

PARLIAMENTARY FACTSHEET 2: THE PASSAGE OF A BILL THROUGH PARLIAMENT

1. The Initial Idea

The idea, or inspiration, for a piece of legislation can come from a variety of sources, including political parties (often as part of their election manifesto), a ministerial brainwave or, more commonly, from civil service officials, either through consultation or teams of policy specialists. A piece of legislation may also be introduced in order to make an international treaty or a Directive from the European Union part of UK law (“transposition”).

The Cabinet decides on the priorities for each legislative session. A legislative session lasts for about a year and normally commences around November.¹ In general, between 15 and 20 major Bills can be accommodated in each session. The Queen’s Speech marks the beginning of a legislative session and sets out the Government’s legislative programme for the session.

2. Drafting the Bill

The content of a Bill is the responsibility of ministers and their civil servants. Ministers determine the overall scope of a Bill, while civil servants are responsible for working out the detail. A team of lawyers in the Parliamentary Counsel Office, part of the Cabinet Office, drafts the Bill based on the instructions of the Government department concerned.

Prior to drafting a Bill, the Government may organise a period of formal consultation. This will involve the publication of either a Green Paper or a White Paper, in connection with which the general public and interested organisations can submit their comments and suggestions.

Green Paper (or consultation document): this is an exploratory document which is often issued when the Government has not decided what action to take. It is produced as a request for submissions of opinion on a specified topic, from experts and the general public, with a view to creating law. It will already be an extensive document, with the policy area thoroughly researched and an idea (or several) of the way forward already clear.

White Paper: this is a statement of policy and often sets out proposals for legislative changes, which may be debated before a Bill is introduced. It is produced to show the Government’s plans for the future and is not intended to be a formal consultation paper. Naturally, however, feedback will be given by groups and individuals, which is likely to influence the final decisions the Government takes, at least in part. Sometimes a White Paper follows a Green Paper and both may be debated in Parliament before the Government proceeds to legislation.

¹ In the context of the Fixed-term Parliaments Bill (see Parliamentary Factsheet 1), the Government has announced that future sessions of Parliament would last from spring to spring to tie in with regular May general elections. The current session of Parliament would last until spring 2012.

In some cases, a Bill may be presented without any prior announcement, i.e. without a Green Paper or White Paper. This is most likely to happen when the proposed legislation is a widely known election pledge or a non-controversial matter.

Bills are increasingly published in draft form before they are formally introduced to Parliament and submitted to a Parliamentary Committee for pre-legislative scrutiny where possible. This allows thorough consultation on a Bill while it is still in a more easily amendable form. It also allows more time for public scrutiny and consultation, making it easier to ensure that both potential Parliamentary objections and stakeholder views are elicited. This can assist the passage of the Bill when it is introduced to Parliament at a later stage. The decision on which Bills will be published in draft is for the Legislation Committee, taking into account the overall requirements of the legislative programme.

3. House of Commons

Most controversial Bills, and all those concerned with finance, start their life in the Commons. Other Bills may be introduced in the Lords first, as occurred in the case of the Marine and Coastal Access Bill. This account of the legislative procedure will assume a Bill has been introduced in the Commons.

3.1. First Reading

The First Reading is when a Bill is introduced to Parliament and a date for the Second Reading is set. It is a purely formal introduction: there is no discussion and no votes are taken. An order is made automatically for the Bill to be printed and given a number in the Public Bill series.

3.2. Second Reading

Once the Bill has been printed, it can proceed, after examination for compliance with the House's rules, to its first substantive stage: the Second Reading. Second Reading is the first stage at which a Bill can be defeated; however, this rarely happens in practice.

The date for the Second Reading is settled by the offices of the Chief Whip and the Leader of the House. The convention is for at least two weekends to be allowed between publication of the Bill and Second Reading, except in emergency situations.

The Second Reading debate is a general and wide-ranging discussion of the principles and scope of the Bill. The debate can be expected to focus on the underlying intentions and broad policies behind the Bill, rather than a detailed scrutiny of each clause. A major Government Bill will normally take about a day to debate (around six hours in practice), although some more complex and controversial measures have been debated for much longer.

