

2

Parliamentary law making

Introduction

The main legislative (i.e. law-making) body in the UK is Parliament, which meets in the Palace of Westminster. In a democracy, the view is that laws should only be made by the elected representatives of society, and as such MPs are elected to the UK House of Commons.

Laws passed by Parliament are known as Acts of Parliament or statutes, and this source of law is

usually referred to as statute law. About 60 to 70 Acts are passed each year. In addition to Parliament making law, power can be delegated to government ministers and their departments to make detailed rules and regulations, which supplement Acts of Parliament. These regulations are delegated legislation (see Chapter 3) and are called statutory instruments. This chapter relates to the key concept of power and its limits.

2.1 The legislative process



▲ **Figure 2.1** The Houses of Parliament at Westminster

UK Parliament consists of the House of Commons, the House of Lords and the Queen, all acting together:

- » Members of the House of Commons are elected.
- » Members of the House of Lords are either hereditary peers or appointed life peers.
- » The Queen has to give her assent before a law can become an Act of Parliament.

Members of Parliament (MPs) sit in the House of Commons and represent a political party. They are elected by the public, with the country being divided into constituencies and each of these returning one MP. Under the Fixed-Term Parliaments Act 2011, there must be a general election every five years.

The government of the day is formed by the political party that has a majority of MPs in the House of Commons.

In 2020, the House of Lords consisted of:

- » a maximum of 92 hereditary peers (a title which could be passed down through their family)
- » about 660 life peers (nominated by the prime minister, mostly former politicians who have retired from the House of Commons), who could either support one of the political parties or be an independent 'cross-bencher', and
- » the 26 most senior bishops in the Church of England.

2.1.1 The pre-legislative process: Green Papers and White Papers

If the government is unsure what law to introduce on a topic, it may issue a Green Paper by the minister with responsibility for that matter. This is a consultative document in which the government's view is put forward with proposals for law reform. Interested parties are then invited to send comments to the relevant government department, in order to:

- » consider fully the views of all stakeholders
- » suggest any necessary changes to the government's proposals.

Following this, the government may publish a White Paper with its firm proposals for new law, taking into account the views received during the Green Paper consultation.

If the government has firm views on a topic, it may go straight to issuing a White Paper, so that advance notice of future legislation is given.

Consultation is valuable before any new law is framed, as it allows time for mature consideration. From time to time, governments are criticised for responding in a 'knee-jerk' fashion to incidents or situations and, as a result, rushing through law that has subsequently proved to be unworkable. This occurred with the Dangerous Dogs Act 1991 (see the activity on page 22).

Internet research

Find an example of a recent Green Paper and a recent White Paper issued by the UK government.

Have either of these resulted in legislation being passed?

2.1.2 Bills

The majority of Acts of Parliament are introduced by the government. They are initially drafted by lawyers in the civil service, known as Parliamentary Counsel to the Treasury, and are referred to as Bills. Instructions on what is to be included, and the effect the proposed law is intended to have, are provided by the government department responsible for it.

The Bill has to be drafted so that it represents the government's wishes, while at the same time using correct legal wording so that there will not be any future difficulties in applying it. It must be unambiguous, precise and comprehensive. Achieving all of these is not easy, and there may be unforeseen problems with the language used, as discussed in Chapter 4 on statutory interpretation.

A Bill only becomes an Act of Parliament if it successfully completes all the necessary stages in Parliament. The government sets out a timetable for when it wishes to introduce the draft Bill into Parliament, and these Bills take priority.

Private Members' Bills

Private Members' Bills can also be sponsored by individual MPs. The parliamentary process allows for a ballot during each parliamentary session, in which twenty private members are selected who can take their turn in presenting a Bill to Parliament. The time for debate of Private Members' Bills is limited, so that only the first six or seven members in the ballot have a realistic chance of introducing a Bill on their chosen topic. Relatively few

Private Members' Bills become law, but there have been some important laws passed in this way, such as:

- » the Abortion Act 1967, which legalised abortion in the UK
- » the Marriage Act 1994, which allowed people to marry in any registered place, not only in register offices or religious buildings
- » the Household Waste Recycling Act 2003, which places local authorities under a duty to recycle waste.

Internet research

Using www.legislation.gov.uk, try to find a recent example of a Private Members' Bill which has become law.

Ten-minute rule

Backbenchers (MPs who do not have any official position in the government) can also try to introduce a Bill through the 'ten-minute rule', under which any MP can make a speech of up to ten minutes supporting the introduction of new legislation. This method is rarely successful, unless there is no opposition to the Bill, but some Acts of Parliament have been introduced in this way. An example is the Bail (Amendment) Act 1993, which gave the prosecution the right to appeal against the granting of bail to a defendant. Members of the House of Lords can also introduce Private Members' Bills.

Public and private Bills

A public Bill involves matters of public policy that affect either the whole country or a large section of it. Most government Bills are in this category, for example those which led to the Constitutional Reform Act 2005, the Legal Services Act 2007, the Legal Aid, Sentencing and Punishment of Offenders Act 2012 and the Criminal Justice and Courts Act 2015. Not all Bills are aimed at changing the law for the entire country – some may affect just one, or more, of the devolved countries – Scotland, Wales and Northern Ireland.

