



LEGISLATIVE
ASSEMBLY

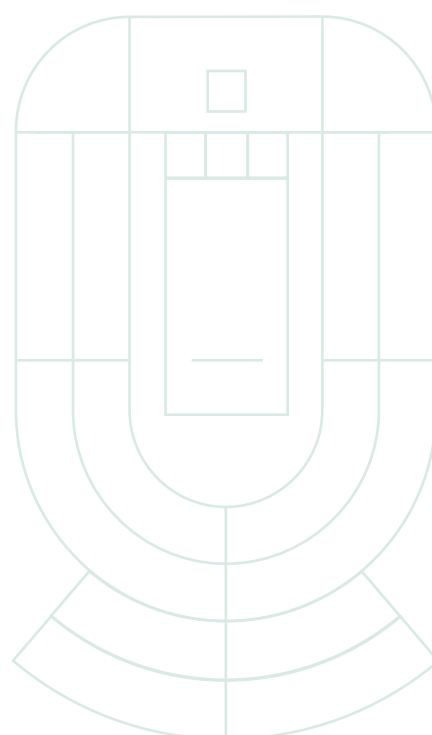
Guide for the

Introduction and Passage of Bills

The
58th
Parliament
Legislative Assembly

Contents

Key Contacts.....	2
Making laws	3
Preparing a bill	3
Stages in the passage of a Legislative Assembly bill.....	3
Notice of motion	4
Introduction (and first reading) and mover's second reading speech.....	6
Second reading debate.....	9
Consideration in detail (amending bills)	12
Third reading.....	16
Forwarding the bill to the Legislative Council.....	17
Assent	21
Private members' bills	22
Government bills originating in the Legislative Council	23
Private members' bills originating in the Legislative Council	25
Commencement of Acts	26
Delegated legislation	27
Accessing legislation	28
Appendix One – Passage of Legislation Flowchart	29





Key Contacts

PARLIAMENTARY COUNSEL'S OFFICE (PCO)	parliamentary.counsel@pco.nsw.gov.au P: 02 9321 3333
CLERK OF THE LEGISLATIVE ASSEMBLY	Helen Minnican helen.minnican@parliament.nsw.gov.au P: 02 9230 2222 M: 0418 178 074
DIRECTOR, HOUSE AND PROCEDURE	John Young John.young@parliament.nsw.gov.au P: 02 9230 2228 M: 0419 018 308 Amanda Alam Amanda.alam@parliament.nsw.gov.au P: 02 9230 2571 M: 0474 486 102
BILLS OFFICER	Jenny Whight Jenny.whight@parliament.nsw.gov.au P: 02 9230 2440 M: 0418 492 237 Alex O'Brien Alex.o'brien@parliament.nsw.gov.au P: 02 9230 3512

Making laws

A bill is a draft legislative proposal that is presented to a House of Parliament. To become an Act (or law) a bill must pass through both Houses in the same form and be assented to by the Governor.¹ Bills may be introduced in either the Legislative Assembly or the Legislative Council, with the exception of bills appropriating money or imposing taxation, which must be initiated in the Legislative Assembly (see s5 of the *Constitution Act 1902*).

Bills may be introduced to:

- Implement Government policy.
- Make changes to existing laws.
- Give effect to inter-government agreements.

Preparing a bill

Most bills presented to the House form part of the Government's legislative program. Government bills are prepared by departments and approved by Cabinet, before being introduced into the House by the responsible Minister. The Parliamentary Counsel's Office (PCO) receive instructions from the relevant department(s) on the desired legislative effect and draft and print all Government bills.

In addition to Government bills, private Members (Members who are not Ministers) may introduce bills into Parliament. PCO provides a legislative drafting service for these 'private members' bills'.

Stages in the passage of a Legislative Assembly bill

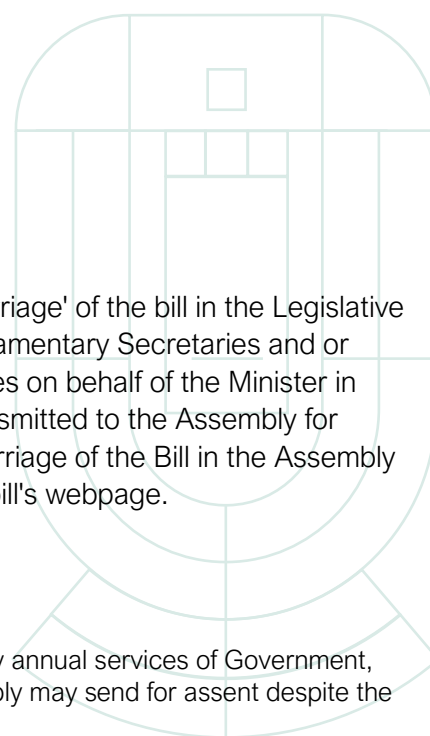
The stages in the passage of a bill originating in the Legislative Assembly are:

1. Notice of motion.
2. Introduction, first reading and second reading speech.
3. Second reading debate.
4. Consideration in detail (amending bills, an optional stage).
5. Third reading.
6. Forwarding to the Legislative Council for concurrence.
7. Consideration of Legislative Council amendments (if any).
8. Assent.

A note on carriage of a bill

The Minister in charge of a Government bill is considered to 'have carriage' of the bill in the Legislative Assembly and this information will appear on the bill's webpage. Parliamentary Secretaries and other Ministers are able to take carriage of a bill through certain stages on behalf of the Minister in charge of the bill. When Government Legislative Council bills are transmitted to the Assembly for concurrence, the Table Office will confirm which Minister will have carriage of the Bill in the Assembly with the Leader of the House and this information will appear on the bill's webpage.

¹ The exception being a bill appropriating revenue or moneys for the ordinary annual services of Government, which in accordance with s5A of the *Constitution Act* the Legislative Assembly may send for assent despite the Legislative Council not agreeing to the bill in the same form.





Similarly, for private members' bills, a Member may act on behalf of the Member with carriage, provided that written authority is received from the Member with carriage.