At Second Reading, the Opposition may object to a Bill by tabling a "reasoned amendment". This is not an amendment to the Bill itself but is an amendment to the question which is before the House at Second Reading ("that the Bill be now read a second time"), giving the reasons for objecting to the Bill. While the Opposition may vote against the Bill as a whole, no amendments to the details are discussed or voted on at this stage.

After the Second Reading:

- Programme Motions, of which notice has been given prior to Second Reading, are moved and voted upon. These set out a timetable for the conclusion of proceedings on a Bill and make provision for the Committee option to be followed (Public Bill Committee or Committee of the Whole House).
- Any Money or Ways and Means Resolutions are dealt with. Money Resolutions authorise any part of a Bill which involves a significant charge on central Government funds. Ways and Means Resolutions are needed to authorise the levying of taxes and other charges. These Resolutions are not debatable if they are moved immediately after Second Reading. Otherwise, they may be debated for up to 45 minutes.

3.3. Committee Stage

The Committee Stage is a detailed, clause-by-clause examination of the content of the Bill. This is usually carried out by a specially-appointed Public Bill Committee of around 17 MPs, representative of party strength in the Commons. At least one Minister from the Government department in charge of the Bill will be on the Committee, along with a front-bench spokesman from each of the opposition parties represented.

Some Bills (or parts of them) of particular constitutional importance, or those requiring very rapid passage, are considered at Committee Stage by all MPs on the floor of the House. (Bills in the Lords are usually taken in this manner). Bills can also be referred to a Select Committee, in which case evidence may be taken and a report made. Hybrid bills, which contain a mix of public and private legislation,² are normally sent to Select Committee.

Committees have the power to take written and oral evidence, generally beginning with the Ministers. However, oral evidence will not normally be heard if the Bill started in the Lords or has already been subject to pre-legislative scrutiny. Committees may also summon witnesses, although it is expected that this will occur primarily with Bills starting in the Commons rather than the Lords.

Every clause and schedule of the Bill is examined by the Committee at this stage and may be amended or deleted, or new clauses and schedules inserted. Amendments may be put down by any Member of the House but must be moved by a Member of the Committee. Amendments generally arise from Committee members seeking to challenge or probe the Government on particular provisions in the Bill, or from the Government's decision to amend existing clauses or insert new provisions to address drafting issues or respond to points raised during earlier debate. Amendments should ideally be tabled at least one sitting week in advance to give the Committee sufficient notice and, in any event, no later than three working days before the earliest day on which they may be reached in Committee proceedings (or two such days in Committee of the Whole House). Amendments for discussion are selected by the chairman of the Committee and only members of the Committee can vote on amendments during Committee Stage.

² **Public legislation** changes the law as it applies to the general population and originates as a Public Bill generally proposed by Government ministers. **Private legislation** originates as a Private Bill and is usually promoted by organisations, such as local authorities or private companies, to give themselves powers beyond, or in conflict with, the general law. Private Bills only change the law as it applies to specific individuals or organisations, rather than the general public. The changes to the law proposed by a **Hybrid Bill** would affect the general public but would also have a significant impact for specific individuals or groups.

The Committee process can take place over a single session for very short Bills or several weeks for complex Bills – the average is around 8-12 sessions over 2-3 weeks.

If the Bill has been amended it is reprinted before its next stage.

3.4. Report Stage

The Report Stage is taken on the floor of the House and provides an opportunity for Members who were not on the Public Bill Committee to move amendments to the Bill. At this stage, the Bill is considered as a whole rather than clause by clause. While further amendments may be made, the House does not consider those clauses and schedules to which no amendments have been tabled. The Government may choose to make their own amendments, as a consequence of the arguments made at Committee Stage and/or advice from expert organisations.

The House may reverse or amend changes made by the Public Bill Committee. Where a Bill has been dealt with by a Committee of the Whole House, and has not been amended, it progresses immediately to Third Reading without a Report Stage.

If the Bill has been amended it is reprinted before its next stage.

3.5. Third Reading

The Third Reading allows the House to debate the overall content of the Bill, as amended in Committee or on Report. As at Second Reading, no amendments to detail can be made. For this reason, Third Reading debates are often relatively short before a vote is taken on whether to pass the Bill in its amended form.

An important difference in the Lords is that amendments may be made at Third Reading.

If the Bill has been amended it is reprinted before its next stage.