Further, some Bills are designed to pass a law that will affect only individual people or corporations. These are called private Bills. An example of a private Bill was the University College London Act 1996, which was passed in order to combine the Royal Free Hospital School of Medicine, the Institute of Neurology and the Institute of Child Health with University College.

▼ Figure 2.2 Key facts about Bills

Key facts	
Type of Bill	Description
Government Bills	These are introduced by the government. They are likely to become law, as government business takes priority in Parliament.
Private Members' Bills	These are introduced by individual members of either the House of Commons or the House of Lords. They rarely become law.
Public Bills	These affect every person and every business in the country.
Private Bills	These only affect individual persons or companies.

2.1.3 The process in Parliament

In order to become an Act of Parliament, a Bill usually has to be passed by both Houses of Parliament, and there is a long and complex process (see Figure 2.3). A Bill may start in either the House of Commons or the House of Lords, with the exception of finance Bills, which must start in the House of Commons. All Bills must go through the stages explained below – this procedure is followed when the Bill is introduced in the House of Commons

First Reading

This is a formal procedure, where the name and main aims of the Bill are read out. Usually, there will be no discussion and no vote.

Second Reading

This is the main debate on the whole Bill, during which MPs deliberate the principles behind the Bill. The debate usually focuses on the main principles rather than smaller details. Those MPs wishing to speak in the debate must catch the Speaker's eye, since the Speaker controls all debates and no one may speak without being called on by the Speaker. At the end of the debate there will be a vote, which is either verbal or formal:

- » A verbal vote involves the Speaker asking the members as a whole how they vote and the members shout out 'Aye' or 'No'. If it is clear that nearly all members are in agreement, either for or against, there is no need for a more formal vote.
- » If the result of a verbal vote is unclear or inconclusive, there will be a formal vote where MPs leave the Chamber and then walk back in through one of two voting doors on either side of the Chamber. There will be two 'tellers' positioned at each of these doors to make a list of the members voting. The tellers count up the number of MPs who voted for and against and publicly declare these numbers to the Speaker. There must be a majority in favour of the Bill for it to progress to the next stages.

Committee Stage

If the Bill passes the Second Reading, the Committee Stage then examines each clause in detail. This is undertaken by a standing committee of 16–50 MPs, chosen specifically for that Bill. The MPs on the committee are usually those with a special interest in, or knowledge of, the subject of the Bill. For finance Bills, the whole House sits in committee. During this stage, amendments to various words or clauses in the Bill may be voted on and passed.

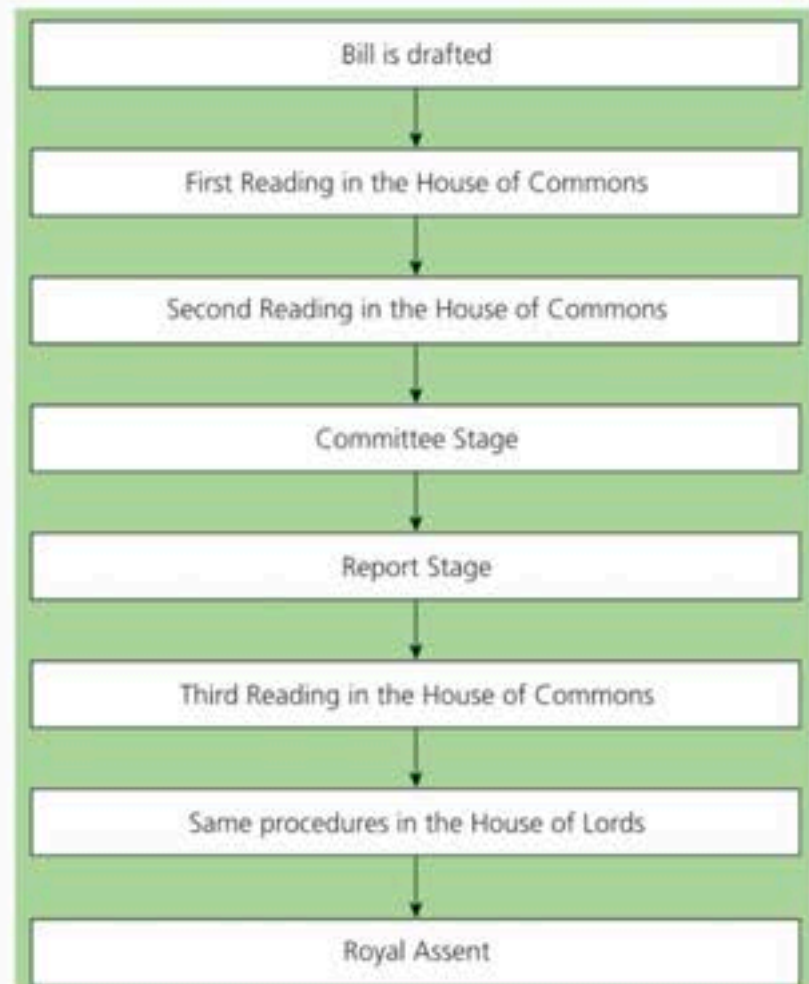
Report Stage

The Report Stage is where the committee reports back to the House on any amendments to the Bill. Amendments are debated in the House and either accepted or rejected, and further amendments can be added.

