

HOW LAWS ARE MADE

One of the most important things a Parliament does is to pass Bills, which is what our laws are known as when they are first debated by Parliament. Before a government Bill comes to Parliament the appropriate Minister must convince Cabinet to proceed with the legislative proposal it contains. After agreement is reached, the matter is passed to the Parliamentary Counsel, whose staff use their legal skills, with instructions from the Minister, Cabinet or the relevant government agency, to draft a Bill for Parliament to consider.

BILLS: Definition

A Bill can be defined as a document which contains a draft proposal for a new law, or an amending proposal for an alteration to an existing law. It must receive the approval of each House before it can become legislation - i.e. an Act, Statute or Law. Most bills are Public Bills and are introduced by the Minister whose agency will be responsible for implementing and administering the legislation.

Any Member of Parliament is entitled to prepare and present a private member's Bill for debate, but because the Government of the day is in control of the proceedings it may be difficult for non-government Bills to receive the same consideration that government Bills receive. Similarly, any Member may propose amendments to any Bill during the Committee stage, but to become law such amendments will usually need to be accepted by the Government in the House of Assembly.

LEGISLATIVE PROCESS

First Reading

Parliament starts its formal consideration of a Bill with the First Reading. Historically the Clerk - an Officer of each House of the Parliament - was required to read the full text of the Bill out loud, but in modern times only the long title of the printed Bill is read out. No other debate or action occurs at the First Reading stage. This allows time for MPs to familiarise themselves with the Bill

and it is usual that a fixed number of days (2 in the House of Assembly and 3 in the Legislative Council) must pass before the next stage.

Second Reading

The relevant Minister or Member in charge of the Bill moves a motion that the Bill 'be now read the second time' and then outlines the policy and intentions of the Bill to the House in what is known as the second reading speech. After the Minister has finished this speech the Opposition and other Members are entitled to make speeches indicating their support for the Bill or any criticisms of it. Such speeches may occur over several days. Only after the Second Reading debate is completed, which means the Bill has been agreed to 'in principle', can the Bill move on to the next stage.

Second Reading speeches are important because they may be used by members of the legal profession to help them decide when interpreting the law what the Parliament's intentions were. Because of this important function certain 'extrinsic' or 'explanatory' material is often distributed at this stage; this may include a fact sheet explaining the reasons for the Bill and perhaps clause notes in plain English.

Committee Stage

In the House of Assembly it is possible to skip this stage and go directly to the Third Reading if the Members support the Bill, but it is more usual that when a Bill has passed its Second Reading stage the House moves into the 'Committee of the Whole' (which is every member of the House) to examine or amend the Bill in detail, clause by clause.

At this stage the relevant Presiding Officer (the Speaker of the House of Assembly or the President of the Legislative Council) hands over to the Chairperson of Committees, who assumes the Chair at the Table in order to maintain control of the debate. The Committee then proceeds to consider, agree to or amend each clause, ending with the title of the Bill.



At the conclusion of the detailed consideration of the Bill the Chair of Committees must report progress or completion of the debate to the relevant Presiding Officer.

Note that the 'Committee' stage refers specifically to the detailed consideration of a Bill and should not be confused with the operations of Parliamentary Committees which undertake investigations outside Parliament.

Third Reading

Having resumed the Chair the Presiding Officer receives a 'certified' copy of the Bill from the Chair of Committees. At this stage it is only the report from the Committee that can be discussed because the 'in principle' or Second Reading stage of the Bill cannot be debated again. After the report of the Committee of the Whole has been accepted the next step is a formal motion from the Minister that the Bill 'be now read the third time' which, if passed, completes the passage of the Bill.

Agreement by both Houses

Both Houses of the Tasmanian Parliament (the 25-member House of Assembly and the 15-member Legislative Council) must approve a Bill using this three readings process. The Clerk in either the House of Assembly or the Legislative Council signs the Bill, which is then sent for the concurrence (agreement) of the other House. Any amendments made by either House must be accepted and approved by both Houses for a Bill to be finally passed into law.

Most Bills will be introduced first into the House of Assembly and will be sent on to the Legislative Council after successfully passing the lower House, but it is possible for most Bills to be introduced in the Legislative Council and go the Assembly if they successfully pass the upper House first.

ROYAL ASSENT

When the Parliament has concluded its consideration of a Bill it is taken by the relevant Presiding Officer, usually the President of the Legislative Council, and Clerk to the State Governor for the Royal Assent. This is the formal signature of the Governor which indicates that the Bill has passed both Houses and is now an Act of Parliament, which may mean that the law comes into immediate effect or at a later time to be announced.

TERMINOLOGY

The front page of both the Bill and the subsequent Act contain the 'Short Title' (the common name of the new Act) while the first page of the text contains the 'Long Title' (which outlines what the legislation is designed to achieve). Bills are numbered in the order in which they are presented to Parliament, and Acts are numbered in the order in which they receive Royal Assent.

Amendment Bills will usually refer to the 'Principal Act', which is the major piece of legislation being amended by the new law.

Bills are divided into 'clauses', which are known as 'sections' once the Bill becomes an Act. Clause (or section) 1 gives the Short Title of the new law; the subsequent clauses (sections) give the commencement date and outline any terms that may require definition; while the remaining clauses will vary according to the specific content of the Bill.

Bills which are introduced by a Minister on behalf of the Government are 'Public Bills'; those which are introduced by an independent Member or by Members on their own initiative (i.e. without the backing of their Party) are 'Private Members Bills'.

The Minister who introduces a Bill is usually the one whose department has been responsible for preparing the policy and the proposed law, and who will eventually be responsible for administering it. There may be more than one Minister involved in the administration, particularly if the Bill has financial implications which may involve Treasury and the Treasurer.

