



Parliament Explained 4

# Making a Law

Laws are necessary in order to ensure that society operates smoothly.



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# Making a Law

## Why do we need Laws?

To some extent we all depend on other people. Even those who live alone depend on others to provide them with heat, light and other services. They generally accept that these services can only be provided if they obey the rules and pay their bills. Those of us who live as part of a group, perhaps a family, find that we have to follow unwritten rules which tell us how we should behave towards the other members of our group.

At school or college, your timetable provides one set of rules, telling you which lesson you should be in at a given time. The fire regulations are a different set of rules which could save your life. As well as belonging to a group at home, school or work, we all belong to a national group and have to obey the national rules known as laws.



## Types of Law

### What kinds of Laws are there?

Each country has its own laws. In Britain we have various types of laws. Although we are mainly concerned here with the laws made by Parliament, our laws are made in different ways. Some, for example, are made by the European Union because when we joined in 1973, we agreed to obey all past and future European laws. Community laws now become our laws. Parliament had to give permission before Britain could join the European Union and our representatives participate in the European law making process. If Parliament ever decided in the future that we should withdraw, then laws passed by the Community after we had left would not apply to us.

England also has a body of law known as Common Law. Our Common Law has developed over hundreds of years from judgements given in the courts. Until 1861, for example, Parliament had never passed a law which said that murder was an offence. Murder had always previously been against the law because courts had judged from the earliest times that it was a crime. Judges still make decisions of this kind today. If a judge makes a decision about a case, then other judges will normally follow his or her lead and give the same verdict when similar cases come before them. If the decision of the first judge was overruled by a higher court, then it would be the decision of the higher court that future judges would follow. This means that the judge who made the first decision made a kind of law because the ruling will be followed in the future. This kind of law is known as Case Law.

Although Parliament now makes the majority of our laws, judges still have a vital part to play. Once Parliament has passed a law, known as an Act of Parliament, it is left to the judges to decide exactly what it means. When a judge comes to make this kind of decision, he or she can only go by what the law actually says, not what the Government or Parliament meant it to say. Parliament therefore has to look very carefully at what a law says before it is finally passed. Nobody would want a law which said that if two trains approached at a junction, they each had to wait until the other one passed – in other words, that neither train could move! You can imagine what problems would be caused for the judges if our laws were as carelessly worded as that.

Laws made by Parliament are known as Statute Laws. Every year Parliament passes about 100 laws directly by making Acts of Parliament. Within the same period, more than 3000 Statutory Instruments containing many rules and regulations will have been made indirectly, on Parliament's authority. Parliament sometimes passes a very general law and will leave the relevant minister to fill in the details. The minister is often in the best position to do this, particularly where circumstances are changing fairly frequently. By having the freedom to make some rules, the minister is able to adapt to changing circumstances without returning to Parliament each time and requesting a change in the law. Using the powers given to them by Parliament, ministers, in effect, become lawmakers themselves.

These are just a few of the ways in which laws can be made. As the greater part of our law is made by Parliament we are now going to see exactly how this is done.



One of the most famous cases occurred in 1932, and is known as the case of *Donoghue v. Stevenson*. A lady bought some ginger beer in a dark bottle and poured some for her friend, Mrs Donoghue, to drink. When her glass was refilled the decomposed remains of a snail floated out of the bottle. The drink made Mrs Donoghue sick. As the law stood then, a manufacturer or person selling something was responsible only to those who had bought goods directly from him. Since Mrs Donoghue had not herself bought the ginger beer, she did not appear to have any case against either the manufacturer or the shopkeeper. The House of Lords, which is the highest court of appeal, decided that people have a duty to take care to ensure that others who may be affected by their actions will not suffer harm. The Lords felt that the manufacturer, Stevenson, should have foreseen that anyone who drank his contaminated ginger beer would be harmed. He should therefore have taken better care to ensure that there were no snails in his bottles.

Nowadays we take it for granted that a person with a responsibility for others (e.g. a manufacturer, doctor or driver) who does not take sufficient care (i.e. who is 'negligent') may have to compensate anyone he or she has harmed. It was the case of *Donoghue v. Stevenson* which established this rule.