If there were no amendments, there will not be a Report Stage – instead the Bill will continue straight to the Third Reading.

Third Reading

This is the final vote on the Bill. It is almost a formality, since a Bill that has passed through all the stages above is unlikely to fail at this late stage. There is usually no debate or vote.



▲ **Figure 2.3** The passage of a Bill through Parliament, starting in the House of Commons

Internet research

Go to www.parliament.uk/bills

This page lists the Bills currently before Parliament.

Click on any Bill to see which stage of the parliamentary process it has reached. It will also usually give the next part of the process with a date, if one has been fixed.

The House of Lords

If the Bill started in the House of Commons, it now passes to the House of Lords, where it goes through similar stages to those in the House of Commons.

If the House of Lords makes amendments to the Bill, it will go back to the House of Commons for it to consider those amendments. If the House of Commons does not accept an amendment made by the House of Lords, then that amendment will go back to the House of Lords for reconsideration.

If the House of Lords insists on the amendment, it will be sent back to the House of Commons. This can result in some amendments being sent from one House to the other several times. This is known as 'ping-pong'.

If the Bill started in the House of Lords, at this stage it then passes to the House of Commons for consideration.

By the end of this procedure, the Bill should have been fully agreed by both Houses.

The Parliament Acts 1911 and 1949

The power of the House of Lords to reject a Bill is limited by the Parliament Acts 1911 and 1949. These allow a Bill to become law even if the House of Lords rejects it, provided that the Bill is reintroduced into the House of Commons in the next session of Parliament and passes all the stages again there.

The principle behind the Parliament Acts is that the House of Lords is not an elected body, and its function is to refine and add to the law rather than oppose the will of the democratically elected House of Commons. In fact, there have only been four occasions when this procedure has been used to bypass the House of Lords after it voted against a Bill:

- » the War Crimes Act 1991
- » the European Parliamentary Elections Act 1999

- » the Sexual Offences (Amendment) Act 2000
- » the Hunting Act 2004.

Royal Assent

The final stage is where the monarch formally gives approval to the Bill and it then becomes an Act of Parliament. This is now a formality and, under the Royal Assent Act 1967, the monarch will not even have the text of the Bills to which she is assenting; she will only have the short title. The last time a monarch refused assent was in 1707, when Queen Anne refused to assent to the Scottish Militia Bill.

Commencement of an Act

Following Royal Assent, the Act of Parliament comes into force on midnight of that day, unless another date has been set. However, there has been a growing trend for Acts of Parliament not to be implemented immediately. Instead, the Act itself states the date when it will commence, or it passes responsibility to a government minister to set the commencement date. In this case, the minister will bring the Act into force by issuing a commencement order by delegated legislation (see Chapter 3). Quite often, different sections of an Act are brought into effect at different times. This can cause uncertainty, as it may be difficult to discover which sections of an Act have been brought into force, although nowadays this information is usually on the internet.

Internet research

Research the Wild Animals in Circuses Act 2019 by visiting www.legislation.gov.uk/ukpga/2019/24/introduction, then answer the following questions.

- » What is the purpose of this Act?
- » What is a 'wild animal' according to this Act?
- » To which part of the UK does the Act apply?
- » When does the Act come into force?

▼ Figure 2.4 Key facts on the parliamentary law-making journey

Key facts
A Bill has to pass all three parliamentary stages (Readings in the House of Commons, readings in the House of Lords and Royal Assent) before it can become an Act.
Most Bills are introduced into the House of Commons, where they are debated and receive detailed scrutiny.
The House of Lords will further debate and scrutinise the Bill. It can suggest amendments, which can either be accepted or rejected by the House of Commons.
The will of the House of Commons will eventually prevail, as it has elected representatives.
The Queen's Royal Assent is necessary, but a mere formality, for a Bill to become an Act of Parliament and part of the law of the land.

