

10. BILLS—GENERAL

A new Commonwealth law can only be made, or an existing one changed or removed, by or under the authority of the Commonwealth Parliament—that is, by or in accordance with an Act of Parliament.

A bill is a proposal for a new law or for a change to one or more existing laws. To become law a bill must be passed in identical form by both Houses of the Parliament and be assented to by the Governor-General. On assent a bill becomes an Act of Parliament.

Bills may be initiated in either House. However, because of the constitutional requirement that certain types of financial legislation shall not originate in the Senate, and because most Ministers are Members of the House of Representatives, most bills originate in the House of Representatives.

Although most bills are government bills, introduced by Ministers, any Member of the House may introduce a bill (see p. 75).

Form of a bill—procedurally relevant aspects

A bill is in effect a draft Act, and the content of a bill is prepared in the exact form of the Act it is intended to become. The body of a bill consists of a series of numbered clauses. When the bill is enacted, the clauses of the bill become the sections of the Act. Clauses may be divided into subclauses, paragraphs and subparagraphs. Large bills may be divided into Parts, Divisions and Subdivisions.

A schedule is an attachment or appendix to a bill (or Act). It is given legislative effect by an 'activating clause' in the body of the bill. The usual form of an amending bill (a bill to amend an existing Act or Acts) is for the amendments to be listed as numbered items in one or more schedules to the bill.

A bill's explanatory memorandum is a separate document outlining the intention of the bill and summarising its provisions. The standing orders require all government bills (except appropriation and supply bills) to have an explanatory memorandum, which must include an explanation of the reasons for the bill (S.O. 141(b)). Private Members' bills may have an explanatory memorandum. Since 2012 it has been a legislative requirement for bills to be accompanied by a statement of compatibility with human rights. This is usually included in the explanatory memorandum.

The title by which a bill is generally known (for example, 'Trade Practices Bill 2005') is referred to as its short title. Every bill also has at its head a long title which sets out in brief terms the purposes of the bill or may provide a short description of the scope of a bill. The long title usually begins with the words 'A Bill for an Act to . . .' or 'A Bill for an Act relating to . . .'.

A procedural reference to the 'title' of a bill, without being qualified, may be taken to mean the long title.

The long title of a bill is procedurally significant. The long title of the bill to be introduced must agree with the title used in the notice of intention to present it, and every clause must come within the scope of the long title (S.O. 140(b)). A long title which is specific and limited in scope is known as 'restricted', and one which is wide in scope as 'unrestricted'. This distinction has significance to the nature of amendments which can be moved (see pp. 68 and 71) and in relation to relevance in debate (see p. 68).

Printing and availability of bills

As soon as a bill has been presented to the House copies are made available to Members in the Chamber, along with copies of the explanatory memorandum. Additional copies are available to Members from the Table Office. A bill is treated as confidential by House staff until it is presented, and no distribution is made until that time.

If a bill is amended at the detail stage it is reprinted incorporating the amendments before it is transmitted to the Senate. This is known as a 'third reading print'.

After presentation, copies of bills and explanatory memorandums are available on the Parliament's website at www.aph.gov.au/bills and, for mobile devices, at parlwork.aph.gov.au.

The Table Office issues the Daily Bills List, which lists bills currently before the Parliament and the stage reached by each bill. This publication is also available on the website.

Presentation of bills for assent

When a bill has passed both Houses, the originating House prepares and prints assent copies of the bill incorporating any amendments. The bill is then presented to the Governor-General for assent.

Under section 58 of the Constitution the Governor-General may assent to the bill, withhold assent, reserve the bill 'for the Queen's pleasure', or recommend amendments to the bill.

Before assenting, the Governor-General formally receives written advice from the Attorney-General as to whether there are any amendments that the Governor-General should recommend, and as to whether the Governor-General should, in the Attorney-General's opinion, reserve the bill for the Queen's pleasure. This advice is prepared by the Office of Parliamentary Counsel. It is very rare for amendments to be recommended by the Governor-General. Generally, they would be of a formal nature or for the purpose of correcting a mistake or omission. There is nowadays no constitutional or legal requirement to reserve bills for the Queen's assent.