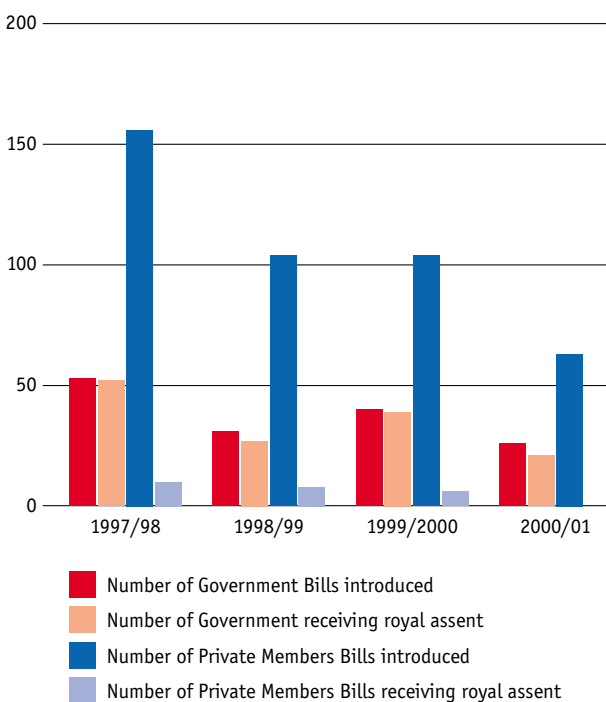
## How Parliament makes Laws

### Why can Parliament make new laws without consulting the public?

New laws are needed to deal with our constantly changing society. Parliament has to make the majority of these without directly consulting the people. Sometimes Parliament does consult us directly and asks us to give our opinions by way of a referendum. Four of these were held in the United Kingdom in the 1970s. In 1975, for example, all electors were asked whether they wanted to stay in the Common Market (European Union) and the majority voted 'Yes'. In September 1997 the electors of Scotland and Wales voted in referendums for their own Parliament and Assembly. It would not be possible to hold a referendum before every law was passed because Parliament may well consider up to 250 proposals for new laws in one session.

A referendum takes time to organise and is costly so it would not be possible to have 250 referendums each year. Parliament therefore takes these decisions on our behalf. We elect representatives to sit in the House of Commons, while the House of Lords, containing a variety of experts from all walks of life, can also give us the benefit of their experience. No new law can be made by Parliament unless it has completed a number of stages in both the House of Commons and the House of Lords, and has been agreed by both Houses. The Queen also has to sign to show that it has been given the Royal Assent (these days a formality). Only after the Royal Assent does it become a new law or Act of Parliament. Before this, while it is still journeying through Parliament, it is called a Bill. Bills can begin in the House of Commons or the House of Lords, so they can pass through Parliament in one of two ways. In each case it remains a Bill until after the Royal Assent, when it becomes an Act.

Public Bills 1997-2001



## Types of Bills

### Are there different types of Bills?

There are two main sorts of Bill: Private Bills and Public Bills.

#### Private Bills

Private Bills are only intended to affect one particular area or organisation. Occasionally a type of Private Bill known as a Personal Bill is presented to Parliament. Personal Bills affect only one or two people. They always begin in the House of Lords.

#### Public Bills

Public Bills, unlike Private Bills, are intended to affect the public as a whole and not just one area, organisation or person. There are two types of Public Bill.

#### Government Bills

The majority of Public Bills which succeed in becoming Acts of Parliament are sponsored by the Government. When a new Government comes to power after a general election it will normally have a number of policies it wishes to put into effect. Where necessary it will try to change the law by introducing Bills into Parliament. Normally a Government will introduce a number of changes each parliamentary session. A Parliament lasts up to five years and is broken down into a number of sessions, which normally last about a year, from November to November. Each Bill will be piloted through Parliament by a minister from the appropriate Government Department, for example ministers from the Department for Education and Skills would be responsible for seeing that an Education Bill became an Act of Parliament. Normally Government Bills succeed in getting through Parliament because the Government will have a majority in the House of Commons (for further information on Parliament and Government see Parliament Explained booklet No 3).

#### Private Members' Bills

The other type of Public Bill, known as a Private Members' Bill, is often less successful. A Private Members' Bill is sponsored by an individual MP rather than by the Government. He or she will promote the Bill as an individual and will therefore not be able to rely on the assistance of the party Whips in gaining a majority in the House of Commons. Individual Lords can also sponsor Private Members' Bills but they have a similar problem of finding support for their Bills. Many Private Members' Bills fail to complete their passage through Parliament, perhaps through lack of support or, more likely, because of shortage of time. Government business is usually given priority and Private Members' Bills can get squeezed out. To be successful a Private Members' Bill ideally needs to be non-controversial and have the support of the Government. Private Members' Bills should not be confused with Private Bills which affect only one area or group of people.