▼ Figure 2.5 Advantages and disadvantages of law making in Parliament

Advantages of law making in Parliament	Disadvantages of law making in Parliament
<ul style="list-style-type: none"> • Law is made by elected representatives. This means it is democratic. As there has to be a general election at least once every five years, the electorate can vote out a government if it has not performed as the public expected or introduced promised reforms. • Acts of Parliament can reform whole areas of law in one new Act. An example is the Fraud Act 2006 in criminal law, which abolished all the old offences of deception and fraud and created a newer and, potentially, simpler structure of offences. Judges can only change the law in very small areas, as they can only rule on the point of law in the case they are deciding. • Acts of Parliament can also set broad policies and give the power to others to make detailed regulations, known as delegated legislation (see Chapter 3) This is an advantage because the general structure of a new law is laid down by Parliament but it allows for greater detail than if everything was contained in a single document. • Before a Bill is presented to Parliament, there will often have been consultation on the proposed changes to the law. This allows the government to take into consideration objections to their proposals. Also, as all Bills have to go through the lengthy discussion process in both Houses of Parliament, the new law will have been thoroughly discussed and scrutinised before being brought into force. • Law made by Parliament is certain and cannot be challenged by judges. 	<ul style="list-style-type: none"> • Government and Parliament do not always have the time or inclination to deal with all the reforms that are proposed. This is particularly true of reform of 'lawyers' law', such as areas of criminal law or the law of contract. An example of law that is still awaiting reform is the law on assaults and other non-fatal offences against the person. The Law Commission proposed changes to this area of law in 1993. Reform is needed because the old law dates back to an Act of 1861, which was difficult to understand and does not always cover modern situations. In 1997, the government accepted that there was a need for reform and published a draft Bill the following year. However, this was not put before Parliament and this area of law has still not been reformed. • Even where the government introduces a Bill into Parliament, the process of becoming an Act with all the different readings, committee and report stages can take several months. • The government is in control of the parliamentary timetable and allows very little time for Private Members' Bills. Even when a private member does manage to introduce a Bill, it can be easily voted out by the government as it has the majority of seats in the House of Commons. The result is that very few Private Members' Bills become law. • Acts of Parliament are often long and complicated. This can make them difficult to understand by lawyers and the public. In fact, many of the cases that go to the Supreme Court on appeal are to interpret the words of an Act. • The law can become even more complicated where one Act amends an earlier Act. In this case, it is necessary to consult two or more Acts to find out exactly what the law is. • An Act can come into force as soon as it completes the parliamentary stages. However, in many cases an Act will not come into force until a later date, or over several dates. It may be necessary to consult several documents to find exactly when the relevant part of an Act came into force.

2.2 Parliamentary supremacy (sovereignty)

2.2.1 Definition of parliamentary supremacy

The most widely recognised definition of parliamentary supremacy was given by Dicey in the nineteenth century. He made three main points:

- 1 Parliament can legislate on any subject matter it wants; there are no limits on what it can make laws about. Parliament can also change its own powers. It did this with the Parliament Acts 1911 and 1949, which placed limits on the right of the House of Lords to block a Bill by voting against it.
- 2 No Parliament can be bound by any previous Parliament, nor can a Parliament pass any Act that will

bind a later Parliament. Each new Parliament should be free to make or change whatever laws it wishes.

- 3 No other body has the right to override or set aside an Act of Parliament. This means that an Act of Parliament cannot be contradicted by judges' decisions in court or pieces of delegated legislation.

This rule is applied even where the Act of Parliament may have been made because of incorrect information.

A recent example of the importance of complying with Dicey's principles was the court case concerning the UK leaving the European Union (EU), *R (on the application of Miller and Another) v The Secretary of State for Exiting the European Union* (2016). The government announced that it would trigger Article 50 of the Treaty

on European Union to leave the EU in 2017 without passing an Act of Parliament. The right to do this was challenged and the Supreme Court decided that leaving the EU in this way would effectively overrule the European Communities Act 1972. This could only be done by Parliament passing another Act to give the government the authority to start the process of leaving the EU.

Parliamentary supremacy is also referred to as the sovereignty of Parliament.

2.2.2 Limitations on parliamentary supremacy

There are some limitations on parliamentary supremacy, but these have all been self-imposed by previous Parliaments. The main limitations are through:

- » the effect of the Human Rights Act 1998
- » devolution
- » EU membership.

Effect of the Human Rights Act 1998

The Human Rights Act 1998 states that all Acts of Parliament have to be compatible with the European Convention on Human Rights. It is possible to challenge an Act on the grounds that it does not comply with the Convention. Under s 4 of the Human Rights Act, the courts have the power to declare an Act incompatible with the Convention.

This happened in *H v Mental Health Review Tribunal* (2001). When making an application for release, the Mental Health Act 1983 placed the burden of proof on the patient to show that they no longer needed to be detained. The effect of the Human Rights Act meant that it should be up to the State to justify the continuing detention of such a patient. The court made a declaration in this case that the law was incompatible with the Human Rights Act, and Parliament subsequently changed the law to give effect to the Human Rights Act.

Devolution

The Scotland Act 1998 and the Government of Wales Act 1998 have devolved (handed down) certain powers to the Scottish Parliament and the Welsh Parliament respectively. As a result, each body can make laws on certain matters for its own country, without requiring approval from the Westminster Parliament. This means that Parliament's supremacy has been lost in these areas.

EU membership

In 1973, the UK became a member of the EU. In 2016, the British people voted in a referendum to leave the

EU, and the result of this referendum was given effect on 31 January 2020. One of the reasons given for this result was the loss of sovereignty.

While the UK was a member of the EU, there were limitations on Westminster parliamentary supremacy, as EU law took priority over UK law. Although details of the UK exit were being finalised when this book was published, it seems that by leaving the EU the Westminster Parliament is regaining sovereignty and, in the future, can pass any law it chooses, regardless of compatibility with EU law.