When private members' Legislative Council bills are transmitted to the Assembly for concurrence, the Table Office will contact the Council Member with carriage to ask who will have carriage of the bill in the Assembly. The Council Member will then advise the Table Office in writing.

Members may act on behalf of other Members in the Assembly in relation to Council private members' bills. However written authority must be given and the written concurrence of the Council Member must also be given.

Notice of motion

Before a bill is introduced into Parliament the Minister or private Member gives a notice of motion indicating their intention to introduce the bill. Parliamentary Counsel's Office prepares and provides the Minister or private Member with the notice of motion.

The giving of notices of motion is provided for in the Routine of Business shortly before Question Time. When the Speaker calls for notices of motions (for bills), the Member reads the notice of motion:

“M___ Speaker, I give notice of motion to introduce the ... (short title of the bill).”

The Member then provides a paper copy of the notice to the Clerks. The full text of the notice (including the long title of the bill) is printed in the Business Paper for the next sitting day.

Notices of motion for Government bills are listed in the Business Paper under "Government Business – Notices of Motions" and private members' notices are listed under "General Business – Notices of Motions (for Bills)". Notices are listed on the Business Paper in the order in which they are given in the House. Notices are not recorded in Hansard or the Votes and Proceedings.

Once notice has been given, the name of the bill and the Minister or Member with carriage is entered into Parliament's bills database and can be viewed on Parliament's website.

Note: A Minister or Member may give notice of motion to introduce a bill even though the bill itself has not yet been finalised by the PCO. However, it is imperative that the Minister or Member has the confirmed final draft of the bill from PCO before moving its introduction. Standing Order 188(5) states that the bill as introduced shall correspond with the notice of motion. It can be that the content of a bill is revised in the period between the giving of notice and the actual introduction. However, if the revision is significant enough to necessitate a change in either the short or long title of the bill, then the Minister or Member would need to give a new notice of motion to avoid contravening SO 188(5).

NM/022.01

LEGISLATIVE ASSEMBLY

NOTICE OF MOTION

Mr Scully to say -

"Mr Speaker,

I give notice of motion to introduce the Environmental Planning and Assessment Amendment (Housing and Productivity Contributions) Bill 2023."

Notice Paper -

Mr SCULLY to move -

That a bill be introduced for an Act to amend the Environmental Planning and Assessment Act 1979 to provide for housing and productivity contributions; and for other purposes.

[Environmental Planning and Assessment Amendment (Housing and Productivity Contributions) Bill.]

Long title of bill

Short title of bill



(Prepared by the Parliamentary Counsel)



Introduction (and first reading) and mover's second reading speech

After Notice has been given, under SO 188(3) the bill may be introduced at the same or a subsequent sitting. Government bills may be introduced in any order at any time the House is dealing with Government business. However, private members' bills can only be introduced at the time set aside in the Routine of Business for that purpose, which is a 20-minute period on Thursday mornings.

Each sitting day the Table Office will confirm what Government and private members' bills will be introduced and will contact the Ministers/Members to confirm:

- They have the final, tabling copy of the bill as provided by PCO
- Whether they would like to table a hard copy or electronic copy of the bill
- For Ministers, whether a Parliamentary Secretary will introduce the bill on their behalf.

Electronic copies of the bill are provided by Parliamentary Counsel's Office to the Table Office in advance of the introduction taking place. The Table Office will print copies of the bill for the Chamber and upload the bill on the Parliament's website once introduction has taken place.

A loq (script) for the introduction and second reading is prepared for Members by the Table Office. The Table Office will email a copy of the loq to the Member, the Member's electorate office, and, if a Minister, their Parliamentary Liaison Officer. Paper copies of the loq will also be available from the Clerks-at-the-Table.

When the bill is called on by the Clerk, the Member says:

"I move that a bill be introduced for an Act to ... (long title of the bill)."

The Speaker puts the question 'that this bill be introduced' which, by convention, is agreed to as a matter of routine. The bill is considered introduced and to have been 'read' the first time. There is no debate at this stage.

The Member then presents the bill to the House and moves that the bill be read a second time by saying:

"I bring up the bill, [an electronic copy of which has been provided to the Clerk]², and move that this bill be now read a second time."

² Alternatively, after saying 'I bring up the bill' the Member then hands the three tabling copies of the bill to the Clerk, returns to the lectern to say 'I move that this bill be now read a second time' and commences their second reading speech.

The Member then immediately commences their second reading speech and the bill now becomes public. Copies of the bill are made available in the Chamber and may be distributed more widely. The bill is published on the Parliament's website.

Standing Order 85 provides that no time limits apply to the mover's second reading speech.

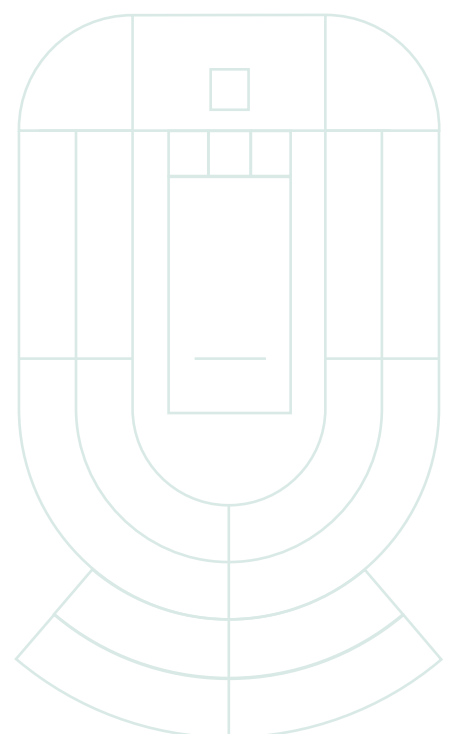
The second reading speech outlines the objects of the bill, its general principles and its intended effects. Under s34(2)(f) of the *Interpretation Act 1987*, the second reading speech of the mover may later be used by the Courts to interpret the intent of the law.

