



LEGISLATIVE COUNCIL FACT SHEETS

FACT SHEET 29: THE LEGISLATIVE PROCESS

According to *May's Parliamentary Practice* a bill is a draft of a legislative proposal and an act of Parliament or statute is a bill which has passed through its various stages in both Houses of Parliament and received assent from the Governor.

The 'passing' of a bill through both Houses means that procedures laid down in the standing orders for the first reading, second reading, committee stages and third reading (or their equivalent in the Legislative Assembly) have been complied with.

Bills may be originated in either House, except that bills for appropriating any part of the public revenue, or for imposing any new rate, tax or impost, so called 'money bills', must originate in the Legislative Assembly.¹ (section 5, *Constitution Act 1902*).

There are three categories of bills:

- Public bills
- Private bills
- Hybrid bills

Public bills (SOs 136-163)

A public bill is one which deals with a matter or matters of general public interest and in the majority of cases is introduced and guided through both Houses by a minister, parliamentary secretary or a member. Nearly all bills introduced are public bills.

Government bill

Approximately 98% of bills passed are Government bills, being bills introduced by a minister or a parliamentary secretary and dealt with as Government business. There are no time limitations on debate with bills dealt with as Government business.

Private members' public bills

A private member's bill differs from a Government bill in that the standing orders provide for these bills to be dealt with on days set apart for general business. The member has to compete with other items of private members' business in the sequence established by a draw as prescribed by standing order 185. Another difference between a Government bill and a private member's bill is that there are time limits which apply to the debate of the bill at the introduction second and third reading stages.

¹ *Constitution Act 1902*, s 5

Private bills (SOs 164-171)

A private bill (not to be confused with a public bill introduced by a private member) deals with specific private matters which affect a private person or persons or apply to some particular locality. It is not a measure dealing with public policy and is not sponsored by the Government but by a private member. Certain special procedures are involved in the introduction and passing of a private bill. For example, it is initiated by petition and referred to a select committee for consideration and report. The last private bill passed by both Houses was the Tamworth Information Centre Bill 1992 introduced by Tony Windsor in the Legislative Assembly.

Hybrid bills

A hybrid bill is a public bill which affects particular private interests in a manner different from the private interests of other people or bodies in the same category or class. That is, a hybrid bill affects partly public and partly private interests. The last bill regarded as a hybrid bill in the Legislative Council was the East Maitland Racecourse Enabling Bill in 1920 that related to the powers of the trustees of the racecourse to deal with Crown land. It was introduced as a public bill, but on a point of order being taken, the President ruled the bill a hybrid bill.

Cognate bills

Standing order 139 provides for the simultaneous consideration of related bills to proceed through the various stages together, except in committee of the whole House where they are considered separately.²

Stages in the passage of a bill

The standing orders provide for the following stages in the passage of a bill:

- a first reading (SO 137)
- a second reading (SO 140)
- consideration in detail, if necessary, in Committee of the Whole (SO 141)
- a third reading (SO 148).

Initiation, introduction and first reading

A Council bill

A bill introduced in the Legislative Council is initiated by giving a notice of motion seeking leave to introduce the bill, usually on the next sitting day. The notice states the long title of the bill.

² Apart from cognate bills there have been occasions when procedures have been adopted to allow for the consideration of the second reading debate for a number of bills at the one time. For example, the Motor Accidents Compensation Bill 2002, Workers Compensation (Terrorism Insurance Arrangements) Bill 2000, Terrorism (Commonwealth Powers) Bill and Terrorism (Police Powers) Bill 2002 were considered together at second reading stage. However, the motions for second reading and subsequent stages were dealt with separately in respect of the separate bills.

When the House agrees to the introduction of a Council bill, a copy of the bill is presented and a motion made that the bill be printed and read a first time. The bill is now available to members and the public. According to standing order 137(1) the question on the first reading and printing will be taken together as one motion, be put by the President immediately after the bill has been received, and be determined without amendment or debate. Standing order 137(3) provides that after the second reading speech by the mover, the debate is to be adjourned until a future day which must be at least five calendar days ahead.

An Assembly bill

A bill received from the Assembly proceeds in the same manner as a bill introduced in the Council, except for initiation (SO 154). On the President reporting a message from the Assembly forwarding a bill for concurrence, the question on the first reading and printing is taken together as one motion immediately after the bill has been received, and is determined without amendment or debate (SO 137). However, a minister usually moves a contingent notice for the suspension of standing orders on bills received from the Assembly to allow the bill to proceed through all stages during any one sitting. This practice originally occurred towards the end of a sitting period, when time pressures often required bills to be dealt with promptly. However, in recent years the practice has become commonplace, so that standing orders are now routinely suspended on all bills received from the Assembly.

Second reading

The second reading is the stage at which the general principles of the bill are considered. It is to this question that lengthy debate often occurs and amendments are most frequently proposed, particularly on controversial bills.

After the second reading is agreed to, the bill may be considered in detail in a committee of the whole House, with the Chair of Committees presiding.

Standing order 141(1)(a) permits non-contentious bills to proceed directly to the third reading immediately after the second reading is agreed, without going through the committee stage, if there is no objection. If any member objects, the bill must proceed through the committee of the whole in the normal manner.

Committee stage (SOs 141-146)

The Committee stage on a bill is the stage where the text may be modified. The function of the committee of the whole is to consider each clause, schedule (if any), preamble (if any) and the title of a bill separately and, if necessary, word by word to approve or amend the text. With large bills, in many instances the committee agrees to consider a bill by parts rather than clause by clause.

An amendment may be moved to any part of a bill but it must be in conformity with the standing orders. The same rules of debate which apply in the House are applicable in committee, except that a member may speak more than once to the same question.

When a bill is agreed to in committee, with or without amendment, it is reported back to the House. The House will then usually adopt the report from the committee and the third reading of the bill

may be set down for a future day (SO 148). In practice the third reading usually takes place immediately either by leave or by contingent notice.

Third reading

Following a bill's second reading, and consideration in committee of the whole if necessary, the bill is read a third time. Debate on the third reading is limited to stating reasons for supporting or opposing the motion, after which the question is put to the House.

Expedited passage of a bill

The above procedure for the passage of a bill may be expedited by the House agreeing to a motion to suspend standing orders, thus allowing a bill to pass all stages in one sitting day.

Standing order 198 provides that standing orders may be suspended on notice and, in cases of necessity, without notice, as long as there is no objection. The suspension of standing orders would enable the passing of a bill through all its stages during one sitting of the House.

Urgent Bills

Standing order 138 allows a Minister to declare a bill to be an urgent bill, in which case the question will be put immediately, without amendment. When a bill has been declared urgent, second reading debate and subsequent stages may proceed immediately or at any time during any sitting.