

HOW LEGISLATION IS ENACTED

While we all know that the Oireachtas passes legislation that affects our lives and businesses, for many the process involved is something of a mystery. Here we briefly outline the stages in the legislative process.

The Oireachtas consists of the President, and two Houses, Dail Eireann and Seanad Eireann.

Generally speaking, only legislation set out in the Programme for Government is advanced as a priority. All Departments are consulted about proposed legislation by the sponsoring Department and the views of Ministers on the draft legislation are presented to the Cabinet. In line with its commitment to *Better Regulation*, prior to the presentation of legislative proposals to Government extensive consultation with relevant stakeholders will have been undertaken.

Once the Government approves the main policy parameters of a Bill – the Heads of the Bill – it is sent to the Parliamentary Draftsman for drafting. Once this is done, the Bill is submitted by the sponsoring Minister and the Government takes a formal decision to have the Bill printed and presented to the Oireachtas. All Bills include an Explanatory Memorandum which explains the main provisions of each Section of the proposed legislation.

While all Acts of the Oireachtas start life as Public Bills, it is possible for a Private Bill to be initiated. In such an event separate procedures apply.

At regular intervals, usually at the beginning of each session of the Oireachtas, the Government publishes a list of Bills which are expected to be advanced over the coming period. In addition, the Government reports regularly on the state of progress of legislation in the pipeline.

First Stage: the Bill is initiated.

A Bill can be initiated in two ways, the first of these is called **Presentation**, and happens as follows:

- In the Dáil, only the Government, and groups provided for in standing orders (seven or more deputies), may present Bills (one Bill at a time from each group).

- In the Seanad, the Leader of the Seanad may present a bill on behalf of the Government. Groups provided for in standing orders (five or more Senators) may also present a Bill, but only one Bill at a time from each group.

The second method is called '**Leave to Introduce**' and occurs when leave of the House is sought for publication of Bill. Any member may seek leave to introduce a Bill.

Bills may be initiated in either the Dáil or the Seanad with the exception of the following:

- Money Bills (Dáil only)
- Bills to amend the Constitution (Dáil only)
- Private Bills (Seanad only)

Once the Bill has been initiated it then moves to the Second Stage.

Second Stage: Initial discussion in the House

- The sponsoring Minister introduces his proposals and explains the main provisions of the Bill. The Minister leads a general debate on the principles of the Bill.
- Individual speaking time by TDs/Senators is usually limited. The Opposition Spokespersons usually lead the debate and are expected to indicate issues where amendments will be sought.
- The Minister replies to the debate and clarifies points raised and the extent to which amendments proposed may be considered favourably by Government.

This is an important phase in the legislative process as it gives an opportunity for all parties to discuss the merits of the Bill. The Second Stage debate often sets the tone for the subsequent detailed examination of the Bill.

Committee (Third) Stage: Examination of the Bill by the relevant Oireachtas Committee

- Most Bills are now considered in Select Committees.
- In Committee, the Bill is examined section by section, often line by line, with the sponsoring Minister or Minister of State going into detail as necessary.
- Opposition and Government TDs/Senators use this opportunity to discuss possible amendments and the reasons why changes to the Bill are necessary.
- The Minister indicates which amendments may be supported by Government, those which will be opposed, and clarifies the thrust of those provisions which are the subject of debate.

This phase is an ideal opportunity to question specific details and to tease out particular provisions of the Bill. It allows for direct questioning of the sponsoring Minister and also the opportunity to build support for or against certain measures across political divides.

Report (Fourth) Stage: A review of changes made at Committee by the Dail/Seanad

- The debate takes place having regard to a list of amendments tabled by Government and the Opposition.
- Each amendment is considered in turn. Therefore consideration is limited to amendments tabled which arise from proceedings at Third Stage.
- Members may speak only twice on each amendment, the second contribution being limited to two minutes;
- The proposer of an amendment may reply to the debate.
- The Bill may be recommended as a whole or in respect of certain sections or amendments only.
- If the Opposition is not satisfied with the Minister's response to a proposed amendment(s) they may seek a vote.

Final (Fifth) Stage: Final debate and vote on the Bill

- The Bill is revised to take account of agreed amendments and the debate takes place on a motion "That the Bill do now pass".
- Typically, this is a formality with the sponsoring Minister making a short intervention.
- The Bill is then sent to other House

In the Seanad, the Second, Third, Fourth and Fifth Stages are repeated.

Amendments made by the Seanad to a Bill initiated in Dáil

- Amendments made by the Seanad are considered in Committee of whole Dáil.
- Amendments may be amended or consequential amendments made.
- The Committee's decisions can be reviewed by Dáil on report, and further amendments may be made.
- The Dáil may agree Seanad amendments and/or
- The Dáil may disagree with Seanad amendments and request that the Seanad does not insist on them, and/or
- If the Dáil has made further amendments, the Seanad is asked to agree them.

Amendments made by Dáil to Bill initiated in Seanad

- The Bill is deemed by virtue of Article 20.2.2 of the Constitution to be a Bill initiated in Dáil Éireann and is sent to the Seanad.
- Consideration by the Seanad commences at Fourth (Report) Stage.

Enactment

As a general rule, the President is required to sign a Bill as presented not earlier than the fifth day or later than the seventh day after it has been so presented (Art.25.2.1).

A Bill becomes law on the day it is signed by the President and, unless the contrary intention appears within the Bill, comes into operation on that day (Art. 25.4.1). A Bill may, for example, contain provision for its commencement (in whole or in part) by way of Ministerial order.

USEFUL LINKS:

Oireachtas

www.oireachtas.ie

Legislation Programme

www.taoiseach.gov.ie