After the second reading speech, another Member will move that the debate be adjourned. The mover of this motion is generally either the Shadow Minister or the Opposition Whip (for Government bills) or Government Whip (for private members' bills). After adjournment is agreed, the Member with carriage of the bill will say:

"M___ Speaker, I ask that you fix the resumption of this debate as an order of the day for a future day."

Under Standing Order 188(10), the debate cannot resume for at least five clear days (i.e. calendar days commencing the day after the bill has been introduced. For example, if a bill is introduced on a Wednesday it cannot be debated until the following Tuesday). This gives Members and the public time to consider the provisions of the bill before it is debated.

However, motions may be moved to suspend Standing Orders to provide for the earlier resumption of the debate, or to permit a bill to pass through all stages in one sitting, or the bill may be declared urgent under SO 189.





A sample log for the introduction and second reading speech is below. For this introduction, the Minister tabled their bill electronically.

Minister Scully	
Revenue Legislation Amendment Bill	
<u>Introduction of Bill and Second Reading Speech (SO 188)</u>	
Speaker:	The Clerk shall read the next item of business.
Clerk:	Revenue Legislation Amendment Bill – introduction and second reading.
Speaker:	I call the Minister.
Minister:	I move, that a bill be introduced for an Act to amend the <i>Duties Act 1997</i> to remove a concession in the amount of duty payable by a public landholder; and to amend the <i>Land Tax Management Act 1956</i> to provide for an extension of time during which unoccupied land may be treated as a person's principal place of residence.
Speaker:	The Question is: That this bill be now introduced.
<i>(Question is put: no debate or amendment allowed)</i>	
<i>When agreed to:</i>	
Minister:	I bring up the Bill, an electronic copy of which has been provided to the Clerk, and move that this bill be now read a second time. <i>(Minister begins the second reading speech)</i>
<i>(At end of second reading speech)</i>	
<i>(Under SO 188(9) the debate is now adjourned)</i>	
Speaker:	I call the Member for _____ to move that this debate be now adjourned.
Member for __:	I move that this debate be now adjourned.
Speaker:	The question is: That the debate be now adjourned.
<i>(Question put)</i>	
<i>When agreed to:</i>	
Minister:	M____ Speaker, I ask that you fix the resumption of this debate as an Order of the Day for a future day.
Speaker:	I fix the resumption of this debate as an Order of the Day for a future day.

Second reading debate

The second reading debate commences when the Clerk is instructed by the Chair to read the 'order of the day' for the resumption of the second reading debate on the particular bill.

When the second reading debate resumes for Government bills it is usually the lead speaker for the Opposition, often the Shadow Minister, who speaks first in the debate and their speaking time is unlimited. Other Members may then speak, but time limits apply to those contributions (up to 10 minutes, with a possible extension of up to 5 minutes (SO 85)). For private members' bills, both the lead speaker for the Government (the Premier, or a Minister or Parliamentary Secretary) and the lead speaker for the Opposition (either the Leader of the Opposition or a Member deputed) have unlimited speaking time.

Debate should be relevant to the objects of the bill and to the intended scope and effect of the bill as outlined in the long title of the bill and in the mover's second reading speech. It is customary for a second reading debate to be more wide-ranging than other debates, and Members may make references to matters that they believe should be in the bill under consideration.

During the debate, amendments may be moved to the question on the second reading. For instance, the bill may be referred to a committee, disposed of, or consideration of the question deferred to a later time. Any amendments to the bill itself are moved at the consideration in detail stage, though they may be foreshadowed during the second reading debate.

At the conclusion of the debate, the Member who moved the second reading may speak in reply, during which issues raised in the debate can be responded to. After, the Chair then puts the question 'That the bill be read a second time'.³

Referral of bill to committee

The question 'that this bill be now read a second time' may be amended by referring the bill to a committee (SO 198). If the House agrees to the amendment, the entry for the bill will be relegated to the bottom of the list of Orders of the Day and will be annotated to note that the bill has been referred to a committee. The bill cannot be called on for consideration until the committee has reported. Once the committee has tabled their report on the bill, the bill will resume its position in the list of Orders of the Day. The second reading debate on the bill, which now also includes consideration of the committee report, will re-commence.

Having a bill considered an urgent bill

The Member with carriage of a bill may seek to have the bill treated as an urgent bill (SO 189). If agreed to by the House, the second reading debate and other stages may proceed immediately after the mover's second reading speech, rather than the usual wait of five clear days.

After making the second reading speech the Member will say:

"I move that the bill be considered an urgent bill and considered forthwith."

³ If an amendment to the question of the second reading was moved during debate, it will be considered first.



The Speaker will put the question 'that the bill be considered an urgent bill' and, if agreed to, the second reading debate can be proceeded with immediately.

In recent practice, the procedure for declaring an urgent bill under SO 189 has been rarely used, with Members more frequently seeking to suspend standing orders to permit the passage of the bill through all stages at the one sitting.

Members seeking to have their bill considered an urgent bill should contact the Table Office for advice on this procedure. The Table Office will prepare the appropriate log for the Member and ensure the requirement under SO 189(1) to have sufficient copies of the bill being made available to Members is met.

A sample log for the introduction, second reading and third reading of a bill declared urgent follows. Note that in this example, no amendments have been proposed to this bill. Consideration in detail (amending bills) can still occur for urgent bills.

Roads and Crimes Legislation Amendment Bill 2022

Introduction of Bill, Second Reading Speech, Third Reading (SQ 188)

Attorney: I move, that a bill be introduced for an Act to amend the Roads Act 1993 and the Crimes Act 1900 to create offences for certain behaviour that causes damage or disruption to major roads or major public facilities; and for other purposes.

Speaker: The Question is: That this bill be now introduced.

(Question is put: no debate or amendment allowed)

When agreed to:}

Attorney: I bring up the Bill and move that this bill be now read a second time.

(An electronic copy of the Bill has been provided to the Clerk)

(At conclusion of Attorney's second reading speech)

Attorney: I move, that the bill be considered an urgent bill and be considered forthwith.