2.3 Influences on Parliament

2.3.1 Political pressure

When there is a general election, all the political parties publish a list of their policies and suggested reforms they would carry out if they were elected as the next government. This is called the party's manifesto, and it is one way in which the party tries to persuade people to vote for it. The manifesto can include policies on issues such as finance, education, transport and law and order.

The party that has the most members elected to the House of Commons then becomes the government. This party then has the whole life of the Parliament (up to five years) to introduce the reforms it promised in its manifesto.

Throughout any session of Parliament, the government has the major say on which new laws are put before Parliament for debate.

The opposition parties in Parliament hold the government to account when it introduces its proposals, to ensure that the manifesto promises are implemented and in the way they have been outlined. They will also try in debates and in parliamentary committees to amend the proposed laws, to ensure they are workable and not too extreme. However, the effect of the Parliament Acts 1911 and 1949 means that the House of Lords cannot block laws passed by the House of Commons indefinitely. Also, the effect of the Salisbury Convention is that the House of Lords cannot block a law passed by the House of Commons which is based on a previous manifesto commitment made by the government.

▼ Figure 2.6 Evaluating the influence of political pressure on Parliament

Advantages of political pressure	Disadvantages of political pressure
<ul style="list-style-type: none"> Each political party has its proposals for reform ready and published in a manifesto during an election campaign so that, if it is elected as the government, the electorate know what it wishes to do in future parliamentary sessions to achieve its aims. If the government has a majority of seats in the House of Commons, virtually every one of its policy proposals will be passed. This can be said to make the law-making process efficient. The public know before the election what the broad proposals of each political party are, and have a choice as to which set of proposals and law reforms they would wish to see put in place. Proposed changes to laws will be debated in Parliament and improvements to initial proposals can be suggested. Members of the House of Lords have expertise in a wide range of topics. Suggestions made by the Lords to alter government proposals carry considerable weight and authority and are generally non-political. 	<ul style="list-style-type: none"> If a different party is elected in a general election from the previous governing party, it may decide to repeal or alter some of the laws that the previous government passed. This is because its policies are likely to be quite different from the previous government. Such changes can be costly and open to criticism, and can lead to piecemeal reform. If the government has a large majority of seats in the House of Commons, it can force through its policy proposals. If the government has only a small majority, it may be difficult or impossible to achieve changes to the law or manifesto commitments. Suggestions to alter or improve the proposals made by experts in the House of Lords do not have to be accepted by the House of Commons or the government. If a crisis occurs, such as the COVID-19 pandemic, the government's focus will be to take measures to deal with that crisis, which may differ from its manifesto commitments.

2.3.2 Public opinion

Public opinion on an issue may be reflected through the media, particularly social media, and pressure groups. Also, an individual may ask their MP to raise an issue in Parliament or with a government minister or department.

In 2015, a system of online petitions was set up for individuals to have their concerns heard. They enable members of the public to petition the House of Commons and press for action from the government. They have to ask for a specific action and should be about an issue for which the government or the House of Commons is responsible. A petition has to be supported by at least six people before it is published on the petitions site for other people to sign. It will stay open on the petitions website for six months. Then the Petitions Committee will be able to decide to do any of the following:

- » ask for more information in writing or from the petitioner in person
- » ask another parliamentary committee to look into the topic
- » put forward the issue for debate in Parliament if a threshold of 100 000 signatures is achieved.

Where there is strong public opinion about a change to the law, the government may bow to such opinion. This is more likely towards the end of a term of government, when a general election is imminent and the government wants to remain popular. An example of this influence was in 2007, when strict laws against smoking in public places were introduced because of public opinion supported by medical opinion.

ACTIVITY

Draft a petition on a subject that interests you.

▼ Figure 2.7 Evaluating the influence of public opinion on Parliament

Advantages of public opinion	Disadvantages of public opinion
<ul style="list-style-type: none"> An individual may express their opinion to an MP or through an online petition. The government may support a campaign to change the law. An individual may be successful in bringing their campaign to a wider audience if they can interest the media to publicise the campaign. 	<ul style="list-style-type: none"> The public could be ill-informed on an issue and make unreasonable opinions or unworkable demands of the government. The government may decide to sacrifice its popularity and not act on, or delay acting on, a petition. MPs are unlikely to be successful in introducing a Private Members' Bill to act on public opinion.

2.3.3 Pressure groups

Pressure groups are made up of people who have a special interest in a subject or cause, which they try to bring to the attention of the general public and/or the government. This is done by campaigning and lobbying

government ministers or departments responsible for an issue. There are two main types of pressure group: sectional and cause:

- » Sectional pressure groups represent the interests of a particular group of people, often workers' groups or professions. Examples include the Law Society, which represents solicitors' interests, the British Medical Association, which represents doctors, and trade unions, which represent workers in different types of jobs.
- » Cause pressure groups promote a particular cause. Examples include environmental groups such as Greenpeace, animal welfare groups and human rights groups such as Amnesty.

Pressure groups may make the government reconsider certain areas of law. For example, the passing of the Hunting Act 2004, which banned hunting foxes with dogs, was due to the efforts of the League Against Cruel Sports.

