

What is law? Who makes laws? Statute creation.

Although there are hundreds of definitions about the concept of 'law' I have tried to summarise its meaning as it follows:

Law – a set of written legal rules, which guide the behaviour of an individual or a society; laws ensure the maintenance of order within a society, and therefore protect it; laws are supreme and establish the 'rule of law'.

We obey laws because we feel a moral obligation, a punishment will be imposed and it is reasonable and relevant (e.g. in sports where a certain activity will not be enjoyable) = noted by Professor Hart

There are a number of factors, which result in the creation of law. Examples are:

- **Customs and traditions** – they form the so-called 'common law', which is based on previous (past) events or judgement and judicial precedents; it is not officially defined by Parliament and it does not create new laws; ex: involuntary manslaughter.
->**custom** – a developed rule of behaviour, which is not deliberate implemented.
- **Judges** - common law is also known as 'case law' as judges create decisions for specific cases, which later become a precedent.
- **Parliament** – the British parliament proposes Bills, which pass the parliamentary stages of law making and become an Act of Parliament; this is known as 'statute creation'; statutes are officially defined by Parliament; ex: theft in Theft Act 1968.
- **European Union** – all members of the EU are obliged to follow its laws and create theirs in accordance to European law.
- **Local councils, Queen and Privy Council, companies or organisations** – they create delegated (secondary) legislation.

Bill – a draft law, which goes through Parliament before it passes all the seven parliamentary stages in order to become an Act of Parliament.

Statute – a written law passed by a legislative body; this is actually an Act of Parliament.

There are four types of Bills:

1. **Public Bill** – introduced by the government and regards issues concerning the general public/national importance; e.g. Legal Services Act 2007, Legal Aid Sentencing and Punishment of offenders Act 2012, Criminal Justice and Courts Act 2015, Human Rights Act 1998.
2. **Private Bill** – initiated by Members of Parliament (MPs) on behalf of private individuals/companies/organisations; an MP actually introduces the Bill for these organisations; e.g. Faversham Oyster Fisheries Bill 2016, University Colleges of London Act 1966.
3. **Private members' Bill** – initiated by a single MP known as 'backbencher'; e.g. Abortion Act 1967, Marriages Act 1994, Bail Act 1993, Household Waste Recycling Act 2003.
->through a Ballot – 20 MPs are selected to introduce Bills, in reality only a small part of them do due to lack of time in the Parliament's agenda;
->through the 10-minute rule – an MP has 10 minutes to propose and defend a Bill.
4. **Hybrid Bill** – a mixture of Public and Private Bills, which is introduced by the government; e.g. Crossrail Act 2008.

Statute creation begins as a **Green paper** (a consultative document initiated by the government, which puts forward proposals for law reform; the Government, private individuals, companies, organisations can think of new ideas for laws; serves as a consulting document). In order for a Bill to enter the Parliament it should become a White Paper (a document issued by the government stating how they are going to reform the law; official law reform proposal).

Below are listed all stages of Parliamentary law making:

- **First Reading** – the formal process of introducing the name of a Bill in Parliament in the House of Commons without any further discussions or votes.
- **Second Reading** – the main debate (in the House of Commons) over the primary sections of the Bill. MPs vote by saying 'Aye' or 'No'. If a final verbal vote cannot be determined the Speaker of the House asks all MPs to leave the Chamber. Whilst coming back, they enter the Chamber through two doors, where there stand the so-called 'tellers' – officials, who count the votes of all MPs and then present the final vote to the Speaker (2 tellers in number). There should be a majority of votes for the Bill to pass on to the next phase.
- **Committee stage** – every clause of the Bill is undertaken and scrutinised by a group of 16-50 MPs, who have an understanding of the topic. The name of this Committee is Standing Committee. Committee members are chosen based on their knowledge on the topic. One notable aspect is that Finance Bills require the whole House of Commons to sit and examine them.

- **Report stage** – if any amendments have been made during the Committee stage they are reported, debated and accepted/rejected. If not amendments have been made the Bill goes straight the next stage.
- **Third Reading** – a formal procedure during which the Bill is unlikely to fail. However, if at least 6 MPs request, the Bill can be further debated in the House of Commons.
- **House of Lords** – all stages mentioned above are repeated. If any amendments are made the Bill goes back to the House of Commons where it is debated and vice versa. This process may be repetitive and is often described as ‘ping pong’ between the two Houses of the legislature. There is one exception – during the **Third Reading in the House of Lords** the whole House sits together, debates the Bill and either accepts or rejects it.
 - Using the Parliament Acts of 1911-49 [1911 and 1949], if a Bill is returned at least two times by the HofL to the HofC, the HofC can use the power to bypass the HofL, e.g. the Hunting Act 2004 (under Blair’s government) caused disputes and was vetoed by the HofL => the 1911-49 Acts were used to bypass the HofL and the Bill was eventually approved
- **‘Royal Assent’** – the formal approval of the Bill by the monarch. The Bill is again unlikely to fail, but there have been exceptions as in 1707 when Queen Anne refused to sign and approve the Scottish Militia Bill.

ADVANTAGES	DISADVANTAGES
This process is democratic – citizens elect representatives in the House of Commons, who participate in the creation of laws.	The upper house of the legislature – the House of Lords – has appointed representatives – lords (either hereditary or life peers) => undemocratic.
Bills are thoroughly scrutinised (debated in detail), e.g. the discussion to introducing Article 50 to withdrawn from the EU = scrutinised	Very time-consuming and may be prolonged. An example is the law on assaults and other offences against the person, which is still waiting to be reformed.
Whole areas of law can be reformed in a single act.	Due to the limited agenda of the government there is little time for introducing Private members Bills.
There are consultations before the Bill’s presentations on the proposed changes to the law => objections are taken into consideration.	Acts of Parliament are often too long, complex and hard to understand.
Parliamentary laws cannot be challenged due to the Parliamentary supremacy.	Amendments make laws even more complicated => necessary to consult two or more acts to find exactly what the law was
An Act of Parliament can also set broad policies and give powers to others to make detailed regulations (delegated legislation = secondary legislation).	Parliament doesn’t always have the time to deal with all the reforms that are proposed

END.