Speaker: The Question is: That this bill be considered an urgent bill and be considered forthwith.

(Question is put: no debate or amendment allowed)

When agreed to:

(Speaker to call Members if any seek the call)

(When no Member seeks the call, Speaker to call Attorney in reply)

At conclusion of in reply speech:

Speaker: The question is that the bill be now read a second time. *[Put question. Division may be called]*

Attorney: I move that the bill be now read a third time.

Speaker: The question is that the bill be now read a third time.
[Call members if any. Put question. Division may be called]



Consideration in detail (amending bills)

Consideration in detail is an optional stage in the passage of legislation and must be requested by a Member(s). It is at this stage that amendments to the bill may be proposed.

To make this request, Members should instruct the Table Office to circulate their proposed amendments and during their contribution in the second reading debate they should foreshadow that they have amendments which they intend to move during the consideration in detail stage. Once the second reading has been agreed to, the Speaker will state which Members have requested the bill be considered in detail.⁴

Members who wish to move amendments should contact the Table Office. The Table Office will request a copy of the amendments from the Member and check:

1. If the Member has the final version from PCO (Table Office then receive a copy from PCO)
2. If the Member authorises the amendments be circulated and uploaded to Parliament's website
3. If the amendments are to be moved separately or in globo (together)

The Table Office will also review the amendments to confirm that they conform with Standing Orders 210 and 243. Table Office will then prepare a loq for Members to use for moving their amendments during consideration in detail. Copies of the loq are given to the Member(s) who are moving amendments and to the Minister/Member with carriage of the bill as well as to the Speaker.

The consideration in detail stage provides Members with an opportunity to consider a bill clause by clause and schedule by schedule, and to move amendments to the bill. Debate is quite fluid at this stage and, unlike the second reading debate, Members may speak more than once to a question.

The traditional practice, which is reflected in the Standing Orders, was for a question to be put on each clause and schedule whether or not an amendment had been proposed to that clause or schedule. Leave could be granted to consider clauses and schedules in groups or as a whole.

Current practice is for the Speaker at the commencement of the consideration in detail stage to ask: "Is leave granted to take the bill in groups of clauses and schedules?". If leave is granted, as is customarily the case, the effect is that some Standing Orders (SOs 209, 211, 212, 213) are not applied or as strictly applied.⁵

⁴ Consideration in detail is almost entirely associated with moving amendments to a bill. However, it is also an opportunity, albeit one rarely used, for Members to raise specific issues with the Minister in relation to particular clauses or schedules. Accordingly, Members may ask for a bill to be considered in detail even if they do not intend to move amendments to it. If a Member is considering requesting that a bill is considered in detail in such circumstances they should consult with the Clerks.

⁵ If leave is not granted, the House would need to follow the traditional practice provided for in the Standing Orders.

When such leave is granted, the House generally considers the amendments in the order in which they appear in the bill.

Where more than one amendment occurs at the same point in a bill, amendments proposed by the Minister or Member in charge of the bill take precedence of others. Otherwise, the Member who circulated their amendment the earliest will have precedence. The Table Office will time and date stamp amendments once a Member authorises their circulation.

A Member may seek leave of the House to move a number of related amendments which appear in different sections of the bill together. If leave is granted the amendments are debated together "in globo" and the one question put.

Debate must be relevant to the subject matter of the amendment under consideration (SO 214). An amendment may be proposed to a proposed amendment (SO 164).

SO 210 provides that amendments may be moved to any part of the bill provided they are within the long title of the bill or relevant to the subject matter of the bill and are otherwise in conformity with the Standing Orders and practice. If the House agrees to an amendment that is relevant to the subject matter of the bill but which goes beyond the leave of the long title the House then needs to agree to amend the long title of the bill accordingly. When PCO prepare amendments that go beyond the leave of the long title they will also prepare an amendment to the long title of the bill.

Clerks are available to give confidential advice at any time regarding the procedure for amending bills.

Process for preparing amendments to a bill

Parliamentary Counsel's Office draft and prepare amendments in consultation with Ministers and Members. PCO functions independently of the Parliament and has its own policies and procedures regarding drafting. All requests/instructions for bills and amendments should be made in writing and emailed to parliamentary.counsel@pco.nsw.gov.au

Ministers' staff or Members should notify the Table Office or Clerks in the Chamber that the Minister or Member will be proposing amendments to a bill. Advance notice of a Minister's or Member's intention to move amendments allows the Table Office to commence preparing any guidance notes or running sheets for use by the Chair and the House.

While it is a matter for the individual Minister or Member, it may be beneficial to provide the Minister or Shadow Minister with a copy of any proposed amendments in order to assist with any negotiations on what might be mutually acceptable.

A sample loq for consideration in detail follows:





Electoral Legislation Amendment Bill

Clauses: 2

Schedules: 3

After the question has been put and carried "that this bill be read a second time".

Speaker: The Members for Maroubra, Newtown and Sydney have requested that the Bill be considered in detail.

Speaker: By leave, I shall propose the bill in one group of clauses and schedules. Is leave granted?

[Once leave is granted]

Speaker: Clauses 1 to 2 and Schedules 1 to 3: the question is that the clauses and schedules be agreed to.

Speaker: I call the Member for Sydney.

Mr Greenwich: I seek leave to move amendments 1 to 7 on sheet c2022-128H, as circulated, together.

Speaker: Is leave granted?

[Once leave is granted]

Mr Greenwich: I move amendments 1 to 8 on sheet c2022-128H, as circulated.

[Give speech, if any]

Speaker: The question is that the amendments be agreed to.

[Call members if any seek the call.

Put question.

Division may be called]

Speaker: I call the Member for Newtown.

Ms Leong: I move amendment 1 on sheet c2022-142B.

[Give speech, if any]

Speaker: The question is that the amendment be agreed to.

[Call members if any seek the call.

Put question.

Division may be called]

Speaker: I call the Member for Maroubra.

Mr Daley: I seek leave to move amendments 1 and 2 on sheet c2022-133A, as circulated, together.