# Stages of a Government Bill

## How does a Government Bill become an Act of Parliament?

Government Bills enable the Government to carry out important aspects of party policy and to meet the demands of a changing society. Those concerning policy are often the subject of fierce arguments between the Government and Opposition. Sometimes, however, both sides agree on the need for a particular Bill.

## Preparatory Stages

### What happens before a Bill reaches Parliament?

Before a Government Bill can be introduced into Parliament several things have to happen. Often consultations take place with those who are likely to be affected by the Bill. The Bill also has to be properly written out, or drafted, as Bills have to be presented to Parliament in a particular form. Government Bills also have to be approved by the Cabinet, because they are presented in the name of the whole Government.

### The consultation stage

The consultation stage is organised by the Government Department sponsoring the Bill. Within a Department, both the ministers and the permanent officials, known as civil servants, will be involved in the consultation process. The ministers will have the responsibility of piloting the Bill through Parliament and it is important for them to be involved in all stages of the Bill, even before it reaches Parliament.

Government Departments deal with a variety of work and it would therefore be quite unrealistic to expect any of a Department's ministers to know everything about their subjects. Fortunately, all Departments have access to experts who can give them advice.

Sometimes the Government will set out its ideas for a Bill in a discussion document or consultation paper known as a Green Paper. Organisations can send their comments back to the Department. These will be gathered together by the Department's civil servants. Civil servants are permanent officials who are politically neutral so can serve whichever party is in power. They can then pass on the information to the minister, or ministers, involved with the Bill. Often the planned contents of a Bill will have to be changed in the light of this evidence. The civil servants might suggest several alternative ways in which this could be done, but the actual decision will be left to the minister. After this discussion stage, the Department may then produce firm proposals in a White Paper. This will form the basis of the Bill to be introduced into Parliament. Sometimes the Department may make changes on the basis of comments received at this late stage, but this does not usually happen. Not all Bills have Green Papers and White Papers. Discussions take place before most Bills are introduced into Parliament although written documents are not always circulated to outside organisations.

## How a Bill is drawn up

Before a Bill can go through all its stages in Parliament, its contents have to be written down, so that Members of Parliament will know exactly what they are discussing. The process of putting the terms of a Bill down on paper is known as drafting. A small number of lawyers (who are also civil servants) are specially trained for this work. These Parliamentary Draftsmen work in the Parliamentary Counsel Office which is part of the Cabinet Office. A small team have the difficult job of drafting all the Government Bills which go through Parliament. The Bill has to be exact and must not leave any loopholes as once a Bill becomes an Act, others, including the judges, will have to enforce it. If a law is not clear, a judge may take it to mean something completely different from what the Minister intended. It could also mislead others like solicitors or members of the public. The Parliamentary Draftsmen therefore have to make sure that a particular sentence cannot be taken to mean more than one thing, unlike the sentence here, taken from an American law.

*'No one shall carry any dangerous weapon upon the public highway, except for the purpose of killing a noxious animal or a policeman in the execution of his duty.'*

That sentence, as it is written, seems to suggest that people are allowed to kill policemen as well as animals which, of course, is not what was intended. Our Parliamentary Draftsmen would be unlikely to make such an obvious mistake. They work extremely carefully, considering every possible meaning of a word before they put it on paper. As well as being exact, the Draftsmen have to make the Bill as simple as possible. Many ordinary citizens, as well as lawyers, will want to be able to understand the Bill. It must also be set out clearly, so that MPs and Lords can follow it when it is being debated in Parliament.

Before a Parliamentary Draftsman can begin to draft a Bill, civil servants from the Department sponsoring the Bill have to give instructions. These will tell the Draftsman what the Bill has to include and what it is trying to achieve. Only then can the Draftsman begin work. Once a Bill has been drafted it will be sent back to the Department to check that it says what they wanted it to say. Often the Department will decide that it wants something changed (particularly if it is being drafted while some consultations are still going on) and it will have to be returned to the Draftsman. A Bill may go back and forth half a dozen times before the Department is satisfied with it.

