**MAKING THE LAW**

Law making in New South Wales follows much the same steps as in most other Australian states, the Australian Federal Parliament, and the British Parliament upon which our system of Government is based.

The **main steps** in the process of making a law are:

1. **Developing a Policy**
   See “Sources of Laws” below.

2. **Drafting the Bill**
   The difficult task of turning an idea or a policy into the precise language of a law is the work of expert lawyers in the office of the Parliamentary Counsel.

3. **The Parliamentary Process**
   See the diagram on the next page for more detail.

4. **Royal Assent**
   The final stage in the process by which a Bill becomes an Act. Once it has passed through all stages in both Houses, the Governor signs it to give it formal approval.

5. **Commencement.**
   An Act will come into force 28 days after the Governor’s signature unless the Act specifies otherwise.

**Sources of Laws**

Any Member of Parliament may initiate a Bill, but actually most are introduced by Ministers of the Government. Most Acts begin as decisions of the political party in Government, and policy may come about after pressure from community groups, the media or public opinion pointing out particular needs, advice from Government Departments, or even because of court decisions. When the Government is satisfied that laws are needed, the Minister concerned submits the proposal to the Cabinet for approval.

Where a Bill is introduced by individual Members of Parliament - be they Government, Opposition or Independent Members - the Bill is known as a Private Members Bill. In practice such Bills have much less chance of getting majority support and thus becoming law.

**House of Origin**

In New South Wales most legislation originates in the Legislative Assembly. However, there are also Government Ministers in the Legislative Council and some Bills originate there. The diagram on the next page refers to them as *House of Origin* and the *Second House.* If the Legislative Assembly is where the Bill originates, then the “second house” will be the Legislative Council, and vice-versa.

**Powers of Houses in Respect to Bills**

Under Section 5 of the Constitution Act, “Money Bills” (Bills for raising or allocating money) can only be introduced in the Legislative Assembly and, if the Bill is part of the ordinary annual services of Government, the Legislative Council cannot prevent it becoming law.

**The Defeat of a Bill**

A Bill can be defeated in either House at the Second or Third Reading stage. Sometimes, it may be presented again later, perhaps in a different form or in another session of Parliament.

**Differences between Houses**

If the Second House wishes to amend a Bill passed by the House of Origin, it will send the amended legislation back to the House of Origin. If the amendment is agreed to, it then becomes part of the Bill - if not messages will pass back and forth between the Houses until there is agreement. If necessary, a conference of managers will be appointed by both Houses to sort the issue out. Should this fail, the Governor can call a joint sitting of both Houses to discuss the Bill. Finally, the Bill, if still unsuccessful, can either be set aside or submitted to a referendum of the voters of New South Wales.
Types of Law

Statute Law is the law made by Parliament. It is introduced in a Bill and, if passed, becomes an Act.

Common Law is judge-made law, developed through centuries of precedent, or earlier judgements on cases before courts.

The Commonwealth and States’ Constitutions set out the basic structure of the legal and parliamentary systems.

Stages in Passing a Law in New South Wales

Regulations, Subordinate or Delegated Legislation

Some Acts only outline broad guidelines or principles, leaving details to be defined later in regulations made through a Minister (eg Traffic Act, Planning Laws).

A Parliamentary committee reviews regulations and Parliament may alter them. This Legislation Review Committee also considers whether or not proposed bills have any negative impact on citizens’ “personal rights and liberties”.
Role Play: Debating a Bill

OUTLINE FOR EACH ROLE

The Speaker: One of the first things a new Parliament does is to elect, from its Members, a Speaker to Chair the meeting of Parliament. The Speaker ensures that the Standing Orders (rules of the House) are followed. An important rule is that when Members make speeches nobody is to interrupt. If there are interruptions the Speaker says “order” or “the house will come to order”. If the Speaker catches someone out of order they are put on a call. The Speaker says: “The Member for ….. is on one call.” If that person is put on call 3 times by the Speaker, the Speaker stands and orders them to leave the chamber. Members who wish to make a speech stand up and say “Mr/Madam Speaker”. The Speaker calls on them, to speak at the table. They address the Speaker, not any other Members.

