

GOVERNMENT BILLS— LEGISLATIVE PROCESS

Introduction

The basic function of Parliament is to make laws, amend them or repeal them. The process of law making or the legislative process, in relation to Parliament, may be defined as the process by which a legislative proposal brought before it, is translated into the law of the land. All legislative proposals are brought before Parliament in the form of Bills. A Bill is a statute in the draft form and cannot become law unless it has received the approval of both the Houses of Parliament and the assent of the President of India.

The process of law making begins with the introduction of a Bill in either House of Parliament. A Bill can be introduced either by a Minister or a Member other than a Minister. 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.

[For details, please refer to Parliamentary Procedure Abstracts Series No. 3]

GOVERNMENT BILLS

Notice of Bill

2. A Minister who desires to introduce a Bill has to give seven days notice in writing of one's intention to move for leave to introduce the Bill. The Speaker may, however, allow the motion to be moved at a shorter notice.

Circulation of Bill

3. A Bill is not included in the list of business for introduction until copies thereof have been made available for the use of members atleast two days before the day on which the Bill is proposed to be introduced. This requirement of prior circulation, however, does not apply to Appropriation Bills, Finance Bills and such secret Bills as are not included in the list of business. The Speaker may, however, permit the introduction of a Bill without prior circulation or after circulation for a period shorter than two days if the Minister concerned gives adequate reasons in a Memorandum for consideration of the Speaker as to why the Bill is proposed to be introduced earlier than two days after circulation of copies or without prior circulation.

2

Passage of Government Bills

4. A Bill undergoes three readings in each House, *i.e.*, the Lok Sabha and the Rajya Sabha, before it is submitted to the President for assent.

First Reading

5. The First Reading refers to the motion for leave to introduce a Bill in the House on the adoption of which the Bill is introduced.

In the case of a Bill originated in and passed by Rajya Sabha, the first reading may be said to refer to the laying on the Table of the House of the Bill, as passed by Rajya Sabha.

Procedure regarding opposing the introduction of a Bill

6. Motion for leave to introduce a Bill may be opposed by any member on general grounds or on the ground that the Bill initiates legislation outside the legislative competence of the House. Any member desirous of opposing the introduction of a Bill has to give a notice to that effect specifying clearly and precisely the objections to be raised by 1000 hours on the day on which the Bill is included in the list of business for introduction.

If the motion for leave to introduce a Bill is opposed, the Speaker may allow brief statement from the member who opposes the motion and the Minister who moved the motion. Thereafter, the motion is put to the vote of the House. However, if the motion is opposed on the ground of legislative competence, the Speaker may permit a full discussion thereon.

It is an accepted practice in Lok Sabha that the Speaker does not give any ruling on the point whether a Bill is constitutionally within the legislative competence of the House or not. The House also does not take a decision on the specific question of vires of a Bill. After debate, the motion for leave to introduce a Bill is put to vote of the House by the Speaker.

Publication of Bills in the Gazette

7. After a Bill has been introduced, it is published in the Gazette of India.

A Bill may, however, be published in the Gazette of India even before its introduction in the House if on a request made by the Minister-in-charge of the Bill, the Speaker permits such publication. If a Bill has been published in the Gazette before introduction, members cannot later on, oppose its introduction in the House. It is not necessary to move a motion for leave to introduce a Bill which has already been

published in the Gazette under the orders of the Speaker. The next stage in respect of such a Bill is for introduction as distinct from leave to introduce. However, if changes are made in the Bill after it has been published in the Gazette, it becomes a new Bill and the motion for leave to introduce the Bill has to be moved as in the case of any other Bill.

Bills which can be introduced only in Lok Sabha

8. A Bill may be introduced in either House of Parliament. However, a Money Bill cannot be introduced in Rajya Sabha. It can only be introduced in Lok Sabha with prior recommendation of the President for its introduction in Lok Sabha. If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker thereon is final.

9. Like Money Bills, Bills which, *inter alia*, contain provisions for any of the matters attracting sub-clauses (a) to (f) of clause (1) of article 110 can also not be introduced in Rajya Sabha. They can be introduced only in Lok Sabha on the recommendation of the President. However, other restrictions in regard to Money Bills do not apply to such Bills.

[For details, please refer to Parliamentary Procedure Abstracts Series No. 9]

Reference of Bills to Departmentally Related Standing Committees

10. One of the important functions of the Departmentally Related Standing Committees is to examine such Bills introduced in either House as are referred to them by the Chairman, Rajya Sabha or the Speaker, Lok Sabha, as the case may be, and make report thereon in the given time. Normally, a time period of three months is given to the Committees for presentation of report.