## Stages of a Government Bill

For the purpose of the progress diagram below, the Bill is assumed to have started in the Commons. However, bills can begin in either House. Bills which start in the Lords go through the same stages but with important procedural differences.



## How a Government Bill Passes Through Parliament

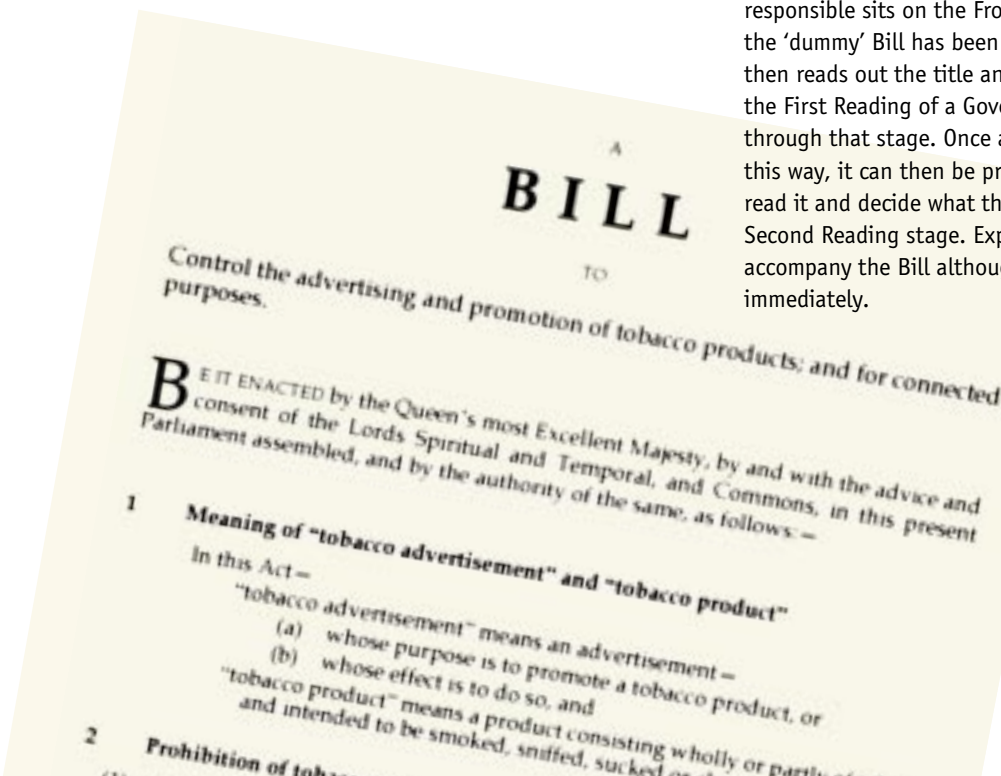
Parliament has to consider all Bills on our behalf and see that only Bills which are in the public interest are allowed to become new laws. Parliament can reject Bills which it feels are not in our interest. Government Bills are unlikely to be rejected completely because the Government will normally be able to rely on the support of its majority in the House of Commons. Without the support of the Commons, the House of Lords can only delay Bills rather than reject them, so most Government Bills will succeed in becoming Acts of Parliament. If there are certain parts of a Bill which are unacceptable then one or both Houses will insist on changes (amendments) being made. A Government Bill has to pass through several stages in Parliament, each of which has a clear purpose, before becoming an Act of Parliament. Most stages are known as Readings because in the days before printing, the only way in which Members could find out what a Bill said was by having the contents read out in the Chamber. Today each MP can have a printed copy of the Bill and it is also available to the public on the internet.

## The House of Commons

### First Reading (Letting Members know about the Bill)

This is when a Bill is introduced into Parliament. The First Reading is really just a way of letting Members know that a Bill is coming up for discussion. Occasionally a Bill may not have been drafted by the time the First Reading takes place. For this reason, and because Parliament has to give permission for a Bill to be printed, a 'dummy' Bill can be placed on the Table for the First Reading. Parliament does not need to know the actual contents of the Bill at this stage, because there will be no debate. A minister will often ask other ministers to add their names to the 'dummy' Bill to show that they support it. A date for the Second Reading has to be named when a Bill is given its First Reading but it may not be clear at that stage exactly when it will be. By Parliamentary tradition, 'tomorrow' is always named, because it is the earliest day on which the next stage could possibly take place. It can be several weeks before the Bill actually comes up for debate.