Speaker: Is leave granted?

[Once leave is granted]

Mr Daley: I move amendments 1 and 2 on sheet c2022-133A, as circulated.

[Give speech, if any]

Speaker: The question is that the amendments be agreed to.

[Call members if any seek the call.

Put question.

Division may be called]

Speaker: Clauses 1 to 2 and Schedules 1 to 3: the question is that the clauses and schedules **[as amended]** be agreed to.

Put question.

Speaker: The consideration in detail stage has now concluded. I call the Minister to move the third reading.



Third reading

Once the question on the second reading has been agreed to, or consideration in detail is concluded, the Chair will call the Member in charge of the bill to move the third reading. The Member moves that the bill be read a third time by saying:

“I move that this bill be now read a third time.”

If it is agreed to, the bill has passed all stages in the Legislative Assembly.

This motion is usually a formality. The question on the third reading may only be debated if the bill has been considered in detail. Debate on the motion should be brief. It provides Members with an opportunity to make concluding remarks on why the bill in its amended or not form should or should not be passed, not to revive discussion covered during the second reading debate.

The only amendment that may be moved to this motion is for the House to reconsider the bill, either in whole or in part.

Reconsideration

Members may move for the reconsideration of a bill that has already been considered in detail. When the Speaker puts the question “That this bill be now read a third time”, the Member moves that the question be amended to provide that the House reconsider the whole bill or specific parts of the bill (SO 217).

If the motion that the amendment be agreed to is passed, the Speaker puts the question that the bill be reconsidered. If that motion is agreed to, the House will again consider the bill in detail but only the relevant clauses or schedules of the bill specified in the reconsideration motion.

Forwarding the bill to the Legislative Council

Once a bill originating in the Legislative Assembly has been read a third time and passed, it is forwarded to the Legislative Council with a message seeking the Council's concurrence. The Council may then:

- Agree to the bill without amendment and return it to the Assembly to forward on for the Governor's assent.
- Return the bill with amendments for the Assembly's consideration.
- Withdraw the bill, or not pass it.

Dealing with Legislative Council amendments

Any amendments proposed by the Legislative Council are reported to the Assembly in a message from the Council. After the message is reported, consideration of the amendments may be set down for a later time or to take place immediately. Council amendments are considered by the Legislative Assembly in detail and the Table Office will prepare a loq for consideration of LC amendments.

The Table Office needs to be advised whether the Minister, or Member in charge of the bill, intends to either move that the House:

- Agree to any or all of the Legislative Council amendment(s)
- Disagree to any or all of the Legislative Council amendment(s)
- Amend any or all of the Legislative Council amendment(s).

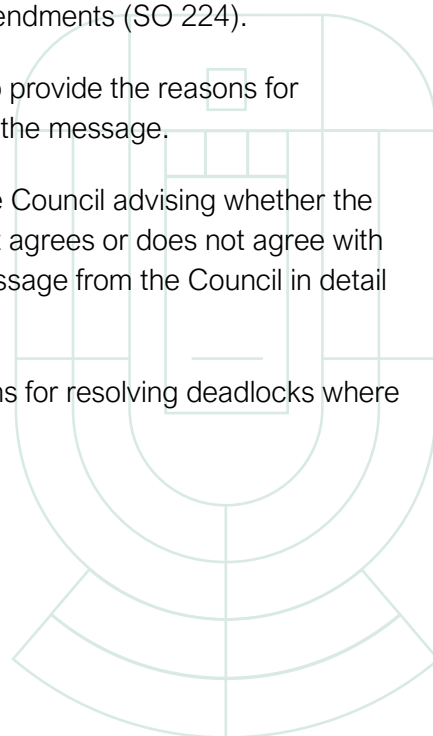
The Table Office will then prepare the appropriate loq and message.

If the Assembly agrees to the amendment(s), the bill is sent to the Governor for assent. However, if the Assembly disagrees with any amendment(s), or seeks to amend any of the Council amendments, the bill is returned to the Legislative Council with a message explaining the reasons for the disagreement and/or asking for the concurrence of the Council in the proposed amendments (SO 224).

The Table Office needs the Minister or Member in charge of the bill to provide the reasons for disagreeing to the amendment(s) and this text will be incorporated in the message.

The Assembly must then await a further message from the Legislative Council advising whether the Council insists or does not insist on its amendments and/or whether it agrees or does not agree with the Assembly amendments. The Assembly will then consider that message from the Council in detail (SO 226).

Sections 5A and 5B of the *Constitution Act 1902* set out the provisions for resolving deadlocks where agreement on a bill cannot be reached between the two Houses.





A sample loq and message agreeing to one Council amendment, disagreeing to three amendments and proposing further amendments is below.

Prevention of Cruelty to Animals Amendment Bill
Consideration of Legislative Council Amendments

(The Clerk will read the order of the day)

Speaker: The House will now deal with the Legislative Council amendments in Consideration in Detail.

Speaker: I call the Minister.

Minister: I move that Legislative Council amendment 1 be agreed to and amendments 2, 3 and 4 be disagreed to, and that Government amendments 1 to 3 on sheet c2021-057F be agreed to.

(Give speech including reasons for disagreement and to outline proposed amendments)

Speaker: The question is that Legislative Council amendment 1 be agreed to and amendments 2, 3 and 4 be disagreed to, and that Government amendments 1 to 3 on sheet c2021-057F to Council amendments 2, 3 and 4 be agreed to.

[Call members if any seek the call.

Put question.

Division may be called]

Speaker: I call the Minister.

Minister: I move that a message be sent to the Legislative Council advising of the Assembly's agreement with amendment 1 and seeking the concurrence of the Legislative Council in the proposed amendments to the Council amendments 2, 3 and 4.

(NO debate or amendment – SO 336)

Speaker: The question is that a message be sent to the Legislative Council advising of the Assembly's agreement with amendment 1 and seeking the concurrence of the Legislative Council in the proposed amendments to the Council amendments 2, 3 and 4.