4. House of Lords

Once a Bill has passed its Third Reading in the Commons, it is sent to the Lords (usually on the next sitting day). In the Lords it goes through a similar legislative procedure to that in the Commons, with a few key differences:

- i. After Second Reading, Bills are usually committed to a Committee of the Whole House.
- ii. There are fewer rules of procedure and business is conducted on a much more consensual basis, with no formal Government control over the timetable and few provisions to stop the repetition of argument from one stage to the next. Most business is not time limited.
- iii. Amendments can be made at Third Reading.

Before a Bill can become an Act, both Houses must reach agreement on a single text. If a Bill is unamended by the Lords, it passes immediately for Royal Assent. However, if the Lords amend a Commons Bill, the Commons will then consider the changes that have been made. They have three options: (i) to agree to the Lords' amendments; (ii) to agree to them with amendments; or (iii) to disagree to them. If the Commons decide to reject or further amend the Lords' amendments, the Bill will be bounced back to the Lords who will

reconsider their position and try to reach a compromise: the beginning of the “ping-pong” stage. The Lords will then send the Bill back to the Commons.

A Bill may travel backwards and forwards between the two Houses in this way several times. If no agreement is reached before the end of a session or there is a “double insistence” (where one House disagrees twice and no alternatives are offered) the Bill will fail.

In the event of a deadlock, where each House has insisted on its position without proposing some alternative, the Commons can use the Parliament Act to force through the Bill in the following session of Parliament, without the consent of the Lords. This can only be used for Bills introduced in the Commons. However, although the Parliament Act has been used more frequently in the past decade (it was last used in the case of the Hunting Bill in 2004), it remains a rarity and a measure of last resort.

5. Royal Assent

When a Bill has been passed by both Houses, it is submitted for Royal Assent. As soon as the Monarch has given Royal Assent (a formality, as in practice it is not withheld), the Bill becomes an Act of Parliament. The next stage is implementation of the Act by the relevant Government department(s).

6. Private Members’ Bills

A Private Members’ Bill (PMB) is a Public Bill introduced by a private Member of either House who is not a Government Minister. The Member may have chosen the subject on their own initiative or on that of an NGO or pressure group. Alternatively, the PMB may be on a subject on which the Government has indicated it would be prepared to offer its support.

PMBs can be introduced in either House and must go through the same set of stages as other Public Bills. A key difference is that less time is allocated to PMBs so it is less likely they will proceed through all the stages. Thirteen Fridays are reserved for PMB debates in the Commons in each session.

The right to introduce the first twenty PMBs is decided by a ballot of Members at the start of the session. As “ballot” Bills get priority for the limited amount of debating time available they have the best chance of becoming law.

Once the twenty ballot Bills have been introduced, any other Member can introduce a PMB in the Commons in one of the following two ways:

- i. They may give notice of their intention to do so: the introduction of ordinary Presentation Bills does not require agreement of the House. Members formally introduce the title of the Bill but as there is no opportunity to speak on the issue, such Bills rarely become law.
- ii. Following a successful “ten minute rule” motion: ten minute rule motions seeking leave to introduce Bills may be put down in the Commons once the ballot Bills have been introduced. On the day of the motion, the Member proposing the Bill makes a speech of up to ten minutes outlining their position and another private Member may speak in opposition for a similar time. Ten Minute Rule Bills are often an opportunity to get a subject aired, rather than a serious attempt to get a Bill passed. However if the proposing Member secures a majority in the House, the Bill can be formally

introduced and listed for Second Reading. The Government must then agree its position before the Second Reading debate

A PMB may be introduced in the Lords on any sitting day without prior notice of presentation. There is no equivalent of the Commons' ten minute rule procedure. A PMB originating in the Lords which has completed its process through the Lords can only continue in the Commons if it is supported by an MP. Similarly, a PMB entering the Lords from the Commons will need to be taken forward by a Peer.