Sometimes pressure groups campaign against a proposed change to the law. This was seen when the government tried to restrict the right to trial by jury. Pressure groups such as Justice and Liberty campaigned against this, as they thought the changes infringed the right to a fair trial.

Lobbying

Lobbying means trying to persuade government ministers or individual MPs to support a pressure group's cause. It is named after the practice of members of the public meeting MPs in the lobbies (small hallways) in the entrance to the House of Commons.

If a pressure group is successful in lobbying, it may persuade an MP to ask a question of a government minister. A backbench MP may be persuaded to use the Private Members' Bill session to introduce a Bill supporting a pressure group's cause. However, as has been said, it is very unlikely that a Private Member's Bill will be passed by Parliament, unless there is widespread support for it.

COMMENT

Evaluation of lobbying

Often lobbying by pressure groups takes many months or years to bring about government response or action. However, on occasions, a specific event may lead to a change in the law. This was the case in the aftermath of the Dunblane massacre in 1996, when a gunman entered a school in Scotland and killed 16 children and their teacher. Local families set up a single-issue pressure group called 'Snowdrop' to campaign for the banning of handguns. Their campaign led eventually to the Firearms (Amendment) Act 1997, which banned the private ownership of most handguns. As Snowdrop had achieved their aim and they had no reason to campaign on other issues, the group then disbanded.

▼ **Figure 2.8** Evaluating the influence of pressure groups on Parliament

Advantages of pressure groups	Disadvantages of pressure groups
<ul style="list-style-type: none"> • There are many pressure groups with different aims and issues. A wide range of issues can be drawn to the attention of government. • Pressure groups often raise important issues. Environmental groups have made the government much more aware of the damage being done to the environment by greenhouse gases and other pollutants. • Pressure groups are experts when representing their members or their cause. They will have experts in their membership, or can employ experts, to argue their cause. 	<ul style="list-style-type: none"> • Pressure groups may seek to impose their ideas, even where the majority of the public do not support their views. When trade unions call strike action involving a public service, this can disrupt the general public. • Sometimes two pressure groups have conflicting interests and campaign for opposing actions. For example, when the ban against fox hunting was considered, the League Against Cruel Sports wanted it banned, but the Countryside Alliance wanted it to be allowed to continue.

2.3.4 Media

The term 'media' means the ways in which information is supplied to the public. It includes television, radio, newspapers, magazines and internet sources.

The media can play a large role in bringing public opinion to the government's attention. Where an issue is given a high profile on television or in newspapers, it brings it to the attention of the public and may add to the weight of public opinion. This is an advantage of a free press; it is able to criticise government policy or demand government action. This can be especially effective in a general election campaign, where every political party is keen to gain public support.

The media can both represent and influence public opinion. Members of the public can make their views known by contacting media sources. Alternatively, media may be used by government and pressure groups to make their views known and attempt to influence public opinion.

There are sometimes media campaigns attempting to change the law:

- » The Snowdrop campaign (referred to above) successfully used the media to campaign for handguns to be banned.

- » When 'dangerous dogs' attacked a number of adults and children, this led to the passing of the Dangerous Dogs Act 1991. This Act was subsequently considered to be a poorly drafted piece of legislation, as it was introduced as a 'knee-jerk reaction' to media publicity (see the activity below).
- » There was reform of the 'double jeopardy' rule, allowing a person to be tried more than once if new evidence comes to light following an acquittal in the first trial. This was introduced by the

Criminal Justice Act 2003 and was due to media campaigns after the suspects accused of killing Stephen Lawrence were acquitted in their first trial, despite strong evidence against them.

Internet research

Find a current example of a newspaper or internet campaign on an issue.

In your view, how likely is the government to introduce legislation as a result of this campaign?

▼ Figure 2.9 Evaluating the influence of the media on Parliament

Advantages of media pressure	Disadvantages of media pressure
<ul style="list-style-type: none"> The media can raise awareness of public concern on an issue with the government, for example damage to the environment. The public and pressure groups can use the media to raise concern about individual incidents, such as the Dunblane massacre and, more recently, terror-related attacks. The media can inform and raise public awareness, which is essential to encourage the government to form policy, act and legislate. The government is ultimately responsible to the electorate and, especially before an election, will fear losing public support if it is not seen to be responding to an issue of public concern. 	<ul style="list-style-type: none"> While radio and television channels are required to remain politically neutral, this is not the case with newspapers or social media, which are willing to promote individual views and campaigns. Some newspapers give support to a specific political party and regularly promote its views. There is no regulation on the expression of views on the internet or on social media. Newspapers are commercial businesses and may be prepared to sensationalise an issue to expand their readership. This can be seen as part of the media manipulating the news and creating public opinion.

ACTIVITY

Read the following article and answer the questions below.

'Judge reprieves Dempsey, the harmless pit bull

A High Court judge, who reprieved a pit bull terrier from death row yesterday, savaged the Dangerous Dogs Act 1991 which he said would have sent a "perfectly inoffensive animal to the gas chamber".