Clerks of the Assembly: There is a Clerk, Deputy Clerk and Clerk Assistant. They are not Members. They are legal experts. They know all of the Standing Orders and advise the Speaker and the Members and keep records. They can’t speak, vote or take sides in debates. The Clerk will read the name of a bill, ring division bells and lower and raise the bars of the house when it is time to vote.

Serjeant-At-Arms: Not a Member; the Serjeant is the Speaker’s officer, responsible for order and security in the Chamber and also has ceremonial and administrative roles.

Premier: The Premier is the Leader of the Government and speaks for the Bill. Government Members who speak need to think of reasons for this Bill.

Opposition Leader: The Opposition is against the Bill. In the second reading they will ask that the debate be adjourned. This means that they want to put the debate off until later so they can prepare their case to speak against the Bill. Members of the Opposition need to think of reasons against the Bill.

Minister of Education: Sits at the table and is responsible for introducing the Bill. The Minister can talk as long as they like when bringing in a bill, as the Minister’s second reading speech will be the main statement of why the Government feels the bill is needed. In an actual debate, other Members will get 20 minutes to speak with a possible 10 minute extension.

Shadow Minister for Education: Opposition spokesperson on this area and will speak against the Bill.

Government and Opposition Whips: If a division is called, the two Whips from each side count the numbers sitting (voting) on both the Government and on the Opposition side and report these to the Speaker. A division is a vote in which the Members in favour move to sit on the Government benches, while those against sit on the Opposition benches. Votes are usually taken “on the voices” first, Members say “Aye” or “No”. However, if a Member calls for a division, bells are rung for five minutes throughout the Parliament to summon Members. When they stop, the doors are locked and no other Members are allowed into the Chamber and the count is taken. In the role play the bells can be rung for 30 seconds.

Members of Parliament: In the role play, everybody else is a Member of Parliament. Members can be Government, Opposition or Independent Members. If there is time they can also speak for or against the Bill. Members usually show support for speeches that they agree with by saying “Hear Hear”. Members often show their opposition to speeches by saying such things as “No”, or “Rubbish”.

The information in this Activity includes the Room Setup for a Legislative Assembly Role Play, and a brief description of each role and a script for the Role Play. A copy of the Homework Abolition Bill 2005 is also included. Each person in a role should have a copy of the Bill and a script. Your class can substitute this Bill with any issue that they would like to discuss if they wish.
Homework Abolition Bill

A Bill to increase the amount of free time available to students of primary schools by abolishing the setting of homework. The Bill abolishes the setting of any work outside school hours including reading or viewing of materials intended for use in school activities.

The Legislature of New South Wales enacts:

1. **Name of Bill**
   This Bill is the *Homework Abolition Bill*

2. **Commencement**
   This Bill commences on a day or days to be appointed by proclamation.

3. **Abolition of Homework**
   (1) This Bill abolishes the following activities from primary schools in New South Wales:
   (a) any assignments or work that is to be completed outside school hours;
   (b) classwork given by teachers to students as punishment;
   (c) any gathering of materials from home for use in the classroom;
   (d) reading of books meant for classrooms during hours outside school;
   (e) the forced viewing of the news and other uninteresting television shows outside schools hours for use in class the next day.
**Passing a Bill - ROLE PLAY SCRIPT**

**Opening of Parliament**
*Members in Seats, Serjeant-At-Arms, Clerks and Speaker stand outside. They walk in, Serjeant-At Arms carries Mace. Everybody stands up.*

**Serjeant-At Arms:** Honourable Members, Mr/Madam Speaker.

*Serjeant puts Mace on table, head facing the Government, Clerks stand behind chairs, Speaker takes her/ his seat and nods once to the Government and once to the Opposition. The Speaker reads the prayer and acknowledges the traditional owners of the land. Everyone sits down, Premier at table.*

**Notice of Motion** *(Notice of Motion put by the Premier).*

**Speaker:** Are there any Notices of Motions for bills?

**Premier:** Mr / Madam Speaker.

**Speaker:** I call on the Premier.

**Premier:** Mr/Madam Speaker I move that the Government will introduce a Bill to Abolish Homework. *(Any Member may introduce a bill but most bills are government bills and would normally be introduced by the Premier or another Minister)*

**Introduction** *(the Bill is introduced in the House)*

**Premier:** Mr / Madam Speaker. I move that a bill be introduced for an Act to Abolish Homework. Mr Speaker, I bring up the bill. *(Premier hands bill to Clerk)*.