7. Resources

Cabinet Office Guide to Making Legislation: <http://www.cabinetoffice.gov.uk/making-legislation-guide.aspx>

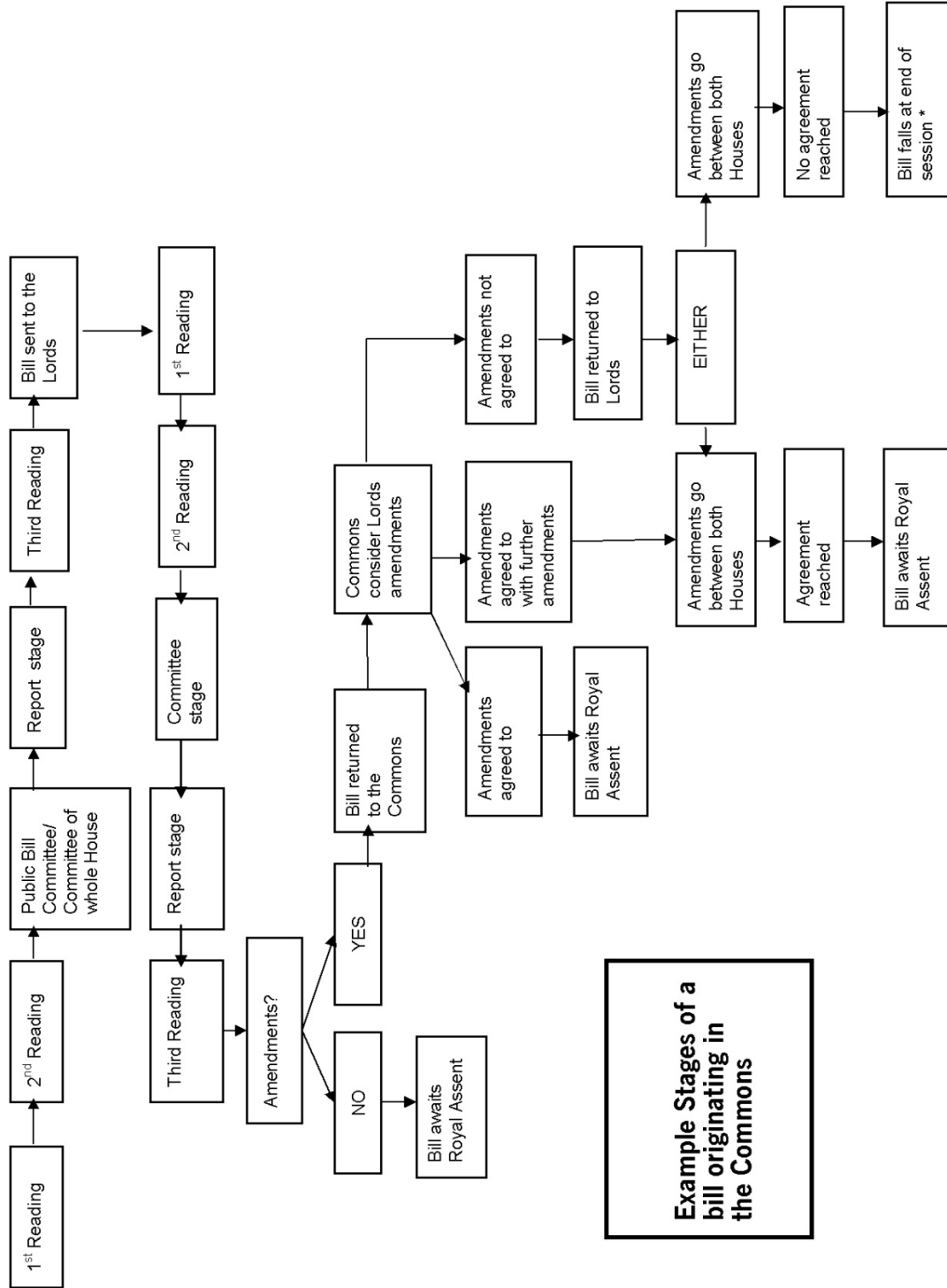
House of Commons Information Office, Factsheet L1, Legislation Series. Revised August 2010: <http://www.parliament.uk/documents/commons-information-office/l01.pdf>

Parliament website on bills and legislation:
http://www.parliament.uk/business/bills_and_legislation.cfm

Wildlife and Countryside Link
February 2011

Annex 1: Parliamentary Stages of a Government Bill

(Source: House of Commons Information Office, Factsheet L1, Legislation Series. Revised August 2010)



* It is rare for a Bill to fall due to a lack of agreement between the two Houses