Dempsey, dubbed Britain's most expensive dog after a long legal battle to save her, will be returned to her overjoyed owner after Lord Justice Staughton and Mr Justice Rougier quashed a destruction order by Ealing Magistrates' Court in 1992.

Dempsey's only crime was being the wrong kind of dog, Judge Rougier said. Magistrates sentenced her to be destroyed after the nephew of her owner, Dianne Fanneran, took her muzzle off in public when she became ill, and she was spotted by a policeman.

Mr Justice Rougier said:

"It seems to me that, while acknowledging the need to protect the public ... the Dangerous Dogs Act

bears all the hallmarks of an ill-thought-out piece of legislation, no doubt drafted in response to another pressure group."

The Act was rushed through in 1991 by the then Home Secretary, Kenneth Baker, after pit bull terriers attacked a man in Lincoln and a six-year-old girl in Bradford. It requires them to be put down unless they are neutered, tattooed, microchipped, registered, muzzled and kept on a lead in public.'

Taken from an article by Clare Dyer in *The Guardian*, 23 November 1995

Questions

- 1 Why was the Dangerous Dogs Act 1991 passed?
- 2 Why was Dempsey in breach of the Act?
- 3 What did Mr Justice Rougier say about the Act?
- 4 How might this problem with the Act have been avoided by the government when formulating the legislation?

TARGET SKILLS

- 1 Identify the parliamentary stages of an Act of Parliament.
- 2 Name an Act of Parliament that has been passed as a result of a Law Commission recommendation.
- 3 Analyse why the will of the House of Commons always prevails over that of the House of Lords.
- 4 Evaluate the advantages and disadvantages of law making by Parliament.

2.4 The role and composition of the Law Commission

This full-time body was set up in 1965 by the Law Commissions Act. It consists of a chairman, a High Court judge, and four other Law Commissioners who are experts in certain areas of law. There are also researchers and draftsmen, who prepare proposed Bills. The role of the Commission is to consider areas of law that are believed to be in need of reform. This role is set out in s 3 of the Law Commissions Act, which states:

'It shall be the duty of each of the Commissions to take and keep under review all the law with which they are respectively concerned with a view to its systematic development and reform, including in particular the codification of such law, the elimination of anomalies, the repeal of obsolete and unnecessary enactments, the reduction of the number of separate enactments and generally the simplification and modernisation of the law.'

2.4.1 How the Law Commission works

Topics may be referred to the Law Commission by the government, or it may itself select areas of law in need of reform. It first researches the area of law thought to be in need of reform. It then publishes a consultation paper, seeking views on possible reform from lawyers, academics and anyone with an interest in the area under investigation. The consultation paper will suggest options for reform.

Following responses to the consultation paper, the Commission will then draw up proposals for reform presented in a researched report. There will often be a draft Bill attached to the report, which can be considered by Parliament.

2.4.2 Repeal of existing law

There are many old, unnecessary and irrelevant statutes still in existence. In order to deal with these, the Law Commission prepares a Repeals Bill for Parliament to consider. By 2015, there had been 19 Statute Law

(Repeals) Acts, and the whole of 3000 old Acts have been repealed.

This 'tidying-up' of the statute book helps to make the law more accessible.

Internet research

Look at the Law Commission's website (www.lawcom.gov.uk) and find the areas of law that it is currently researching.

2.4.3 Consolidation

In some areas of law, there are a number of statutes, each of which sets out a small part of the total law. The aim of consolidation is to draw all the existing provisions together in one Act to make the law more accessible. The Law Commission produces about five Consolidation Bills each year.

However, consolidation is not always successful. For example, sentencing practice and procedure was originally consolidated in the Powers of Criminal Courts (Sentencing) Act 2000. Within a few months, it was changed by the Criminal Justice and Court Services Act 2000, which renamed some of the community penalties and also created new powers of sentencing. In 2003, the Criminal Justice Act made further changes. Finally, in 2012, the Legal Aid, Sentencing and Punishment of Offenders Act made further changes still. So, the current law on sentencing practice and procedure is contained in four different Acts!

2.4.4 Codification

This involves bringing together all the law on a topic, both statutory and judicial precedent, into one single law.

The Law Commission continues to press for a Sentencing Code, so that all the law is in one document instead of all the Acts referred to above. This would make the law more accessible and understandable, and give consistency and certainty.

2.4.5 Success of the Law Commission

Although the Law Commission has not achieved its original idea of codification, it has been successful in some areas of law. After it was established, about 85 per cent of its proposals were enacted by Parliament. These included the Unfair Contract Terms Act 1977, the Supply of Goods and Services Act 1982 and the Occupiers' Liability Act 1984.

