

Amendments to Bills: Guidance on the interpretation and application of admissibility criteria Issued by the Llywydd under Standing Order 6.17

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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.

Amendments to Bills: Guidance on the interpretation and application of admissibility criteria

Issued by the Presiding Officer under Standing Order 6.17 following issues raised during the Business Committee's [review of the Public Bill and Member Bill process](#) that relate to the functions of the Presiding Officer.

The focus of the guidance is the general admissibility criteria for amendments to Public Bills introduced under Standing Order 26. There are broadly equivalent general criteria in Standing Orders 26A to 26C (Private/Hybrid/Consolidation Bills), as well as criteria specific to those categories of Bills. There are also additional, specific criteria that apply to certain stages in the scrutiny of Public Bills introduced under Standing Order 26; these stages are further Stage 3, Report, further Report, Reconsideration, and Reconsideration Stage.

The guidance should be considered alongside the following:

[Standing Orders of the Welsh Parliament](#)

[The Presiding Officer's Determinations for the proper form of Public Bills and amendments to Public Bills](#)

[Guides to the legislative process](#)

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The interpretation and application of admissibility criteria

General

1. Standing Orders 26.58 to 26.66 apply to amendments in Stage 2 proceedings, Stage 3 proceedings, Report Stage proceedings or on Reconsideration.
2. The Presiding Officer must determine the proper form of amendments to a Bill (Standing Order 26.58).
3. An amendment is not admissible if:
 - i. it is not in its proper form in accordance with Standing Order 26.58;
 - ii. it is not relevant to the Bill or the provisions of the Bill which it would amend;
 - iii. it is inconsistent with the general principles of the Bill as agreed by the Senedd; or
 - iv. it is inconsistent with a decision already taken at the Stage at which the amendment is proposed (Standing Order 26.61).

Procedure, precedent, and practice

4. Final decisions on admissibility can only be taken when the text of an amendment is available.
5. In practice, decisions on the interpretation and application of Standing Orders regarding the admissibility of amendments are taken by clerks on the Presiding Officer's behalf.
6. Admissibility begins with the assumption that an amendment is admissible unless it engages one of the Standing Order tests. There will likely always be a degree of subjectivity when applying the tests, and decisions may sometimes be finely balanced.

7. Application of the admissibility criteria in practice can be complex. Decisions may be escalated to the Presiding Officer at clerks' discretion or if requested by a tabling Member.

8. The Presiding Officer's decisions are final, and (in line with other Presiding Officer functions):

- No reasons have to be given for any decision.
- There is no formal route of appeal (either against a Member's amendment being found inadmissible, or another Member's amendment being found admissible).

9. Members (and supporting officials) are encouraged to seek advice early to enable any potential admissibility issues to be identified and, as far as possible, resolved.

Proper form (Standing Order 26.61(i))

10. The Presiding Officer has published a [Determination on the Proper Form of Amendments to Public Bills](#) in accordance with Standing Order 26.58.

11. It would be unlikely for an amendment to be ruled inadmissible on the ground that it is not in proper form alone. In practice, if it appears that a proposed amendment is not in proper form, clerks will advise Members on how such matters may be addressed.

Example¹ – Proper form

Each amendment can only propose one change to the text of the Bill. For example, amendments can:

- leave out a word and replace it with a different word;
- insert one or more new paragraphs to a list of existing paragraphs;
- leave out an entire section or Schedule.

¹ All examples in this guidance should be treated as illustrative examples.

Amendments cannot²:

- change part of a word, i.e. change “child” to “children” by adding “ren” (instead, the amendment must propose that “child” is left out and “children” is inserted);
- leave out more than one section or Schedule using only one amendment (separate amendments are required).

Identical amendments

12. While not specifically provided for in Standing Order 26.61 or the Determination on the proper form of amendments, as a matter of parliamentary practice, an amendment is deemed to be inadmissible if an identical amendment has already been tabled. This would include amendments which differ only in trivial respects that would have no legal effect. The practice facilitates the proper conduct of Senedd business by avoiding unnecessary repetition or duplication.

13. Where an amendment is deemed inadmissible in accordance with the practice, the Member will be:

- Given the opportunity to outline their views on why any differences would have a different legal effect and/or are more than trivial.
- Advised on the range of procedural options available to them, including:
 - adding their name in support of the already-tabled amendment³;
 - if the deadline for tabling amendments at that amending stage has not passed:
 - adjusting their proposed amendment to be substantively different from the already-tabled amendment;

² See the Presiding Officer's Determination on Proper Form: Amendments to Bills, paragraphs 4 and 5

³ Adding their name to an amendment demonstrates support for that amendment but also prevents the original proposer from withdrawing the amendment without the support of all those who have added their names.

