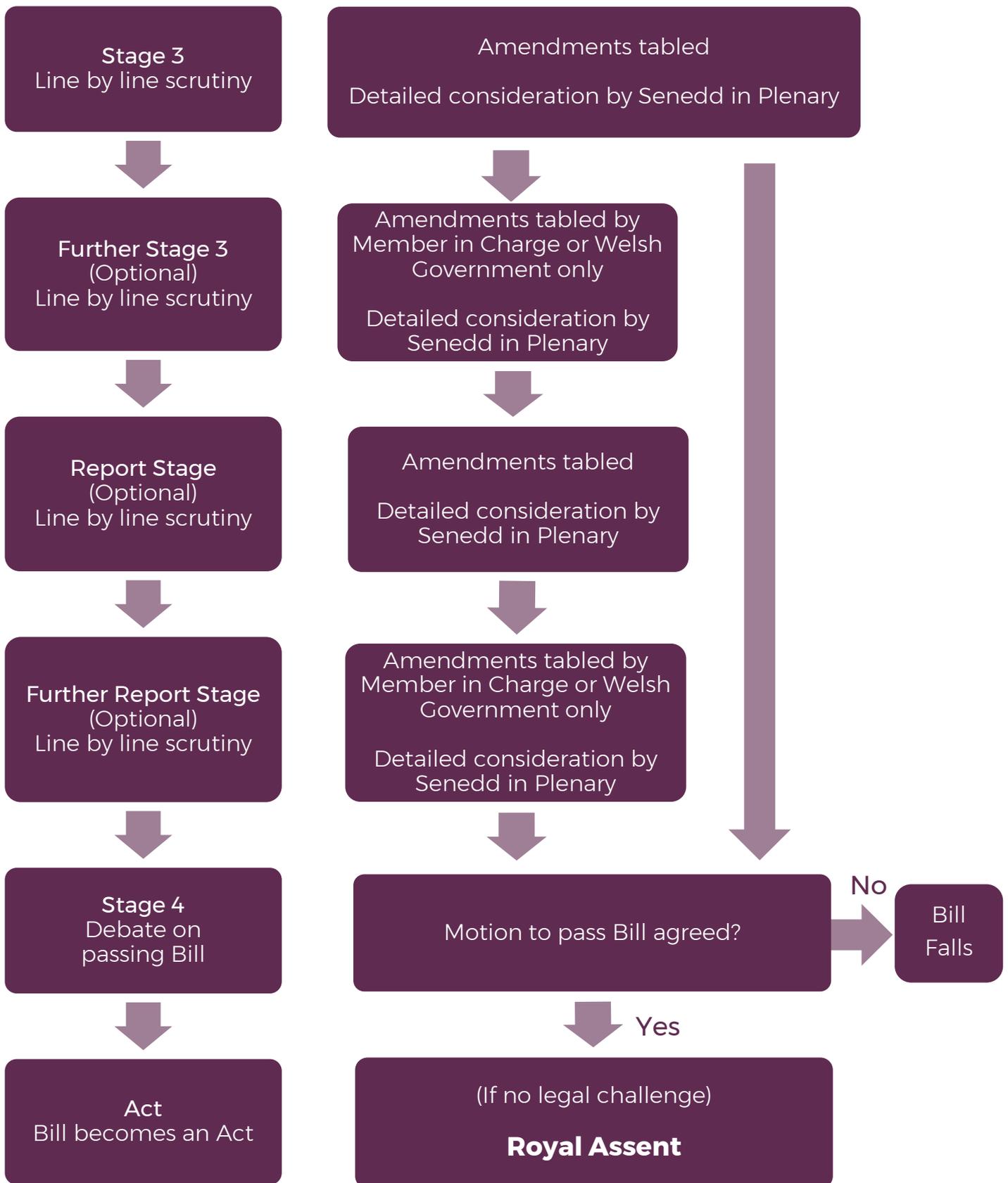
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# Summary of process for Senedd scrutiny of Public Bills





# Introduction

1. This guide provides an overview of the procedure for the consideration and passing of Public Bills by the Senedd.
2. It also provides a brief overview of procedures for making and scrutinising subordinate legislation.

## Background

3. The Government of Wales Act 2006 (as amended) ("the 2006 Act") provides for the Senedd to make laws, known as 'Acts of Senedd Cymru'.
4. The UK Parliament had devolved its law-making powers in a number of subject areas to the Senedd, with some exceptions and restrictions. The subject areas, and the exceptions and restrictions, were set out in Schedule 7 to the 2006 Act. However, the enactment of the Wales Act 2017 made some significant changes to the powers of the Senedd, and in particular set out a new "reserved powers" model for Acts of the Senedd, which is set out in Schedules 7A and 7B of the 2006 Act.
5. The UK Parliament retains the power to pass Acts in the areas which it has devolved to the Senedd. However, by convention the UK Government will not normally ask Parliament to do this unless the Senedd has agreed to this, through a process call 'legislative consent'.

# Bills in the Senedd

## What is a Bill?

- 6.** A Bill is a draft law. Once a Bill has been considered and passed by the Senedd, and given Royal Assent by the monarch, it becomes an 'Act of Senedd Cymru'.
- 7.** An Act of Senedd Cymru is a law, enforceable in relation to all areas of Wales where it is applicable.