LEGISLATIVE ASSEMBLY

Prevention of Cruelty to Animals Amendment Bill

MR PRESIDENT

The Legislative Assembly, having considered the message dated 18 March 2021 in which the Legislative Council requested the concurrence of the Legislative Assembly with amendments to the Prevention of Cruelty to Animals Amendment Bill, informs the Legislative Council that the Legislative Assembly agrees with amendment No. 1, but proposes amendments to Council amendments Nos. 2, 3 and 4 because:

1. Amendment No. 2 removes section 31AA without replacing it. This would mean that the Bill would no longer allow for the recognition of interstate disqualification orders. To address this, the Assembly proposes an amendment that retains the proposed automatic prohibition for those convicted of Crimes Act 1900 animal cruelty offences – consistent with the amendment passed in the other place – without removing the current section 31AA
2. Amendment No. 3 removes section 34AA which is an important part of the law as it ensures that only appropriate and qualified agencies and individuals can bring forward prosecutions. The Assembly does not oppose the amendment as it relates to the statutory limitation period, and proposes an amendment that carries over the statutory limitation period – consistent with the amendment passed in the other place.



3. Amendment No. 4 does not achieve its intended outcome of replacing the current Animal Welfare Code of Practice – Breeding Dogs and Cats with a revised version. It also requires the revised version of the Breeding Code to be published before 31 May 2021. Delivering a new Breeding Code by this date is no longer feasible. To address this, the Assembly is putting forward a new amendment that will address the drafting issue and require the new Breeding Code to be published by 31 August 2021.

Accordingly, the Legislative Assembly proposes the following amendments to Council amendments Nos. 2,3 and 4:

- No. 1 Prohibiting persons convicted of certain offences**
Page 5, Schedule 1.
Insert after line 2—
- [13A] Section 31AB**
Insert after section 31AA—
- 31AB Prohibitions for persons convicted of certain offences**
If a person is convicted of an offence against the *Crimes Act 1900*, section 79, 80, 530 or 531, the person must not—
- (a) purchase or own an animal, or
 - (b) engage in work, whether paid or unpaid, involving direct contact with, or care of, an animal.
- Maximum penalty—400 penalty units or imprisonment for 1 year, or both.
- No. 2 Prosecution of offences**
Page 5, Schedule 1. Insert after line 4—
- [14A] Section 34(4)**
Omit “12 months”. Insert instead “3 years”.
- [14B] Section 34(4)**
Omit “alleged to be the date on which the offence was committed”.
Insert instead “evidence of the alleged offence first came to the attention of an officer”.

Assent

After the bill has passed both Houses of Parliament, the House in which the bill was introduced arranges for the bill to be prepared for assent.

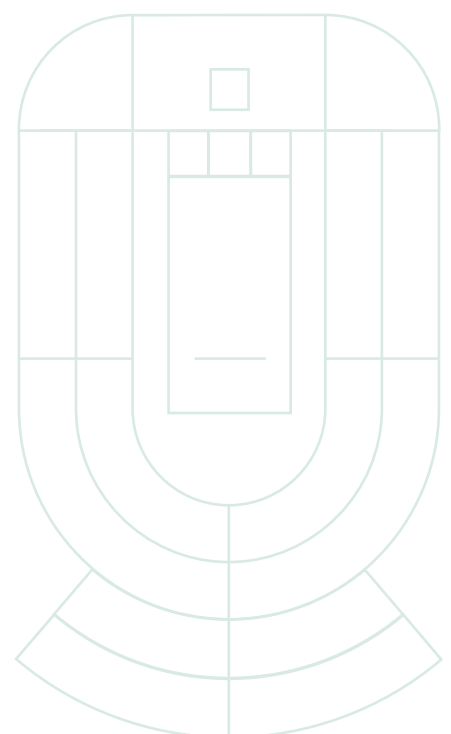
A vellum paper copy of the bill is prepared by the Legislative Assembly staff. The vellum is signed by the Clerk and countersigned by the Assistant Speaker. It is then sent to the Governor for assent.

A copy of the bill is also sent to the Solicitor-General to sign an "opinion" letter as to the constitutional legality of the bill. When the opinion is received, the Governor signs the vellum and an assent message is sent to the Parliament and the Minister.

The signed vellum is returned to the originating House with a message and an Act number is allocated in the order of assent. Assent details are published in the *Government Gazette*.

Bills requiring urgent assent

Urgent assent generally means that a bill is required to be assented to on the same day as it passes Parliament. If a Minister requires that a bill be assented to urgently, they should inform the Table Office, the Leader of the House, PCO and the Governor's Office (to check the Governor is available to assent to the Bill).





Private members' bills

Any Member can introduce a bill and the Standing Orders make special provision for private members' bills. Private members' bills can cover any topic within the remit of the Parliament, with the important exception that only Ministers may initiate a bill imposing or varying a tax or requiring the appropriation of revenue or money (SO 190).

Parliamentary Counsel's Office drafts private members' bills in consultation with Members. PCO functions independently of the Parliament and has its own policies and procedures regarding drafting. Parliamentary Counsel advise that all requests/instructions for bills and amendments should be made in writing and emailed to parliamentary.counsel@pco.nsw.gov.au

Under the Routine of Business (SO 97) a private Member may give a notice of motion for the introduction of a bill in the time allocated immediately before Question Time.⁶

Private members' bills can only be introduced during the time set aside for the introduction of general business notices of motions (for bills). The current Routine of Business provides for the introduction of private members' bills on Thursday mornings after the conclusion of Government business. As with other bills, the Member in charge of the bill has unlimited speaking time when making their second reading speech.

Unlike Government bills, private members' bills not commenced or completed will lapse six months after being given notice of by a Member (SO 105).

After a private members' bill has been introduced and the Member has given their second reading speech it follows the same procedures as other bills, in that it is adjourned for five clear calendar days before the second reading debate can be resumed.

The Premier, or one Minister or Parliamentary Secretary deputed, and the Leader of the Opposition, or one Member deputed, may also speak for an unspecified period of time during the second reading debate on a private members' bill. All other Members are limited to ten minutes, with a possible five minute extension.

