

Quadrant II - Notes

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Legislative Procedure

The laws of India are made by the union government for the whole country and by the state governments for their respective states as well as by local municipal councils and districts.

The **legislative procedure in India** for the union government requires that proposed bills pass through the two legislative houses of the Parliament of India, i.e. the Lok Sabha and the Rajya Sabha.

Difference between a Bill and an Act

Legislative proposals are brought before either house of the Parliament of India in the form of a bill. A bill is the draft of a legislative proposal, which, when passed by both houses of Parliament and assented to by the President, becomes an act of Parliament

How a bill becomes and Act in Parliament

- A bill is the draft of a legislative proposal.

- It has to pass through **various stages** before it becomes an act of Parliament.
- The procedure is similar for the legislative assemblies of states

First reading

- The legislative process ***begins with the introduction of a bill*** in either house of Parliament, i.e. the Lok Sabha or the Rajya Sabha.
- A bill can be introduced either by a minister or by a private member. In the former case it is known as a **government bill** and in the latter case it is known as a **private member's bill**.
- It is necessary for a member-in-charge of the bill to ask for the **leave of the house** to introduce the bill.
- If leave is granted by the house, the bill is introduced. This stage is known as the first reading of the bill. If the motion for leave to introduce a bill is opposed, the speaker may, in his discretion, allow a brief explanatory statement to be made by the member who opposes the motion and the member-in-charge who moved the motion.
- Money/appropriation bills and financial bills can be introduced only in the Lok Sabha per Articles 109, 110 and 117
- The Speaker of Lok Sabha decides whether a bill is a money bill or not.
- The Vice-President of India, who is *ex-officio* Chairman of the Rajya Sabha, decides whether a bill is a money bill or not when the bill is introduced in the Rajya Sabha
- **Publication in the official gazette**
- After a bill has been introduced, it is published in *The Gazette of India*.

- Even before introduction, a bill might, with the permission of the speaker, be **published in the Gazette.**
- In such cases, leave to introduce the bill in the house is not asked for and the bill is straight away introduced.
- **Reference of bill to the standing committee**
- After a bill has been introduced, the presiding officer of the concerned house (speaker of the Lok Sabha or the chairman of the Rajya Sabha or anyone acting on their behalf) can refer the bill to the concerned standing committee for examination and to prepare a report thereon.
- If a bill is referred to a standing committee, the committee shall consider the general principles and clauses of the bill referred to them and make a report thereon.
- The committee can also seek expert opinion or the public opinion of those interested in the measure.
- After the bill has thus been considered, the committee submits its report to the house. The report of the committee, being of persuasive value, shall be treated as considered advice.

Second reading

- The second reading consists of consideration of the bill which occurs in two stages.

First stage

- The first stage consists of general discussion on the bill as a whole when the principle underlying the bill is discussed. At this stage it is open to the house to refer the bill to a **select committee** of the house or a joint committee of the two houses or to circulate it for the purpose of eliciting opinion thereon or to straight away take it into consideration.

- If a bill is referred to a select or joint committee, the committee considers the bill **clause-by-clause** just as the house does. Amendments can be moved to the various clauses by members of the committee. The committee can also take evidence of associations, public bodies or experts who are interested in the measure.
- After the bill has thus been considered, the committee submits its report to the house which considers the bill again as reported by the committee. **If a bill is circulated for the purpose of eliciting public opinion thereon, such opinions are obtained through the governments of the states and union territories.**
- Opinions so received are laid on the table of the house and the next motion in regard to the bill must be for its reference to a select/joint committee. It is not ordinarily permissible at this stage to move the motion for consideration of the bill.

Second stage- In this stage there is clause-by-clause consideration of the bill as introduced or as reported by select or joint committee.

- Discussion takes place on each clause of the bill and amendments to clauses can be moved at this stage.
- **The amendments become part of the bill if they are accepted by a majority of members present and voting.**
- After the clauses, the schedules if any, clause 1, the enacting formula and the long title of the bill have been adopted by the house, the second reading is deemed to be over.

Third and the last reading

- Thereafter, the member-in-charge can move that the bill be passed. This stage is known as the third reading of the bill. At this stage the **debate** is confined to arguments either in

support or rejection of the bill without referring to the details thereof further than that are absolutely necessary. Only formal, verbal or consequential amendments are allowed to be moved at this stage. In passing an ordinary bill, a simple majority of members present and voting is necessary.

- But in the case of a bill to amend the Constitution, a majority of the total membership of the house and a majority of not less than two-thirds of the members present and voting is required in each house of Parliament. If the number of votes in favour and against the bill are tied, then the presiding officer of the concerned house can cast his/her vote, referred to as a casting vote right.

Passing a bill

- If at any time during a meeting of a house there is no quorum, which is a minimum of one-tenth of the total strength of a house, it is the duty of the chairman or speaker, or person acting as such, either to adjourn the house or to suspend the meeting until the quorum is met.
- The bills taken up under legislative power of Parliament are treated as passed provided majority of members present at that time approved the bill either by voting or voice vote.
- It is also right of a member to demand voting instead of voice vote.
- In case of passing a constitutional amendment bill, two-thirds of the total members present and voted in favor of the bill with more than half of the total membership of a house present and voting in all, is required according to Article 368 of the Constitution

Bill in the other house

- After the bill is passed by one house of Parliament, it is sent to the other house for concurrence with a message to that effect, and there also it goes through the stages described above, except the introduction stage.
- If a bill passed by one house is amended by the other house, it is sent back to the originating house for approval. If the originating house does not agree with the amendments, it will be that the two houses have disagreed.
- The other house may keep a **money bill for 14 days** and an ordinary bill for three months without passing (or rejecting) it. If it fails to return the bill within the fixed time, the bill is deemed to be passed by both the houses and is sent for the approval of the President.
- At the state level, it is not mandatory that a bill shall be passed by the legislative council (if existing) per Articles 196 to 199. There is no provision of conducting joint session of both houses to pass a bill.

Joint session of both houses

- In case of a deadlock between the two houses or in a case where more than six months lapse in the other house, the President may summon, though is not bound to, a joint session of the two houses which is presided over by the Speaker of the Lok Sabha and the deadlock is resolved by simple majority.

President's approval

- When a bill has been passed by both houses following the described process, it is sent to the President for his approval
- The President can assent or withhold his assent to a bill or he can return a bill to Parliament for reconsideration with his suggestions.

- If the President gives his assent, the bill is published in *The Gazette of India* and becomes an act from the date of his assent.

Coming into force

Generally most acts will come into force, or become legally enforceable in a manner as prescribed in the act itself. Either it would come into effect **from the date of assent by the President**, or a specific date is mentioned in the act itself (mostly in the case of finance bills) or on a date as per the wish of the central or the state government as the case may be.