Subsequently, only about 50 per cent of its suggestions have become law, due to lack of parliamentary time and lack of interest by Parliament in technical law reform. Its annual report of 2017–18 showed that there were

12 reports awaiting response from the government, who also rejected about one in six of the Law Commission's reports. However, some important reforms have been passed in recent years, for example:

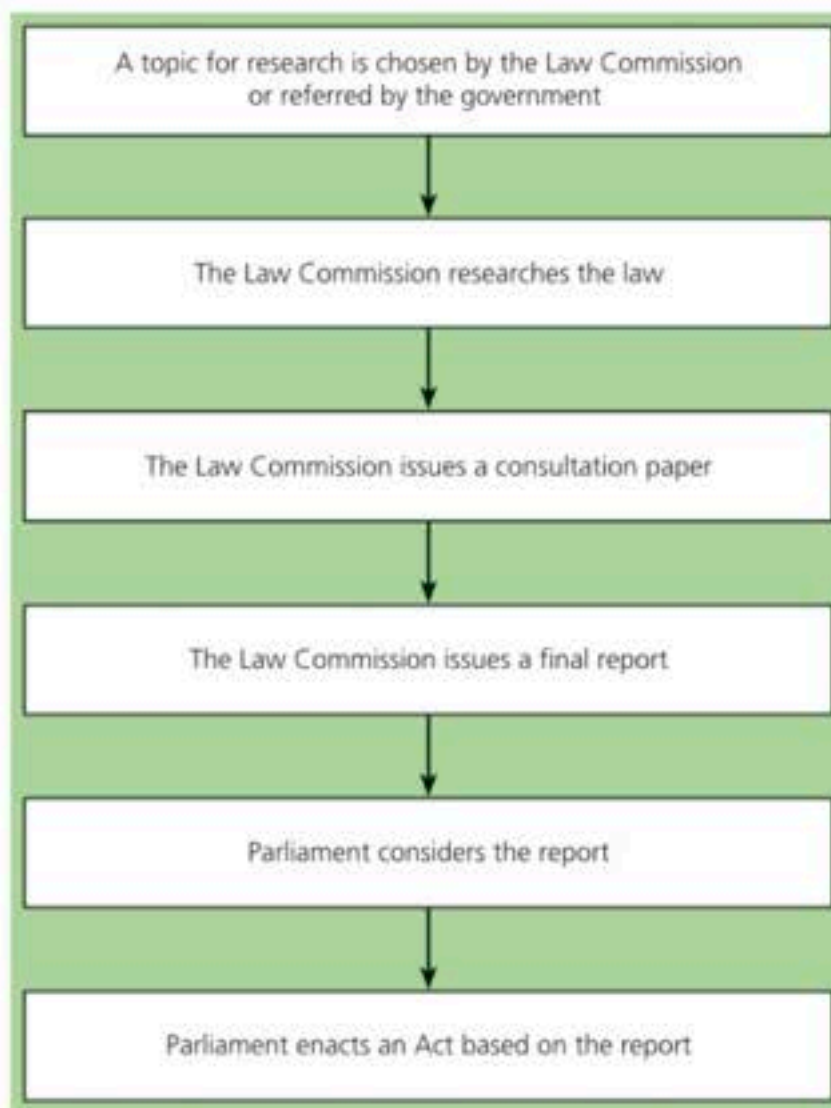
- » The Fraud Act 2006 simplified the law on fraud.
- » The Corporate Manslaughter and Corporate Homicide Act 2007 made corporations and organisations criminally liable for deaths caused by their working practices.

- » The Criminal Justice and Courts Act 2015 included reform of contempt by jurors and the creation of new offences of juror misconduct in relation to using the internet.

Figure 2.10 shows the advantages and disadvantages of the Law Commission.

▼ Figure 2.10 Evaluating the Law Commission

Advantages of the Law Commission	Disadvantages of the Law Commission
<ul style="list-style-type: none"> • Areas of law are researched by legal experts. • The Law Commission is politically independent. • Its recommendations are based on thorough research. • Draft Bills are prepared and presented to Parliament. • If Parliament accepts a recommendation to codify an area of law, it becomes easier for lawyers and the public to find and understand. • Many old, irrelevant laws are removed from the statute book. 	<ul style="list-style-type: none"> • There has been a failure of Parliament to implement its reforms. Parliament has to wait for the government to accept a report and act on it. • Parliament tends to concentrate on debates on broad policy areas, such as health and education, rather than on 'purely' legal issues. • The Law Commission recommended reforms to the criminal law on non-fatal offences in 1993, and to the civil law of negligence in 1998, but neither area of law has been changed. • The government is not bound to consult the Law Commission before bringing any changes in the law to Parliament; for example, it was not consulted on changes to sentencing practice and procedure.



▲ Figure 2.11 How the Law Commission works

STRETCH AND CHALLENGE

In response to the COVID-19 pandemic, the UK government introduced the Coronavirus Act 2020, in order to keep the general population safe.

Research the issues involved at the time of the passing of the Act in March 2020 and write a report on the effects of the Act. The report could cover the effects of the rules or any of their constitutional or practical implications.

TEST YOURSELF

- 1 Describe the purpose of Green and White Papers.
- 2 Describe the parliamentary stages of a government Bill.
- 3 Describe Dicey's principles of parliamentary supremacy (sovereignty).
- 4 Assess the work of pressure groups as an influence on law making.
- 5 Assess the work of the Law Commission as an influence on law making.

EXAM-STYLE QUESTIONS

- 1 Describe the legislative procedure in the House of Commons.
- 2 Assess the role of Parliament in the law-making process.