As with any other bill, a private member's bill only becomes law if it passes through both Houses of Parliament in the same form.

⁶ Notices of motion for the introduction of a private members' bill are prepared by Parliamentary Counsel's Office in consultation with the Member.

Government bills originating in the Legislative Council

A Legislative Council bill is taken to be introduced into the Legislative Assembly and read a first time when the message from the Council forwarding the bill for concurrence is reported by the Speaker. There is no need for a Member of the Legislative Assembly to give a notice of motion or to move a motion for the introduction of the bill. The second reading speech and debate can take place immediately, without the need to wait five clear days between the second reading speech and the resumption of the debate.

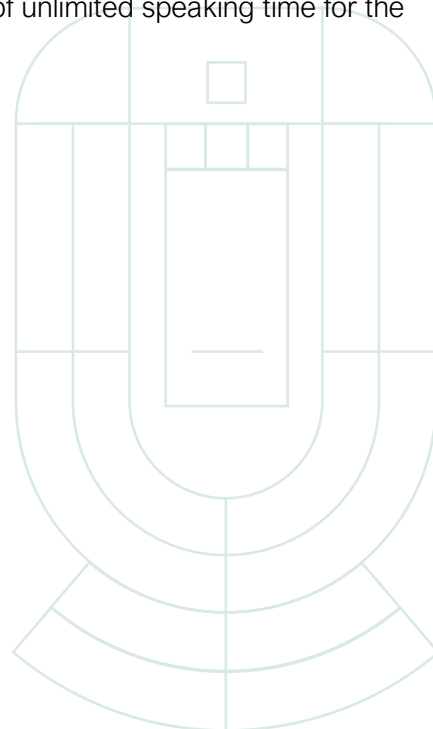
The bill message from the Legislative Council can be reported to the House at any time between items of business. After the Speaker reports receipt of a bill from the Legislative Council, the Speaker will either set down the motion for the second reading of the bill as an Order of the Day for a later time or call on the Minister with carriage of the bill (SO 229).

The Minister with carriage of the bill in the Legislative Assembly, or a Parliamentary Secretary or another Minister on their behalf, then moves the motion that the bill be read a second time by saying:

“I move that this bill be now read a second time”

and gives the second reading speech. If the bill was not amended in the Legislative Council, the speech can be a truncated speech, which states the bill was introduced in the Legislative Council, that the bill is in the same form as introduced into the Council, and that the second reading speech given in the Council appears at a certain reference in Hansard (SO 229(4)). The Member with carriage may, however, give a second reading speech of unlimited duration if they wish. If amendments were made to the bill during its passage through the Legislative Council, a truncated speech cannot be given, but the speech may confine itself to explaining the detail and effect of the changes made in the bill.

After the mover’s speech the debate may be adjourned until a later time or proceeded with forthwith. The ‘five clear day’ rule does not apply because sufficient notice of the bill’s provisions has already been given during its passage through the Legislative Council. The second reading of the bill is dealt with in the same manner as an Assembly bill, including the provision of unlimited speaking time for the lead speaker for the Opposition.





Loqs for giving either full or truncated second reading speeches for Council bills are prepared by the Table Office. An example of a truncated second reading speech loq is below:

CAC and Other Independent Commissions Legislation Amendment
(Independent Funding) Bill
Introduction and second reading
(SO 229)

Speaker: I call the Member for Murray.

Member: I move that the bill be now read a second time.

This bill was introduced in the other place on 9 November 2021 and is in the same form. The second reading speech was given on 11 November 2021 and appears at pages 5 to 6 in the Hansard for that day. I commend the bill to the House.

(debate now continues)

Speaker: The question is, that the bill be now read a second time.

[Call members if any seek the call]

[When no member seeks the call]

Call the Member for Murray in reply

Put question.
[Division may be called]

Call Minister

Member: I move that the bill be now read a third time.

Speaker: The question is that the bill be now read a third time.
(Put the question)

Private members' bills originating in the Legislative Council

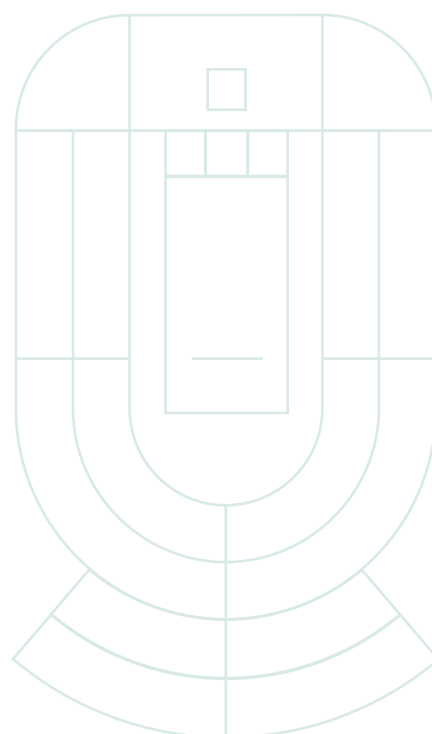
Messages forwarding private members' bills from the Legislative Council for concurrence cannot be reported until the Speaker is advised which Member of the Assembly will have carriage of the bill (SO229(2)). In practice, when advised that a private members' bill has passed the Council, the Table Office will contact the Member with carriage of the bill in the Council to ask who will have carriage of the bill in the Assembly.

If no member of the Assembly agrees to accept carriage, the bill remains 'outside the door of the Assembly', and will not be reported or placed on the Business Paper.

The message can be reported at any time and the second reading speech is set down as a general business Order of the Day (for bills) and is placed on the Business Paper in its relative order. When the bill is called on the Member in charge of the bill will give their second reading speech and, in accordance with Standing Order 229(5), debate on the bill can be adjourned or continued forthwith.

Members may act on behalf of other Members in the Assembly in relation to Council private members' bills. However written authority must be given and the written concurrence of the Council Member must also be given.