On the day when a Bill is given its First Reading, the Minister responsible sits on the Front Bench, beside the Table, upon which the 'dummy' Bill has been placed. One of the Clerks at the Table then reads out the title and the Minister nods. There is no vote on the First Reading of a Government Bill, so a Bill automatically goes through that stage. Once a Bill has been given its First Reading in this way, it can then be printed so that Members have a chance to read it and decide what they think about it before the important Second Reading stage. Explanatory Notes are published to accompany the Bill although these are not always available immediately.



**First Reading**  
Letting Members know about the Bill

**Second Reading**  
Explaining the purpose of the Bill

**Committee Stage**  
Looking at the details

## Second Reading (Explaining the purpose of the Bill)

This is the first really important stage of a Bill, when the Minister in charge explains its main purpose. The Minister can also answer any general questions about the Bill.

A Junior Minister may well take charge of a Bill for its Second Reading as a Cabinet Minister will not personally be able to pilot all his or her Department's Bills through Parliament. Only if the House votes for the Bill does it proceed to the next stage, known as the Committee Stage.

## Committee Stage (Looking at the details)

The Committee Stage allows the examination of all the detail of a Bill for the first time. Most Government Bills are considered by small committees of between 15 and 50 MPs known as Standing Committees. The membership of these committees is always roughly in proportion to the number of seats each party has in the Commons. At least one Minister from the Government Department responsible for the Bill will be on the committee as will a front-bench spokesperson from each of the main opposition parties. A separate committee is formed for the consideration of each Bill. Often Members will be chosen to serve on a committee because they have a particular interest in the subjects covered by the Bill.

There are several reasons why Bills have to be sent to committees. First of all, 15 to 50 is a better number than 659 for discussing the details of a Bill. The committee members can sit in a smaller room which provides a better atmosphere for discussion than the large House of Commons Chamber. Debates in the Chamber are governed by a fairly strict set of rules. Many debates are programmed to last only a few hours because the House is so short of time that it could not afford to allow discussion on an individual Bill to last several weeks. Often, however, several months are required if the details of a Bill are to be properly examined. A committee will be able to devote several sessions a week to a Bill, usually on Tuesdays and Thursdays over this length of time.

Committee proceedings are altogether more flexible than debates in the House of Commons. In the House, for example, Opposition Members can usually speak only once during a debate. In committee they can speak as often as they wish, which makes it far easier to examine properly the details of a Bill. Most Government Bills, therefore, are sent to Standing Committees after their Second Reading.

It is during the Committee Stage that Members are, for the first time, allowed to suggest changes or amendments to a Bill. Perhaps they may want a few words to be removed, or would prefer to add something to the Bill. Members usually give advance notice if they wish to suggest changes to a Bill so that other members of the committee have a chance to think about them.

As in the Chamber, Members vote on amendments by voice or a Division. If there is a tie, then the Chairman has a casting (deciding) vote although by convention he or she does not exercise a personal preference but acts according to established principles. Often, however, an amendment will not get as far as a vote. It may instead be withdrawn by the Member.

Sometimes the Member will be satisfied that he or she has drawn the problem to the attention of the Minister, and will be happy to accept the Minister's reply. Some amendments are withdrawn because the Member who suggested them will realise he or she cannot win, and will prefer to withdraw rather than lose the vote. Sometimes the Minister will say he or she will consider further and 'come back at Report'. Sometimes a Bill which has constitutional significance or requires a very rapid passage will be heard by a Committee of the Whole House, i.e. in the Chamber, so that all Members can contribute.

Report Stage  
Further consideration and changes  
by the whole House

Third Reading  
Overall examination of the Bill

THE HOUSE OF LORDS

## Report Stage (Further consideration and changes by the whole House)

After the Committee Stage, the whole House of Commons will have to be told what happened as only a small number of Members will have been involved in the committee meetings. If there have been amendments, the Bill will be reprinted before the Report Stage so that Members can see how the changes fit into the Bill as a whole. MPs can suggest further changes if they want to. The Report Stage is not necessary if the Bill has been considered by a Committee of the Whole House.

## Third Reading (Overall examination of the Bill)

This gives the House of Commons a chance to look again at the Bill as a whole, with all its amendments, and decide whether they want it to go any further. The Bill cannot be changed substantially at this stage – it is either accepted or rejected. Often Bills pass their Report and Third Reading Stages at the same time.