- tabling an amendment (or amendments) to the already-tabled amendment to seek to adjust such details as the tabling Member considers to be required;
- requesting that an admissibility decision taken by a clerk is escalated to the Presiding Officer for final decision.

Example – Identical amendments

Tabled amendment:

Section 4, page 3, after line 2, insert—

‘() a dog is not a cat;’

Inadmissible amendment, because the proposed amendment differs only in trivial respects from the amendment already tabled:

Section 4, page 3, after line 2, insert—

‘() dogs are not cats;’

Relevance (Standing Order 26.61(ii))

14. An amendment is inadmissible if it is not relevant to (sometimes referred to as outside the scope of) the existing provisions in the Bill.
15. Relevance means that the proposed amendment has a close connection - whether that be subject-matter or purpose - to the provision in question.
16. In the Senedd, the scope of a Bill represents the reasonable limits of its collective purposes, as defined by its existing provisions. The relevance of a proposed amendment is looked at within this context, and is not a legal test. The application of this criterion is not intended to limit the role of Members of the Senedd as legislators. The rule is, therefore, carefully applied to facilitate political debate.
17. For example, a person should not be expected to look for an education provision in an environment-related Bill. Similarly, a guiding principle underpinning the Senedd’s approach to relevance is that it should not be asked at Stage 4 to vote on a radically different Bill to that which the Senedd agreed at Stage 1.
18. The long title to a Bill provides a concise description of the main purpose(s) of a Bill, and is a useful guide to determining its scope in the first instance. However, the long title is not a definitive measure by which relevance can be determined.

19. Care must be taken so that the wording of the long title does not mislead when considering relevance. The long title may, for example, include the words “and for connected purposes”, but this does not open up the Bill to amendments which would, in the absence of those words, not be relevant to the other purposes of the Bill.

20. Nonetheless, for Bills which (on introduction) contain more than two purposes/Parts, it may be relevant to add a further purpose by amendment so long as the new purpose is no more remote in terms of subject-matter from the existing purposes than those purposes are from each other. Some Bills (sometimes labelled as “miscellaneous provisions” Bills) consist of a large number of distinct purposes within a broad area of policy. With such a Bill, it may be possible to introduce by amendment any number of new purposes within that area of policy. However, even with such a Bill, amendments to introduce purposes in another area of policy altogether would likely not be relevant.

21. As well as being relevant to the Bill as a whole, each amendment must be relevant to the provision to which it is made. For example, an amendment to leave out a section and insert a new section in its place is appropriate only where the new section has essentially the same purpose as the old one, but uses a different form of words to achieve that purpose. If the new section is doing something distinct from what it seeks to replace, two amendments should be tabled - one to leave out the existing section, the other to insert the new one.

Example - Relevance

The Tertiary Education and Research (Wales) Bill

Long title: An Act of Senedd Cymru to establish the Commission for Tertiary Education and Research and to make other provision about tertiary education (which includes higher education, further education and training) and research.

Relevant amendment: An amendment seeking to make the members of the Commission appointable by the Senedd rather than appointable by the Welsh Ministers.

Reason: The Bill as introduced already makes provision for the appointment of members of the Commission; the amendment seeks to change who is responsible for this matter.

Not relevant amendment: An amendment seeking to raise the compulsory age of participation in education.

Reason: The Bill as introduced establishes the Commission for Tertiary Education and Research as the independent regulatory body responsible for the funding, oversight and regulation of tertiary education and research in Wales. It also makes provision for the registration and regulation of tertiary education providers, securing and funding of tertiary education and research, apprenticeships, and other miscellaneous provisions. Tertiary education encompasses post-16 education, including further and higher education, apprenticeships and sixth forms. Seeking to raise the compulsory age of participation in education - for example, from 16 to 18 - would be trying to add a new purpose which is distinct from the others. It would also have much broader implications than the Bill's original aims, i.e. on the curriculum for children of compulsory school age, on how the curriculum can be delivered, on the rights of 17 and 18 year olds, none of which would have been assessed and consulted upon prior to the Bill's introduction.

22. If in doubt, Members should seek advice from the relevant clerk before seeking to table an amendment.

Consistency with general principles (Standing Order 26.61(iii))

23. An amendment is not admissible if it is inconsistent with the general principles of the Bill as agreed by the Senedd at Stage 1. This criterion is intended to rule out amendments that would reverse, substantially alter, or render ineffective a principal purpose of a Bill. Such amendments are often called 'wrecking amendments'. For example, seeking to delay the commencement of a provision from two months after Royal Assent to 20 years after Royal Assent would almost certainly render ineffective the aim of that provision.

24. By the time the Bill becomes amendable (at Stage 2), the Senedd has already voted in favour of its general principles (at Stage 1).

