Fast-tracked legislation / emergency legislation

What is fast-tracked legislation? [2]
A fast-tracked bill passes through all the normal stages of passage in each House, but on an expedited timetable. The term is often used interchangeably with emergency legislation (where bills are brought forward in response to a specific situation) or expedited legislation (where the passage of bills is accelerated).

How long does it normally take to pass a bill? [3]
There is no set time frame for passing a bill but the table below shows the usual intervals between stages for a bill [4]. When a bill is fast-tracked, these times can be reduced, allowing it to pass in as little as a day.

<table>
<thead>
<tr>
<th>Stage</th>
<th>House of Commons</th>
<th>House of Lords</th>
</tr>
</thead>
<tbody>
<tr>
<td>Publication/first reading to second reading</td>
<td>Two weeks</td>
<td>Two clear weekends between stages</td>
</tr>
<tr>
<td>Second reading to committee stage</td>
<td>One week / 10 calendar days</td>
<td>14 calendar days</td>
</tr>
<tr>
<td>Committee stage to report stage</td>
<td>One week</td>
<td>14 calendar days</td>
</tr>
<tr>
<td>Report stage to third reading</td>
<td>Immediately follows report stage</td>
<td>Three sitting days</td>
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Why might the government want to fast-track legislation? [5]
In some cases, fast-tracking a bill is driven by a pressing need to take decisive action in response to unforeseen events, such as the Banking (Special Provisions) Act 2008 that nationalised Northern Rock bank.

In other cases, the government can appear to be motivated by political considerations. For instance, the Constitution Committee has highlighted the Dangerous Dogs Act 1991 as an example of legislation fast-tracked because ministers wanted to appear to act quickly following a series of dog attacks on children.

Finally, there are some relatively standard or even benign reasons to fast-track legislation, including:

- to correct an error in legislation
- to respond to a court judgement that means the law ceases to work as intended
- to ensure that legislation is in force for a particular event
- to ensure that the UK continues to abide by its international commitments
- to implement changes contained in a Budget
- to implement counter-terrorism measures
- to maintain the devolution settlements in Scotland, Wales and Northern Ireland
- to respond to public outcry.

When has the government frequently used fast-tracked legislation? (4)

Fast-tracked legislation has been used frequently in relation to Northern Ireland, due to the need to legislate quickly to address security concerns and respond to often fast-moving political events affecting devolution.

Between 1995 and 2009, 15 bills relating to Northern Ireland were expedited – including the Criminal Justice (Terrorism and Security) Act 1998, passed in response to Omagh bombing, which completed its parliamentary passage within two days of parliament being recalled. More recently, the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018 was passed in two days, with just one day in each House.

How can the government fast-track a piece of legislation through the Commons? (7)

The government is required to make statements in both Houses explaining its decision to fast-track legislation.

The government has control over parliamentary time in the Commons, so it can schedule less time than usual for a bill’s passage through parliament, typically using an ‘allocation of time order’ (also known as a guillotine, as it sets a cut-off time for parliamentary debate) or ‘a Business of the House motion’ setting out how much time will be spent on the bill. These arrangements require the support of a majority of MPs.

How can the government fast-track a piece of legislation through the Lords? (8)

The Lords is self-regulating and there is no in-built government majority, so it is harder for government to force through legislation, and fast-tracking a bill requires the agreement of Peers.

One method to fast-track legislation is the ‘No 2 bill procedure’, whereby two versions of a bill are introduced into the Commons and Lords simultaneously. The Commons version of the bill then proceeds through all stages, while the Lords version only proceeds as far as second reading. The Commons version then enters the Lords at committee stage, and the Lords version is withdrawn. This can speed up the passage of a bill in the Lords by up to one month, by shortening the usual intervals between the opening stages.

Aside from refusing to accept a shorter timetable, Peers may also ‘filibuster’ (continue to debate so to run down parliamentary time) fast-tracked legislation to prevent a bill making progress – although a majority of Peers present can counter this behaviour by passing a motion that ‘the Noble Lord no longer be heard’. This has the effect of silencing a peer who is deemed to be filibustering.

Peers can also prevent stalling and move debate on by approving a ‘closure motion’. If a majority of Peers present support the motion, the debate will move on to the next stage.

Preventing filibustering using these options can take time.

A further hurdle is that one of the parliamentary rules in the House of Lords – Standing Order 47 – states that no more than two stages of a bill can be completed in one day. To compress the legislative timetable, this rule must be temporarily suspended, again requiring the consent of Peers.

What are some of the potential problems involved in fast-tracking legislation? (9)

There are often legitimate reasons for a government needing the ability to fast-track legislation but bypassing the usual legislative process also poses several potential problems:

- **Heavy burdens on departments and parliament**: puts pressure on government departments and parliamentary counsel to make policy decisions and draft legislation quickly, and parliamentary staff to produce information for MPs and Peers rapidly.
- **Weaker scrutiny**: reduces the time available for MPs and Peers to deliberate on a bill and propose changes, thereby increasing the likelihood of legal errors or of the legislation having unintended consequences.
- **Concentration of power in the hands of the executive**: fast-tracking legislation gives the executive significant power, and concerns have been raised by the Lords Constitution Committee that the fast-track legislative procedure can be exploited for political reasons, when a government believes there is a need to be seen to be acting quickly.
Has there been any attempt to address these concerns over fast-tracked legislation? [11]

The Lords Constitution Committee [10] has suggested that fast-tracked legislation should be subject to greater post-legislative scrutiny to identify any unintended effects and to suggest changes where necessary. It has also called for greater use of ‘sunset clauses’ – which see bills expire after a set period – to limit the scope of legislative change that can be achieved from emergency legislation, and to provide an opportunity for parliament to consider whether it wants the legislation to remain in force in a less febrile atmosphere.

While the government has broadly welcomed these recommendations, [12] there has been no comprehensive reform of fast-tracked legislation.

When a general election is called, is all legislation fast-tracked? [13]

Parliament is dissolved ahead of a general election, at which point any unfinished parliamentary business falls. To avoid this, governments will usually try and fast-track as much unfinished business as possible in the time between an election being called and parliament being dissolved – known as the ‘wash up’ period.

This requires the cooperation of opposition MPs and Peers, and it is not uncommon for bills to be amended to remove contentious elements and increase their likelihood of passing. For instance, in 2017 over half the clauses of the Finance (No2) Bill were removed, and other contentious bills – like the Prison and Courts Bill – were dropped entirely.

How is fast-tracked legislation relevant to the Brexit debate? [14]

Parliamentarians opposed to a no-deal Brexit used fast-track legislation to try and prevent no deal in April and September 2019. Unusually, these bills were fast-tracked at the request of MPs – rather than the government, which opposed the bills.

In January 2020, the government passed the Withdrawal Agreement Bill [16] (to implement the Withdrawal Agreement with the EU) to an expedited timetable – which had previously been rejected by MPs prior to the 2019 general election.

Update date:
Wednesday, February 5, 2020

Links
[10] http://twitter.com/intent/tweet?text=Has%20there%20been%20any%20attempt%20to%20address%20concerns%20over%20fast-tracked%20legislation%3F
[16] https://www.instituteforgovernment.org.uk/explainers/withdrawal-agreement-act