Once a Bill has passed its Third Reading in the Commons, one of the Clerks at the Table carries the Bill to the House of Lords, so that the Lords can consider it as soon as they have time.

## The House of Lords

A sizeable proportion of all bills begin in the House of Lords each year, sometimes because the Bill is technical rather than political but also to spread legislative workload more evenly between the two Houses. In official documents, the letters (HL) after the title of a Bill are used to show it began in the House of Lords.

By convention the Lords do not reject legislation on matters which were in the Government's manifesto (election pledge). Even in cases where the Lords disregard this convention, the Commons are able to send the same Bill back in the next Parliamentary session, when the Lords have no choice but to accept it. This has only happened on three occasions between 1949 and 2001 – when the Lords rejected the War Crimes Bill in 1900, the European Parliamentary Elections in 1999 and the Sexual Offences Bill in 2000.

The only type of Bill the Lords could reject would be a Bill to allow the Commons to extend a Parliament beyond five years. This would allow the Lords to check, for example, a dictator who had seized control of the Commons. The Lords cannot make changes to a Money Bill (although it can delay Money Bills for one month). It is felt that the House of Commons, which is elected by the public, should make the decisions on, for example, the amount of taxes people have to pay.

Minister at the despatch box.





First Reading

Second Reading

Report Stage

Third Reading

## First Reading

As in the Commons, this is the introduction stage, when a Bill is introduced into the House of Lords by a Minister from the responsible Department. Each Department will have a Minister in the House of Lords to represent its interests and to speak in debates and answer questions.

## Second Reading

As in the House of Commons, the main purpose of a Bill is explained in the Second Reading. This also happens in the House of Lords.

## The Committee Stage

Instead of going to a small committee for detailed examination, Bills in the House of Lords usually go to a Committee of the Whole House. The Committee Stage is held in the Chamber of the House of Lords rather than in a Committee Room and any Lord who is interested in the Bill can contribute. The House of Lords is able to do this because it is not as short of time as the Commons. The purpose of the Committee Stage is to consider the Bill in detail. The Lords go through every part of the Bill, either agreeing to it or changing it.

## Report Stage

The purpose of the Report Stage is to report back to the whole House what was decided by the committee. This is necessary as the Report Stage is usually held about two weeks after the committee, so different people may be there. It does give the House another chance to think about the Bill and make other changes.

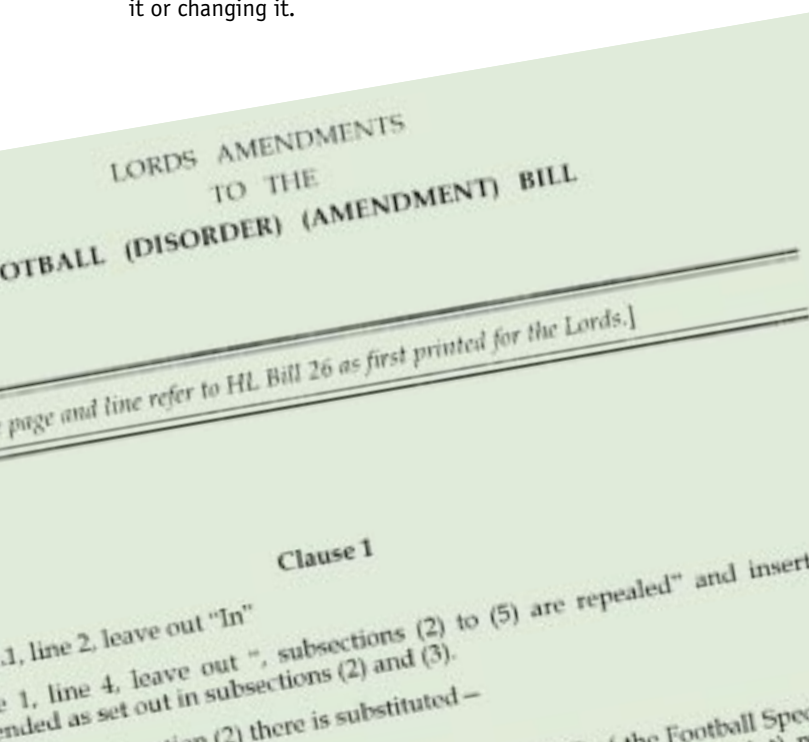
## Third Reading

This is the last chance for the House of Lords to look at the Bill as a whole. It provides a sort of safety net in case there is a problem which nobody has spotted before. Unlike in the House of Commons further changes can be made at this stage if they are found to be necessary. Often this is the last stage in the journey of a Bill, before it finally goes to the Queen for the Royal Assent.

