

LAW MAKING PROCEDURE

HOW BILLS BECOME ACTS OF PARLIAMENT

In Namibia the Principal/Primary laws are initiated and tabled in the National Assembly by the Executive in the form of Bills, however a member of the National Assembly may also initiate a Bill called a private member's Bill.

The following procedure is from the **Administrative Directive No.1 of 5 February 1993 the Namibian Constitution and the Parliamentary Procedures, on how Primary/Principal Legislation is made.**

PRE-PARLIAMENTARY PROCEDURE

- ***Consultation with the Office of the Attorney-General.*** When an instructing office, ministry or agency wishes to make a legislation, they must first meet with the Attorney-General, who is the principal advisor to the Government as well as protector of the Constitution, to ensure that the proposed legislation is not in conflict with the Namibian Constitution and to determine whether the proposed legislation cannot be effected administratively or in some other way.
- ***Preparation of a memorandum to Cabinet Committee on Legislation.*** Once the Attorney-General had been consulted and the Attorney-General is satisfied that the envisaged legislation does not impinge upon the Namibian Constitution, nor can it be effected administratively or in some other manner, the Office, Ministry or Agency concerned must prepare a memorandum to the Cabinet Committee on Legislation (*CCL*).

This memorandum must clearly state the problem which the envisaged legislation intends to rectify and background as to why the envisaged legislation is required. It must further refer to any existing legislation on the topic and any consultations undertaken with ministries concerned. A layperson's draft (which is called a Bill) of the envisaged legislation must accompany the memorandum to the CCL.

- ***Forwarding memorandum to CCL.*** The original of the memorandum, signed by the Minister concerned, plus six copies each of the memorandum and the layperson's draft must be forwarded to the Secretary to the CCL (Which is in the Ministry of Justice).
- ***CCL meeting on memorandum.*** On receipt of the memorandum CCL arranges a meeting of the concerned parties and will consider whether the envisaged legislation can be submitted to Cabinet and which, if any aspect of the legislation must be highlighted to Cabinet and whether further legal advice or consultations are necessary.
- ***CCL certificate.*** Once the CCL is satisfied that the matter can be submitted to Cabinet, it will provide relevant Office, Ministry or Agency with a certificate to this effect.
- ***Submission to Cabinet for approval in principle.*** The responsible ministry for the envisaged legislation (known as sponsoring ministry) must submit the matter to Cabinet in accordance with what had been decided at the CCL meeting. The sponsoring ministry must also prepare a Cabinet Memorandum requesting that Cabinet grants approval in principle for the formal drafting of the envisaged legislation (known as the envisaged Bill).

- ***Submission of proposed Bill to Drafters.*** Once written confirmation is received that Cabinet has approved the Bill in principle, the sponsoring ministry must confirm receipt of such approval within 7 days of receiving Cabinet approval and must submit such Cabinet Approval Letter together with all relevant documents, such as the memorandum to Cabinet and Cabinet's resolution, the layman's draft or policy framework and contact particulars of the responsible person to the Chief: Legislative Drafting. The instruction to draft a Bill must be submitted under the letterhead of the instructing ministry or office.
- ***Letter of satisfaction.*** If the ministry or office is satisfied with the Bill, it must confirm in writing and forward a letter to the drafter. The drafter will then forward the Bill to the Attorney-General through the Secretary to the CCL for certification and further action.
- ***Certification by Attorney-General.*** Upon receipt of the Bill the Attorney-General must examine the Bill and see whether the Bill meets the standard required. Once the Attorney-General is satisfied with the Bill he or she must certify the Bill and forward it to the Secretary of the National Assembly for publication and consequent tabling by the responsible minister.

PARLIAMENTARY PROCEDURE

- ***National Assembly: First Reading.*** The Bill is introduced in the National Assembly (NA) in what is known as a **First Reading Stage**. It then becomes a public document and available to any member of the public who is interested in it.

- ***Second Reading.*** During the **Second Reading Stage** the Minister or the Private Member who tabled (sponsored) the Bill explains why the Bill is needed. Members then discuss the principle of the Bill and may approve or reject the Bill in principle, that is whether the Bill is necessary or not. If rejected by a majority of the Members, the Bill is taken ‘off the table’. It may be re-introduced within 30 days with or without changes.
- **Committee Stage.** If its principle is approved, the details of the Bill are then discussed during what is called the Committee Stage by the Committee of the Whole Assembly where all MPs consider it clause by clause. During the Committee Stage any Member may propose an amendment to a clause which is then discussed and voted on. If there are serious objections, the Bill can either be voted on or be referred to a Standing Committee. Standing Committees are smaller groups of Members of Parliament elected from all political parties to examine Bills and other documents in detail.
- Standing Committees are appointed for specific subject matters such as economics, human resources and International Relations or any subject matter necessary or required. Committees seek input from experts and the broader public by calling in individual persons or by holding public hearings. Based on its findings, a Committee may recommend changes on specific aspects of the Bill to the House. Committees are not considering or mandated to pronounce themselves on the principle of the Bill.
- ***Third Reading.*** Once the National Assembly adopts the recommendations, the Bill goes to the **Third Reading Stage**. At this stage a majority vote of the House is necessary to approve the Bill and no further debate is allowed.

- ***National Council.*** The Bill is then referred to the National Council for review. The legislative stages followed in the **National Council** are the same as those in the National Assembly. If the National Council passes the Bill with amendments, it goes back to the National Assembly for further discussion. However, the National Assembly is not compelled to adopt the amendments proposed by the National Council. If, after reconsideration, the Members of the National Assembly reject the amendments of the National Council, the proposed amendments are disregarded.
 - ***Presidential Assent.*** The Bill must be signed by the President of the Republic before it becomes a law.
 - ***Publication.*** The Bill is then published in the official Government newspaper – **the Government Gazette** – as an Act of Parliament.
 - ***Commencement.*** The enacted law comes into force either on the date of its publication in the Government Gazette or a specific date to be published in the Government Gazette by the Minister responsible for that Act of Parliament.
-