As per prevailing practice, normally all Government Bills, except Bills to replace Ordinances, Bills repealing obsolete laws, Appropriation Bills, Finance Bills and Bills of technical or trivial nature, are referred to the concerned Departmentally Related Standing Committees for examination and report.

The reports of the Standing Committees have persuasive value and are treated as considered advice by the Committees. In case, the Government accepts any of the recommendations of the Committee, it may bring forward official amendments at the consideration stage of the Bill or may withdraw the Bill reported by the Standing Committee and bring forward a new comprehensive Bill after incorporating such of the recommendations of the Standing Committee as are acceptable to the Government.

Second Reading

11. The Second Reading of the Bill consists of two stages.

First Stage of Second Reading

12. The First Stage constitutes discussion on the principles of the Bill and its provisions generally on any of the following motions—that the Bill be taken into consideration; or that the Bill be referred to a Select Committee of the House; or that the Bill be referred to a Joint Committee of the Houses with the concurrence of the other House; or that the Bill be circulated for the purpose of eliciting opinion thereon. A Money Bill, however, cannot be referred to a Joint Committee of both the Houses.

At this stage amendments may also be moved by any member to the motion moved by the Minister as per the provisions of Rule 75 of Rules of Procedure and Conduct of Business in Lok Sabha.

[For details, please refer to Parliamentary Procedure Abstracts Series No. 2]

In the case of a Bill originated in and passed by Rajya Sabha, the motion that the Bill, as passed by Rajya Sabha, be taken into consideration, can only be moved. In this case, any member may, if the Bill has

not already been referred to a Joint Committee of both the Houses, move as an amendment that the Bill be referred to a Select Committee of the House.

Bills before a Select/Joint Committee

13. If a Bill is referred to a Select or a Joint Committee, it considers the Bill clause-by-clause just as the House does. Amendments can be moved to various clauses by the members of the Committee.

A Select Committee or a Joint Committee of both the Houses entrusted with the consideration of a Bill issues a press communique and invites memoranda from the public at large as well as from specialised interest groups to place materials and points of view before the Committee. The Committee may also hear expert evidence and representatives of special interest groups affected by the measure.

Circulation of a Bill for eliciting public opinion

14. If a Bill is circulated for the purpose of eliciting public opinion thereon, such opinions are obtained through the agency of the State Government.

Where a Bill has been circulated for eliciting opinion and opinions have been received and laid on the Table of the House, the next motion in regard to such a Bill must be for its reference to a Select or a

Joint Committee. It is not ordinarily permissible at this stage to move a motion for consideration of the Bill, unless the Speaker allows.

Petitions on Bills before Parliament

15. The Parliamentary device of petitions on Bills provides a democratic touch to the process of legislation. Petitions from public on Bills before the Houses are examined by the Committee on Petitions and may be circulated to the members of the House *in extenso* or in a summary form so that the members may be aware of the public views on a particular legislative proposal.

Second Stage of Second Reading

16. The Second Stage of the Second Reading consists of clause-by-clause consideration of the Bill, as introduced in Lok Sabha or as reported by a Select or a Joint Committee or as passed by Rajya Sabha, as the case may be. Discussion takes place on each clause of the Bill and amendments can be moved at this stage. Each amendment and each clause is put to the vote of the House. The amendments become part of the Bill if they are accepted by a majority of members present and voting. After the clause(s), the schedules, if any, clause one, the Enacting Formula and the Long Title of the Bill have been adopted with

or without amendments by the House, the Second Reading is deemed to be over.

Third Reading

17. The Third Reading refers to the discussion on the motion that the Bill or the Bill, as amended, be passed. At this stage, debate is confined to arguments either in support or rejection of the Bill without referring to the details thereof further than is necessary for the purpose of arguments. Only formal, verbal or consequential amendments are allowed at this stage.

Bills in the other House

18. After a Bill has been passed by Lok Sabha, it is transmitted to the Rajya Sabha for concurrence with a message to that effect. On receipt of the message, the Bill is first laid on the Table of Rajya Sabha, which is deemed as the First Reading stage of the Bill in that House. Thereafter, the Bill again goes through the same stages, *viz.*, the Second Reading stage comprising either the discussion on the motion that the Bill be taken into consideration or its reference to a Select Committee of that House and the Third Reading stage. Rajya Sabha may either agree to the Bill, as passed by Lok Sabha, or return the Bill with amendments to Lok Sabha for its concurrence.