## What happens if the House of Lords changes a Bill?

Any changes made to a Bill by the House of Lords have to be considered by the House of Commons. All Bills amended in the House of Lords have to be taken back to the Commons by the Clerk of the Parliaments, the senior Clerk at the Table in the House of Lords.

The Commons normally accepts most of the Lord's amendments which are non-controversial. Sometimes, however, the Commons do not agree with the Lord's amendments. When this happens, the Commons will send a note to the Lords explaining the reasons. A Bill may go to and fro for a while, a process known as 'ping-pong', until an agreement can be reached. If the two Houses are unable to compromise, the Commons will eventually get its way by reintroducing the Bill the following year. Knowing that they cannot reject a Bill if it is passed by the Commons in two successive sessions the Lords will usually compromise the first time round and save the Commons the trouble of reintroducing it.



## The Royal Assent

Once both Houses of Parliament have passed a Bill, then it has to go to the Queen for the Royal Assent. Had she been living 500 years ago, the Queen would have signed all Bills herself. She would also have gone in person to the House of Lords to announce in Norman French whether she agreed to a Bill ('La Reyne le veult') or wished to reject it ('Le Reyne s'avisera'). No monarchs since the sixteenth century have signed Bills themselves. Queen Anne, in 1707, became the last monarch to reject a Bill, while Queen Victoria was the last to give the Royal Assent in person in 1854.

There are now two ways in which the Queen can assent to a Bill. Usually she signs what are known as Letters Patent which allow the Speakers of the two Houses (the Speaker of the House of Commons and the Lord Chancellor) to announce that the Queen has given her assent. The other method of giving the Royal Assent occurs about once a year, usually at the end of a session. The Queen signs a document known as a Commission which commands certain Lords, known as Royal Commissioners, to go to the House of Lords and let Members of both Houses know that the Royal Assent has been given.



The ceremony for Royal Assent by Commission is rather like the State Opening ceremony. Black Rod, the Royal Messenger, goes to the House of Commons and commands the MPs to go to the House of Lords to hear the Royal Assent read out by the Clerk of the Parliaments who normally sits at the Table of the House of Lords. The MPs all stand behind the Bar at the back of the House of Lords. The Royal Commissioners who are there on behalf of the Queen sit in front of the throne wearing their robes. Unless a Bill needs to become an Act of Parliament urgently, it will be kept waiting until a number of other Bills have reached the same stage. They will then be given their Royal Assent together. The Queen always knows which Bills she is consenting to because she is given a list of the Bills involved when she signs the Letters Patent or Royal Commission. It is unlikely that she reads through the contents of every Bill before giving the Royal Assent because she knows that both Houses of Parliament will already have considered the Bill very carefully. The Queen would, in any case, know a great deal about important Bills because she reads all the official papers very thoroughly. She also meets the Prime Minister once a week to discuss business. Important Bills are likely to be mentioned in some of their meetings.

Once a Bill has received the Royal Assent it becomes an Act of Parliament. A Bill may take many months to complete all its stages in Parliament although when there is an urgent need, a Bill may go through in a few days, or even in a matter of hours.



