



**Article 73(1) of the Basic Law provides the Legislative Council with the powers and functions to enact, amend or repeal laws in accordance with the provisions of the Basic Law and legal procedures.**

## TWO TYPES OF BILLS

Article 62(5) of the *Basic Law* provides that the Government of the Hong Kong Special Administrative Region ("HKSAR") has the powers and functions to draft and introduce bills, motions and subordinate legislation. Bills introduced by the Government are known as Government bills.

Under Article 74 of the *Basic Law*, bills which do not relate to public expenditure or political structure or the operation of the Government may be introduced individually or jointly by Legislative Council Members. As for bills relating to Government policies, the written consent of the Chief Executive is required before they can be introduced by Members. Bills introduced by Members are known as Members' bills.

## BEFORE A BILL IS INTRODUCED INTO THE LEGISLATIVE COUNCIL

### Government bills

If the Government intends to propose new laws or amend existing law, the relevant policy bureau normally will first consult the parties affected by the bill and the relevant Panel of the Legislative Council, and then the Department of Justice ("DoJ") will be requested to put the proposal into the form of a bill. The bill will next be submitted to the Executive Council. Upon approval by the Executive Council, a notice of the Government's intention to present the bill will be sent to the Clerk to the Legislative Council. The bill will then be published in the Gazette and introduced into the Legislative Council.

### Members' bills

Before a Member introduces a bill, he or she may first consult the relevant parties affected by the bill and the relevant Panel of the Legislative Council. The Member who intends to introduce a bill is responsible for the drafting of the bill. A Member's bill is required to be accompanied by a certificate issued by the Law Draftsman of DoJ that the bill conforms to both the form of bills according to the *Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region* ("RoP") and the general form of Hong Kong legislation.

Upon receipt of the certificate, the Member may send to the Clerk to the Legislative Council a notice of intention to present the bill, and the bill will then be published in the Gazette and introduced into the Legislative Council.

For a "private bill"<sup>1</sup>, the Member is required to publish the bill in two successive publications of the Gazette and the notice of the bill is required



A bill is published in the Gazette.

<sup>1</sup> As defined in section 2 of the *Private Bills Ordinance (Cap. 69)*, a "private bill" means a bill which provides primarily for the particular interest or benefit of any individual, association or body corporate rather than the interest or benefit of the public and is not a Government measure.

to be advertised twice in two daily newspapers published in Hong Kong, one being a Chinese language newspaper and the other an English one.

### THREE READINGS

After a bill has been gazetted, it has to pass through three readings in the Legislative Council before it is enacted. The time required for a bill to pass through the Legislative Council varies from one day to over a year, depending on its complexity and whether it is controversial.

#### First Reading

First Reading is the formal introduction of a bill into the Legislative Council. It is nothing more than the Clerk to the Legislative Council reading out the short title of the bill at a Council meeting. No debate is allowed at this stage. Under *RoP*, when a bill has been read the first time, the Legislative Council is deemed to have ordered the bill to be set down for Second Reading.

#### Second Reading

Immediately following the First Reading of a bill at a Council meeting, the public officer or Member in charge of the bill moves a motion that "The bill be read the second time" and gives a speech explaining the main purpose of the proposed legislation. Normally, after the motion on Second Reading has been moved, the debate on the bill is adjourned, with the bill being referred to the House Committee for scrutiny.

The House Committee has to decide, at its subsequent meeting, whether a Bills Committee should be formed to scrutinize the bill. If a bill is controversial or complicated, a Bills Committee may be formed to consider the bill in detail. All Members, other than the President of the Legislative Council, may join a Bills Committee. A Bills Committee will consider the general merits and principles, and the detailed provisions of the bill; it may also consider any amendments relevant to the bill. When a Bills Committee has completed consideration of the bill allocated to it, it reports to the House Committee.

The Chairman of the House Committee then advises the public officer or Member in charge of the bill on whether the House Committee supports the resumption of the Second Reading debate of the bill. After consultation with the Chairman of the House Committee, the public officer or Member in charge of the bill may give notice to resume the Second Reading debate on the bill.

During the resumed debate at a Council meeting, a Member, usually the Chairman of the Bills Committee, presents the views of the Bills Committee as a whole. Other Members may speak on the bill and indicate whether they support the bill or otherwise. Following the debate on Second Reading, a vote is taken on the motion for the Second Reading of the bill. If the motion is negatived, the bill may not proceed further.

#### Committee stage

If the motion for the Second Reading is agreed to, the Legislative Council immediately sits as a "Committee of the whole Council" and examines the details of the bill clause by clause. The Chairman of the Bills Committee may move amendments to the bill on behalf of the Bills Committee. Individual Members and the public officer in charge of the bill may also move their own amendments.

#### Third Reading

After the bill has passed through the "Committee of the whole Council" with or without amendments, the Legislative Council resumes and with the public officer or Members in charge of the bill moving a motion that "The bill be read the third time and do pass", the bill proceeds to Third Reading. Members may speak on the contents of the bill at this stage. If the motion on Third Reading is passed, the bill completes its passage in the Legislative Council. If the motion is negatived, no further proceedings shall be taken on the bill.

## VOTING PROCEDURES

### Passage of motions, bills or amendments introduced by the Government

Under Annex II of the *Basic Law* and *RoP*, the passage of motions, bills or amendments introduced by the Government requires at least a simple majority vote of Members present.

### Passage of motions, bills or amendments introduced by Members

Annex II of the *Basic Law* also provides that the passage of motions, bills or amendments to Government bills introduced by individual Members requires a simple majority vote of each of the two groups of Members present:

- (a) Members returned by functional constituencies; and
- (b) Members returned by geographical constituencies.

## AFTER VOTING

A bill passed by the Legislative Council shall take effect only after it is signed and promulgated by the Chief Executive. The Chief Executive promulgates the law enacted by the Legislative Council (i.e. the Ordinance) through publication in the Gazette. The Ordinance commences on the day of publication in the Gazette or, if provision is made for it to commence on another day, on that other day.

Under Article 17 of the *Basic Law*, laws enacted by the Legislative Council must be reported by the Government to the Standing Committee of the National People's Congress for the record.

A flowchart illustrating the law-making process is in the **Appendix**.



*Laws of Hong Kong.*