**Agreement in Principle** *(the House will debate the Bill)*

**Premier:** Mr / Madam Speaker I move that the Bill be Agreed to in Principle. I believe that we should……. *(The Premier gives a speech with reasons why bill should be agreed to and then sits down. After this speech the debate is normally put off for five days to give Members, especially the Opposition, time to consider the bill and prepare speeches. In this role play the debate will begin immediately.)*

**Leader of Opposition:** Mr / Madam Speaker

**Speaker:** I call on the leader of the Opposition

**Leader of Opposition:** Mr / Madam Speaker. The Opposition does not support this bill ... *(The Leader of the Opposition gives a speech with reasons why they agree or disagree with this Bill, and then sits down.)*

**Education Minister:** Mr / Madam Speaker.

**Speaker:** I call on the Minister for Education.

**Education Minister:** Mr / Madam Speaker, I wish to support this bill. I believe that ... …… *(gives reasons for supporting this Bill and then sits down).*

**Shadow Education Minister:** Mr / Madam Speaker.

**Speaker:** I call on the Shadow Minister for Education.

**Shadow Education Minister:** Mr / Madam Speaker, …… *(gives reasons against the Bill and then sits down.)*

*(The debate continues and the Speaker calls on more Members to speak, alternating between the Government, Opposition and Independent Members. Members should “jump” to their feet to attract the Speaker’s attention and indicate that they wish to speak. They cannot call out to attract the Speaker’s attention. The debate is ended by the Speaker when time has run out.)*
(At this stage the House may go into Consideration in Detail, or Committee stage. Here, the Bill is examined clause by clause by Members. Amendments may be proposed and voted on – successful ones become part of the Bill. When this is completed the Bill now includes any amendments. However, there is no committee stage in this role play.)

**Speaker:** The time for debate has expired. The Premier in reply.

**Premier:** Mr/Madam Speaker, I wish to say ... *(Premier summarises the Government’s arguments and speaks against Opposition arguments.)*

*(The motion that the bill be agreed to in principle is now voted on.)*

**Speaker:** The question is the the bill now be Agreed to in Principle. All those in favour say “aye”.

**Members in favour:** Aye

**Speaker:** All those against say “no”.

**Members against:** No.

**Speaker:** I think the “ayes” have it - the “ayes” have it.

*(This is called a vote “on the voices” and this is the way most votes are taken in Parliament. The Speaker will always choose the “ayes” as they are the Government and have the majority in the House. However, any Member can call for the vote to be taken again, requiring the Speaker to call a “division”, where all Members are required to come to the Chamber to vote.)*

**Opposition Member:** No, Mr Speaker, the No’s have it.

**Speaker:** Division called for. Ring the bells.

*(The bells are usually rung by the Clerks for 5 minutes. Members who are voting YES will move to sit on the Government side; those Members voting NO move to sit on the Opposition side. When the bells stop ringing the Speaker says:)*

**Speaker:** Lock the doors.

*Clerk shuts the bars to the House to stop late Members entering.***

**Speaker:** I call on the Teller for the Ayes and the Teller for the Nos.

*(The Whips come to front and together count both sides and then report to the Speaker.)*

**Speaker:** The Ayes have ______. The Nos have ____________.

I declare the motion carried / lost *(depending on result).*

*(The Clerk raises the bars.)*

**Premier:** Mr/Madam Speaker, I move that this House now adjourns.

**Speaker:** The question is that the House now adjourns. All of that opinion say “aye”

**Members in favour:** Aye

**Speaker:** All those against say “no”.

**Members against:** No.

**Speaker:** I think the “ayes” have it - the “ayes” have it. The House is now adjourned.

*(The Speaker rises from the chair. All Members rise as the Speaker leaves the Chamber.)*
This activity can be used as a structure for group research and presentation of findings to the rest of the class or as a revision tool at the end of a topic or term.

Through this activity students:
- consolidate and extend prior knowledge gained through their Stage 5 studies
- use parliamentary-style model to research and discuss contemporary issues and participate in decision-making processes
- gain an understanding of some of the processes of Parliamentary debate
- begin to develop a commitment to informed and active citizenship.