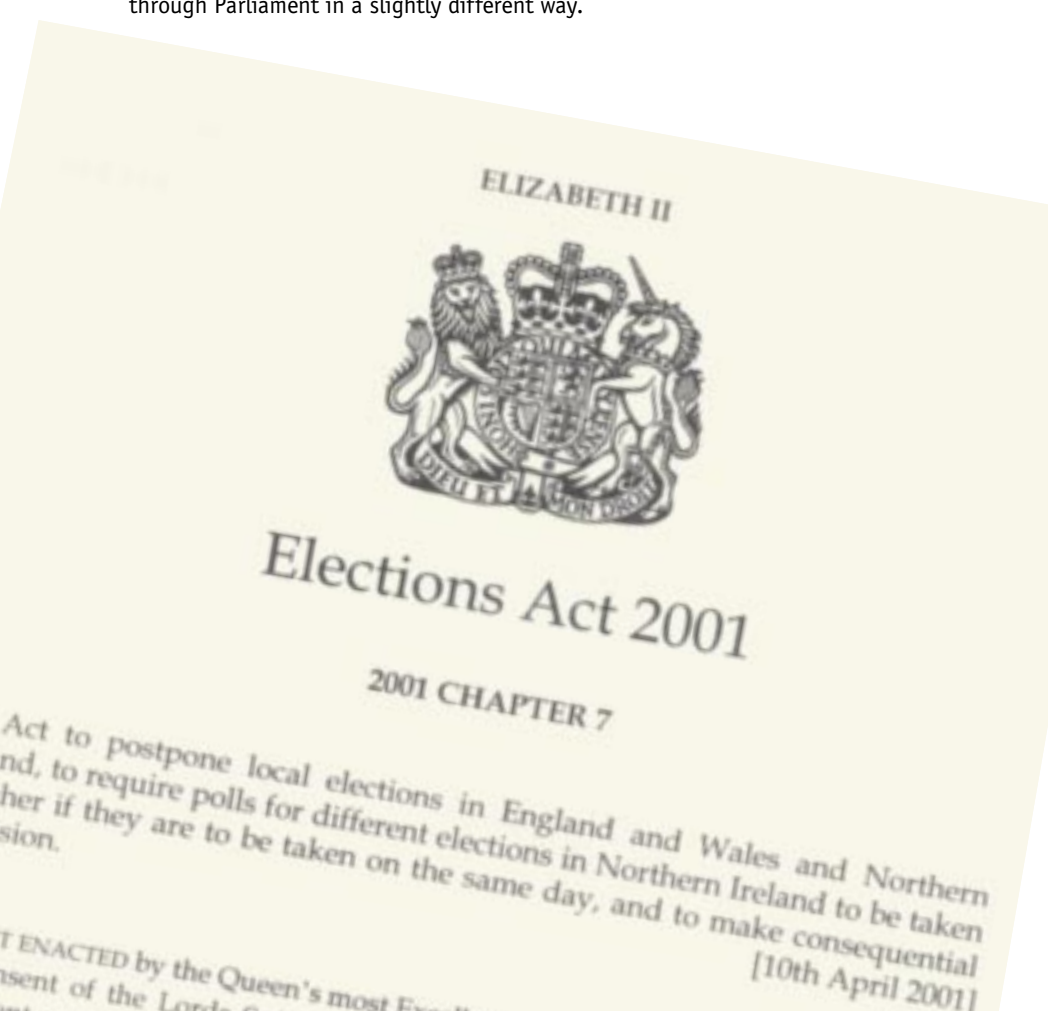
Original Acts of Parliament printed on velum.

## Coming into Force

### When does an Act come into force?

Even after an Act has received the Royal Assent, it may not come into force straight away. The Easter Act of 1928, for example, has still not been brought into force, even though it received the Royal Assent over seventy years ago. Most Acts do come into force. Some Acts require a special order called a Commencement Order before they take effect, usually because those affected by the new Act need time to adapt to the changed situation.

This is how most Government Bills become Acts of Parliament although a few follow a slightly different procedure which is not described here. Private Members' Bills and Private Bills also pass through Parliament in a slightly different way.



## Find Out More

### *Archives*

Archives from 1497, including original Acts of Parliament, are kept in the House of Lords' Record Office (The Parliamentary Archives) which is open to the public, to view records on request tel: 020 7219 3074.

### *Hansard*

The day's proceedings are printed in the Official Report, (separate volumes are produced for the Commons and Lords) referred to as Hansard after its original printer. It is also available at [www.parliament.uk](http://www.parliament.uk) by 9.00 the following morning.

### *Television*

The televising of Parliament was pioneered by the House of Lords in 1985, followed by the House of Commons in 1989. The proceedings of both Houses can be seen on the BBC's parliamentary channel when the House is sitting.

### *Website*

Go to [www.parliament.uk](http://www.parliament.uk) for general information on the role and function of both Houses, or details of membership, future business, legislation and Select Committee activity. For an experimental period it is possible to view a live **webcast** of House proceedings at the same address.

A website for young people can be found at [www.explore.parliament.uk](http://www.explore.parliament.uk)

### *Education enquiries*

Applications for Gallery tickets for students and educational groups and further information about the work of Parliament can be obtained from:

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