As with Assembly private members' bills, Council private members' bills not commenced or completed will lapse six months after being given notice of by a Member (SO 105).





Commencement of Acts

Nearly every Act of Parliament has a provision (normally clause 2) which sets out when it will come into force. There are four ways in which an Act or parts of an Act can come into force:⁷

By proclamation: This means that the Governor, on the advice of the Executive Council, will issue a proclamation indicating the date on which an Act will commence. There is no set period in which this must happen, and it can take as long as the relevant Minister thinks necessary (e.g. to establish regulatory frameworks). Further, an Act does not have to be wholly proclaimed, and sections may remain not in force.

On a specified date: When a bill is drafted it may provide that the Act will be in force from a set date. The date may be retrospective.

Date of assent: This means that the date the Governor assents to a bill (making it an Act) is the day on which the Act comes into force.

None specified: Under the *Interpretation Act 1987*, if an Act has no provision indicating when it comes into force it is deemed to commence 28 days from the date of assent.

Unproclaimed legislation

Standing Order 117 provides that the Speaker shall table a list of legislation remaining unproclaimed on the second sitting day of each session and then every 15th sitting day thereafter.

⁷ The commencement provisions of an Act may comprise a combination of provisions, for example an Act may commence on assent with the exception of specified clauses and or schedules which will commence on proclamation,

Delegated legislation

Delegated or subordinate legislation or "statutory rules" are regulations, by-laws or ordinances made, approved or confirmed by the Governor or a rule of court (section 3 of the *Interpretation Act 1987*).

A regulation is made pursuant to an Act of Parliament, and provides the detail (administrative arrangements) to the broad outline given by the respective Act. To avoid having Parliament consider every minor change to the administration of a particular scheme set up by an Act, each Act usually contains a provision enabling regulations to be made under it, so that the fine detail can be formulated.

How is a statutory instrument made?

After an Act has been assented to, the Minister who administers the Act may require the drafting of regulations/ordinances/by-laws under that Act, which will spell out the detail for the operation of the particular Act. As most proposed regulations fall under the scope of the Subordinate Legislation Act 1989, there is a requirement that a regulatory impact statement for the draft regulation be prepared, and the draft regulation be exhibited for public comment.

The draft may then be presented to the Governor at a meeting of the Executive Council for approval. As long as there is no legal impediment to approval being granted, the Governor will approve the regulation. It is then published on the NSW Parliamentary Counsel's Legislation website.

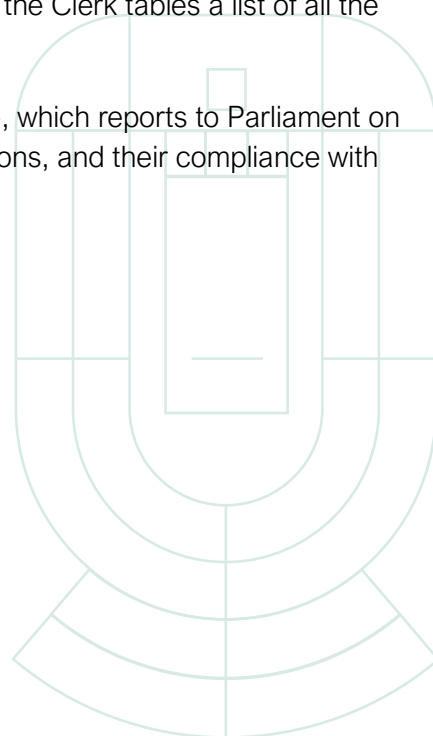
Some statutory instruments are drafted by bodies other than Ministers, such as by-laws made under University Acts. These also require approval by the Governor.

Statutory instruments come into force with effect from the date of publication on the Parliamentary Counsel's Legislation website.

What role does Parliament have in passing regulations?

While the approval of Parliament is not required to approve the making of regulations, either House may disallow them. The *Interpretation Act 1987* provides that all statutory instruments must be tabled in each House within 15 sitting days of publication. On each Tuesday the Clerk tables a list of all the statutory instruments published since the last sitting of the House.

Regulations are also scrutinised by the Legislation Review Committee, which reports to Parliament on matters such as the social and economic impact of particular regulations, and their compliance with procedures relating to the making of regulations.





How does Parliament disallow a regulation?

Once a statutory rule has been tabled in the House, Members have 15 sitting days in which to give a notice of motion to disallow either all or part of that instrument (SO 116). Any motion to disallow a statutory instrument is considered during the time in the Routine of Business allocated for Business with Precedence on the sitting day after notice has been given.

A notice of motion to disallow part of a statutory rule is in order, but the House cannot amend a statutory rule.⁸

Under section 41(4) of the *Interpretation Act 1987*, the effect of a successful disallowance motion is to restore or revive the pre-existing scheme. Also, under section 8 of the *Subordinate Legislation Act 1989*, a statutory rule the same in substance as one disallowed cannot be published on the NSW Legislation website within 4 months after the date of disallowance, unless the disallowance resolution has been rescinded.

Statutory Instruments Paper

A Statutory Instruments Paper is published by both Houses each sitting week or, if the House is in recess, on the first week of each month. This paper provides the title of the statutory instrument, the date it was published on the NSW Parliamentary Counsel's Legislation website and information on the tabling date and last date for giving notice of a disallowance motion.

Accessing legislation

All bills that are currently being considered by the Parliament or that have been considered during the current parliamentary session are available from the Parliament's website.

The NSW Legislation website, administered by the NSW Parliamentary Counsel's Office, is the official NSW Government website for the online publication of legislation. The website can be accessed at www.legislation.nsw.gov.au.

This website contains consolidated Acts, regulations, planning instruments and other statutory instruments currently in force; historical and repealed versions of legislation; Acts as assented to since 1824; statutory instruments as made since 1990; explanatory notes for bills introduced and passed since 1990; consultation drafts of bills and other instruments; and legislation guides.

⁸ See, for example, the ruling by Speaker Murray, which confirmed that a regulation could be disallowed in part. PD 17/06/97, p.10374

Appendix One – Passage of Legislation Flowchart

