HOW A LAW IS MADE IN VICTORIA

The Law may be defined as a system of rules which enables society to function efficiently and harmoniously. It protects individuals and groups, and ensures that social and economic interactions are conducted smoothly and peacefully.

LAWS IN AUSTRALIA

In Australia there are two kinds of law:

1. Common Law – law which developed and continues to evolve in the courts. Such judge-made law was brought to Australia by white settlers. It relies heavily on precedent and is uniformly large throughout the nation. As it is not made in Parliament, it is sometimes referred to as an unenacted law.

2. Statute Law – an Act of Parliament, usually in the form of a written enactment which applies to a particular area. It is enacted by Parliament in the form of a bill that has passed Royal Assent. It is then available in two forms:

   a. In the House of Parliament
   b. In the Statute Book


Statute Law is divided into two classes:

1. Primary statutes which are Acts of Parliament. They are made by government ministers and approved by the Governor in Council.

2. Secondary statutes which are made by agencies of government and approved by the Governor in Council.

Secondary statutes are made by agencies of government and approved by the Governor in Council. They are made under the authority of Acts of Parliament and are known as statutory instruments.

A distinction is made between a government bill, introduced by the appropriate minister, and a private member's bill, brought on by someone other than a minister.

Examination of the bill is then conducted in three formal stages:

1. Permission to introduce the bill into Parliament and to proceed with it is obtained in the First Reading. The member introducing the bill may be asked to give a brief explanation of it but otherwise, no debate is allowed.

2. In the Second Reading, some time after the first reading, the principle but not the details of the bill are debated. If at this stage the House decides to examine the bill's clauses it has the option of proceeding to the stage where the bill is scrutinised by clause and amendments may be considered.

3. Parliamentary process – for many members of the public the most bewildering stage. Generally a bill may be initiated in either House of the Parliament of Victoria although in practice most bills originate in the lower House. All financial bills must be introduced in the Legislative Assembly.

A bill decides to examine the bill's clauses it has the option of proceeding to the stage where the bill is scrutinised by clause and amendments may be considered.

In the Legislative Assembly this is called the Committee of the Whole stage. In the Legislative Assembly this is called the Consideration in Detail stage. Occasionally, bills are referred to a select committee for examination.

The committee/consideration in detail stage is not compulsory. When bills are considered uncontroversial or are of a minor nature, the House may choose to avoid this stage and pass directly to the third and final stage of parliamentary examination.

FEATURING READING


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IDEA

POLITICAL PARTIES
Discussion
Party policy

INDIVIDUALS
Pressures groups
Media
Public opinion

PUBLIC SERVICE
Necessary administrative amendments

PARLIAMENTARY COUNSEL
Prepares draft bill

CABINET
Read submission
Approve in principle
Draft bill approved by:
Minister's Bill Committee
Final Cabinet approval

PREPARATION OF BILL
With the approval of the
Premier, parliamentary
counsel usually
prepare bill.

PARTY CAUCUS APPROVAL

A bill may originate in either the
Legislative Assembly or the
Legislative Council, the exception
being that bills to spend government money
or to raise taxes must be introduced in the
Legislative Assembly.

HOUSE OF ORIGIN

INITIATION
- Legislative Assembly: minister/member without notice.
- Legislative Council: minister/member with notice.
- Appropriation Bill: Minister on receipt of message from the Governor.
- Private member's bill: government backbencher, opposition, non-government or independent members. Such bills cannot include an appropriation provision.

FIRST READING
- Formal motion to bring in bill – a request of, and approval from, the House to proceed.
- Listed for second reading on a future day, the exception being appropriation or supply bills which may be read on the same day.

SECOND READING
- A statement of the bill's compatibility with the Charter of Human Rights and Responsibilities Act 2006 is tabled by the minister or member.
- Minister's (or private member's) second reading speech; copies of the bill, usually with explanatory notes, circulated to all members; if bill involves expenditure from the consolidated fund, a message from the Governor is required.
- Bill debated in principle – that is, the general propositions of the bill, but not the detail in the clauses, are debated.

CONSIDERATION IN DETAIL (optional, may be dispensed with if the House unanimously agrees).
- Bill examined in detail, clause by clause; relevant amendments may be made. In the Legislative Council, this is called the 'Committee of the Whole' stage.

THIRD READING
- Further debate, if necessary.

BILL PASSES HOUSE

SECOND HOUSE

PROCEDURE
A similar scrutiny procedure to that used in the House of origin is adopted. If a bill passes with amendments, those amendments are transmitted by message to the house of origin, and further messages flow between the two Houses accepting, rejecting or proposing modifications to the amendments. Each House must agree to any amendments in an identical form before a bill can become law.

APPROVAL
When a bill has passed both Houses and any amendments have been agreed to by each, it will be prepared for Royal Assent.

Clerk of Parliaments
Certifies bill

GOVERNOR
Royal Assent

ENACTMENT
On day specified in the Act
OR
If Act so provides on day proclaimed by the Governor in the Victorian Government Gazette

LAW NOW APPLIES