Outline:
1. Research and Preparation: Divide students into six groups. Each group examines a Matter of Public Importance (MPI) as listed below or as created by the teacher using topics studied though the course. Three of the groups should discuss MPI 1 and the other three groups should discuss MPI 2. Allocate time for each group to research and discuss their MPI and list several reasons both in favour of and against the issue. When this process is complete each group selects someone to speak in favour of the issue and someone to speak against the issue in the Debating Forum or the Parliamentary Forum. The names of these people and their MPI are written down and handed to the teacher. The teacher can chair the discussion that follows, or a student can take on the role.

Matters of Public Importance

MPI 1: That measures to ensure ongoing water supply are a top priority. These measures should include uniform water restrictions for all Australians, and focus on water recycling and efficient use of existing water resources, rather than new dams or desalination plants.

MPI 2: That climate change is the most important and least acted upon crisis facing humanity and should become the major priority of national and international action by governments.

2. Debating Forum: Call the class together and have students seated so that they can clearly see and hear each other, perhaps in a circle. The chairperson asks the representatives from each group to make their speeches, ensuring that each MPI is discussed separately and that speakers FOR and AGAINST the issue alternate. The Chairperson may want to allocate an appropriate time limit on speeches. Once all the views on the first issue are heard the Chairperson asks the class to vote on the issue. This can be done simply by having students raise their hands or as occurs in the parliament those voting YES move to the right of the Chairperson and those voting NO move to the left of the chairperson who then counts the numbers on each side and announces the result. Then the next issue is discussed and voted on in a similar manner.

3. Parliamentary Style Forum with Speaker and Clerk:
This is a slightly more complex format for the debate which uses a parliamentary procedures for discussion and voting. It requires a Speaker to chair the debate and a Clerk to announce the MPIs, time the speeches and record the outcome of the vote for each MPI. It can be conducted by using the following script:
Matters of Public Importance Debate - SCRIPT

The Speaker: Matters of Public Importance will now be raised. We have 2 Matters of Public Importance before the House today. For each matter I will call on a speaker supporting the Matter and then a speaker opposing the Matter, to stand and speak. Each will be limited to one minute. Once all six allocated speakers have spoken I will ask if anybody else would like to speak. Once everyone that wants to has spoken we will vote on the issue before moving on to the next Matter of Public Importance. Clerk, please read the Matter of Public Importance Number 1.

Clerk reads full proposition for first Matter of Public Importance (MPI 1).

The Speaker: I open the floor to debate. Stand if you wish to speak.

The Speaker: I call on the Member for ...(name of student).

Member: Mr / Madam Speaker ….. (Speaks for MPI 1 for up to 1 minute.)

When the Member’s time has elapsed, the Speaker says:

The Speaker: The Member’s time has elapsed. (The Member will then sit down.)

The Speaker: I call on the Member for ...(name of student) (an opposing speaker).

Member: Mr / Madam Speaker ….. (Speaks for MPI 1 for up to 1 minute.)

When the Opposing Member’s time has elapsed, the Speaker says:

The Speaker: The Member’s time has elapsed. (The Member will then sit down.)

The Speaker then continues to choose (by rotation - government side first) the rest of the allocated speakers.

The Speaker: Is there anybody else who wishes to speak on this matter? (Anyone else that wishes to speak now stands and the Speaker will choose who speaks next until the time for debate elapses.)

The Speaker: I call on the Member for ...(name of student):

When the debate has finished, the Speaker puts the MPI to a vote.

The Speaker: A vote on this Matter will now be taken. Those in favour say ‘Aye’.

Members in favour: “Aye”

The Speaker: Those against say “No”.

Members against: “No”

The Speaker: I think the ‘ayes / noes’ have it. (The Speaker decides which side was louder and declares the decision. If there is doubt, ask for a show of hands. The Clerk counts the result.)

The Speaker: The matter has / has not been passed. Clerk please record the result. We will move to the next Matter of Public Importance. Clerk, please read the Matter of Public Importance MPI 2.

Clerk reads full proposition for second Matter of Public Importance (MPI 2).

Repeat the above process until all Matters of Public Importance have been discussed and voted on.