## Introducing a Bill

- 8.** In order for a Bill to be considered by the Senedd, it must be formally 'introduced' into the Senedd. In practice, this means the Bill is laid with officials in the Table Office, who arrange for the Bill to be published on the Senedd's website.
- 9.** Most Bills are introduced by Ministers ('Government Bills') but Bills can also be introduced by:
  - a Senedd committee;
  - an individual Member whose name is drawn from a ballot; or
  - the Senedd Commission.
- 10.** On introduction, except in some limited circumstances, Bills must be available in English and Welsh. The Presiding Officer must publish a statement indicating whether or not he or she considers that the Senedd has the power to make the Bill. Each Bill must also be accompanied by an Explanatory Memorandum that sets out its policy objectives, details of any consultation already undertaken on the Bill, estimates of the costs of implementing the Bill and any other relevant information.

# The process for considering a Government Bill

**11.** There is, generally, a four stage process for the consideration of a Government Bill in the Senedd.

## Stage 1

**12.** This stage involves the consideration of the general principles of a Bill by a committee (or committees), followed by the agreement (or otherwise) to the general principles by the Senedd.

**13.** The committee will focus on the main purpose(s) of the Bill, rather than looking at the fine detail (which is a matter for later stages). The committee may also invite representations from interested parties, and may take written and oral evidence to inform its work.

**14.** Once the committee has reported, the Senedd will be asked to debate and vote on the Bill's general principles - the 'Stage 1 debate'.

## Stage 2

**15.** This stage follows the completion of Stage 1 and involves the detailed consideration, by a committee, of a Bill and any amendments proposed by Members of the Senedd.

**16.** Any Member of the Senedd may table amendments to the Bill and there is no limit to the number of amendments that can be tabled. However, only committee members may vote on amendments. This stage ends when all the amendments have been considered.

**17.** If the Presiding Officer determines that a financial resolution is required for the Bill, then no proceedings may take place at Stage 2 before that financial resolution is agreed by the Senedd. If a financial resolution is not agreed within six months of the agreement by the Senedd of the general principles of a Bill at Stage 1, the Bill falls.

## Stage 3

**18.** This stage follows the completion of Stage 2 and involves the detailed consideration, by the Senedd as a whole, of the Bill and any amendments proposed by Members of the Senedd.

**19.** Any Member may table amendments to the Bill, but the Presiding Officer can decide which amendments will be considered by the Senedd.

## Other amending stages

**20.** If the Senedd wishes, it may also consider a Bill at Further Stage 3, Report Stage and Further Report Stage.

## Stage 4

**21.** This is the last stage of the process and follows the completion of Stage 3 (or the final amending stage). At this Stage, the Senedd votes on whether to pass the final text of the Bill.

## Passing a Bill

**22.** If passed by the Senedd at Stage 4, a Bill must receive Royal Assent from the monarch before formally becoming a piece of law.

**23.** If the Senedd does not pass the Bill at Stage 4, it falls and no further action can be taken on it.

## Other Bills

**24.** Bills can also be introduced by Senedd committees, individual Members or the Senedd Commission and will generally follow a similar procedure to that set out above.

**25.** Members can only introduce a Bill if they have been successful in one of the ballots conducted under the authority of the Presiding Officer. In order to enter the ballot, Members must provide the title of the Bill they wish to introduce and an explanation of the policy objectives of that Bill. If they are successful in a ballot, they must also obtain leave from the Senedd as a whole to introduce a Bill based on that explanation.

# Subordinate Legislation in the Senedd

## What is subordinate legislation?

**26.** Acts of Senedd Cymru are primary legislation, as are Acts of the UK Parliament. ‘Subordinate legislation’ is an umbrella term for laws made under the authority of an Act (or Assembly Measure). Subordinate legislation is also known as secondary or delegated legislation and generally takes the form of statutory instruments.

**27.** When passing a Bill, the Senedd approves its principles, general objectives and important points of detail. However, it will usually give the Welsh Ministers, or some other body, subordinate legislation powers to make detailed rules and regulations or compel action relating to how the main law is implemented.

## How is subordinate legislation made?

**28.** Although a number of bodies, including local authorities and other statutory bodies, are able to make subordinate legislation, most subordinate legislation of concern to the Senedd will be made by Ministers.

**29.** There are three main categories of subordinate legislation depending on the procedure used for scrutinising and approving it. These are known as:

- No Procedure – usually published, but requiring only approval by Ministers (or their officials);
- Negative Resolution – published, but the Senedd can agree, within 40 days, to annul (cancel) the legislation if a Member tables a motion requesting it;
- Affirmative Resolution – published in draft and requiring the approval of the Senedd before it can come into force.

**30.** Occasionally, for particularly important or contentious legislation, a so-called **super affirmative** procedure is used. This is an affirmative procedure but with

additional requirements, for example a period of consultation before the legislation can be put before the Senedd for approval.

## How is subordinate legislation scrutinised?

**31.** The Senedd's Standing Orders ensure that an Senedd committee is allowed up to 20 days to report to the Senedd on any issues raised by subordinate legislation.

**32.** Affirmative resolution subordinate legislation is always debated and must be approved by the Senedd before it can come into force. Negative resolution subordinate legislation comes into force on the date specified in it unless an Member of the Senedd requests that it is debated by the Senedd (by tabling a motion asking that the legislation is annulled).