25. The proper course for Members who oppose the basic thrust of a Bill is to oppose the motion to approve the general principles at Stage 1; or, if any amendments agreed at later stages are insufficient to make it acceptable in their view, to oppose the motion to pass the Bill at Stage 4.

26. In determining whether an amendment would 'wreck' the Bill, a similar approach to that described under 'Relevance' is adopted. In general terms, if a

Bill has more than two distinct purposes/Parts, the removal of one of those purposes does not necessarily amount to the wrecking of a Bill.

27. In any particular case, account will be taken of how substantial the purpose is, the extent to which the remaining purposes would be affected by its removal, and how close it is in terms of subject-matter to the other principal purposes of the Bill.

28. In addition, where a Bill is introduced with an outcome to be achieved or delivered in a specific manner, an amendment creating a different approach to achieving the same outcome may not be admissible.

Example – Consistency with general principles

The Agriculture (Wales) Bill

Long title: An Act of Senedd Cymru to make provision about sustainable land management; to make provision for and in connection with support for agriculture; to make provision about matters relating to agriculture and agricultural products; to amend the *Forestry Act 1967* in connection with tree felling licences; and to amend the *Wildlife and Countryside Act 1981* in connection with prohibitions relating to snares and traps etc.

Amendments not inconsistent with the general principles decision of the Senedd: Amendments seeking to remove the provisions in the Bill that change the *Forestry Act 1967*.

Reason: The Bill as introduced has a principal purpose - making provision for sustainable land management - while also making related, ancillary provision to achieve five other purposes relating to the support for, or in connection with, agriculture in Wales. The provisions in the Bill which amend the *Forestry Act 1967* can be considered as one of these related, ancillary purposes, and their removal would not substantially alter the Bill's principal aim.

Amendments inconsistent with the general principles decision of the Senedd: Amendments seeking to include new provisions to establish a water regulator for Wales.

Reason: The Bill as introduced has a principal purpose - making provision for sustainable land management - and makes provision for other related ancillary matters. A water regulator for Wales is something the Senedd could not reasonably be deemed to have approved when agreeing the Bill's general

principles, and would have an impact on matters beyond what could be classed as 'agriculture-related'.

29. Again, if in doubt, Members should seek advice from the relevant clerk before seeking to table an amendment.

Consistency with decisions already taken (Standing Order 26.61(iv))

30. This criterion is intended to prevent decisions being taken on amendments which have become impossible and to prevent decisions taken on one amendment being overturned by a decision on a subsequent amendment at the same stage.

31. It is possible that an amendment that was admissible when it was tabled could become inconsistent with a decision taken on an amendment at the same stage. In this case, the later amendment or amendments would be pre-empted by the earlier amendment. The amendment(s) would fall, i.e. could not be called to be moved when reached in proceedings, and therefore could not be subject to a vote.

32. For example, if amendment 1 leaves out section 44 and it is agreed to, amendment 2 which seeks to make a change to section 44 has become inadmissible during proceedings because Members have already taken the decision to remove section 44.

33. The rule is not intended to prevent the Senedd from considering the relative merits of amendments that represent slightly different ways of achieving the same outcome or amendments that are direct alternatives. The rule is, therefore, applied narrowly to facilitate political debate and, ultimately, to enable decisions to be made by Members.

34. This Standing Order is also relevant to further Stage 3, further Report Stage or further Reconsideration Stage proceedings. Such proceedings are a continuation of their namesake stage, rather than new, separate stages.

Example – Consistency with decisions already taken

Amendments voted on at Stage 3 leave a Bill with inconsistent references to the name of a statutory body. However, proposed amendments for further

Stage 3 proceedings that would revert those references or give Members a second opportunity to amend the references not changed at Stage 3 (because amendments to do so were voted down) would be inadmissible because they would be inconsistent with decisions taken at the same stage.

Legislative competence

35. Legislative competence is not a criterion for determining whether or not an amendment is admissible. The Presiding Officer does not have a role in considering whether proposed amendments might take a Bill outside the legislative competence of the Senedd. The Senedd is, however, permitted to legislate only within its competence, and a Bill may be the subject of a reference to the Supreme Court on the grounds of legislative competence after it is passed.

36. In tabling amendments, Members may wish to have regard to issues of legislative competence and be aware of the potential for the effect of an amendment on legislative competence to be raised in debate.

37. Analysis of the legislative competence of a Bill or any of its provisions can be a complex matter, and it is only the courts that can determine definitively whether a provision is within competence. However, the clerks will, where possible, seek to alert Members who wish to table amendments where they are aware of specific issues of competence. Where possible, the clerks will seek to advise on alternative approaches that may avoid these issues.