Rajya Sabha is, however, required to return a Money Bill passed and transmitted by Lok Sabha within a period of 14 days from the date of its receipt. Rajya Sabha may return a Money Bill transmitted to it with or without recommendations. It is open to Lok Sabha to accept or reject all or any of the recommendations of Rajya Sabha.

However, if Rajya Sabha does not return a Money Bill within the prescribed period of 14 days, the Bill is deemed to have been passed by both the Houses of Parliament at the expiry of the said period of 14 days in the form in which it was passed by Lok Sabha.

After the Bill has been agreed to by both the Houses, either without amendment or with such amendments only as are agreed to by the House, it is submitted to the President for assent.

Constitution Amendment Bills

19. The Constitution vests in Parliament the power to amend the Constitution. Constitution Amendment Bills can be introduced in either House of Parliament. While motions for introduction of Constitution Amendment Bills are adopted by simple majority, 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 for the adoption of

effective clauses and motions for consideration and passing of these Bills. Constitution Amendment Bills affecting vital issues as enlisted in the proviso to article 368(2) of the Constitution, after having been passed by the Houses of Parliament, have also to be ratified by not less than one half of the State Legislatures.

[For details, please refer to Parliamentary Procedure Abstracts Series No. 9]

Withdrawal of Bills

20. The Minister-in-charge of a Bill, who has introduced the Bill in Lok Sabha, may at any stage of the Bill move for leave to withdraw the Bill on the ground that:

- (a) the legislative proposal contained in the Bill is to be dropped; or
- (b) the Bill is to be replaced subsequently by a new Bill which substantially alters the provisions contained therein; or
- (c) a Bill is to be replaced subsequently by another Bill which includes all or any of its provisions in addition to other provisions.

and if such leave is granted, no further motion is made with reference to the Bill.

If a Bill passed by Rajya Sabha is pending in Lok Sabha, a motion recommending withdrawal of the Bill, on being adopted by the House, is transmitted to Rajya Sabha for concurrence. If Rajya Sabha concurs in the motion, the motion for withdrawal of the Bill is moved in Lok Sabha and proceeded with in the usual manner and when the motion is adopted, a message to that effect is sent to Rajya Sabha. Similar procedure is followed in Rajya Sabha in the case of a Bill passed by Lok Sabha and pending in Rajya Sabha.

Joint Sitting

21. If a Bill passed by one House is rejected by the other House, or the Houses have finally disagreed as to the amendments to be made in the Bill, or more than six months lapse from the date of receipt of the Bill by the other House without the Bill being passed by it, the President may, unless the Bill has lapsed by reason of dissolution of Lok Sabha, call a Joint sitting of the two Houses to resolve the deadlock.

The President, after consultation with the Chairman, Rajya Sabha and the Speaker, Lok Sabha, has made the Houses of Parliament (Joint Sitting and Communications) Rules in terms of clause (3) of article 118 of the Constitution to regulate the procedure with regard to Joint sitting of both the Houses.

The Bill is deemed to have been passed by both the Houses in the form it is passed by a majority of the total number of members of both the Houses present and voting at the Joint sitting.

There cannot be a Joint sitting of both Houses on a Money Bill or a Constitution Amendment Bill.

The Constitution empowers the President to take steps for resolving a deadlock on a Bill between the two Houses but it is not obligatory upon the President to summon the Houses to meet at a Joint Sitting. However, once the President has notified her/his intention to summon the Houses for a Joint Sitting, even the subsequent dissolution of Lok Sabha does not stand in the way of proceeding with the Bill. There is no time limit as to when the Joint Sitting should take place. It may take place at any time subsequent to the notification.

Assent of the President

22. The Secretariat of the House which is last in possession of a Bill initiates action for obtaining the assent of the President thereon. In the case of a Money Bill or a Bill passed at a Joint sitting of the Houses, the Lok Sabha Secretariat obtains the assent of the President. The Bill becomes an Act after the President's assent has been given.

The President can give assent or withhold assent to a Bill. The President can also return the Bill, if it is not a Money Bill, with the recommendations to the Houses for reconsideration, and if the Houses pass the Bill again with or without amendments, the President can not withhold the assent to such a Bill. The President is bound to give assent to Constitution Amendment Bill.

[Legislative process in regard to Government Bills is governed by various provisions of the Constitution, the Rules of Procedure and Conduct of Business in Lok Sabha and the Directions by the Speaker, which include, inter alia, provisions contained in Articles 107 to 111, 117, 245 to 255 and 274 of the Constitution, Rules 64 to 159, 218, 219, 331E, 331H and 335 of the Rules of Procedure and Directions 19A to 26 and 31 to 37 of the Directions by the Speaker.]