

# The Journey of a Bill to Become an Act...



The Legislature in India has enacted more than thousand statutes and the number is still increasing. As Chartered Accountants, we are expected and required to have detailed knowledge of some of the laws which directly affect our working. Apart from these, we are also needed to have at least some basic knowledge of various other laws which indirectly have an effect on our vocation. Hence, it becomes extremely important for us to be well-versed with the procedure of law making in India. Through this article, the author has made an attempt to describe the journey through which a Bill transforms into an Act.



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## Introduction

The Republic of India, in its more than 60 year long history, has enacted more than thousand Central Acts for the territory of India *i.e.* more than 1050 Central Acts plus a large number of State Acts and still these are going on. All these statutes, some even overlapping one another, deal with varied types of subjects and establish a framework within which a particular types of transactions, events and activities are governed. For example, the Income-tax Act, 1961 contains, *inter alia*, the detailed provisions relating to the chargeability, computation, assessment, collection & recovery, penalties & prosecutions in relation to taxes on income in India. A Chartered Accountant has to be well-versed with a variety of laws which might have a bearing on his profession; hence, it is extremely essential for

  
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a Chartered Accountant to have an understanding of the law making procedure in India. Each such 'Act', before becoming an 'Act' is termed as a 'Bill' and such 'Bill' has to go through a specified Parliamentary procedure before it becomes an Act. Let us now try to understand in brief, the process by which a 'Bill' becomes an 'Act'.

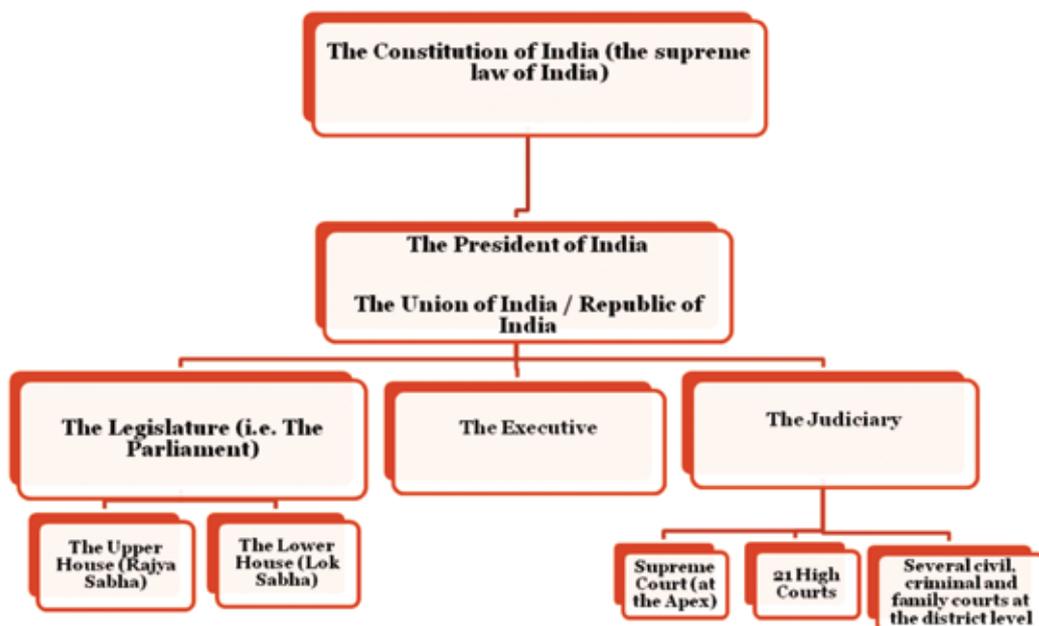
### Constitutional Hierarchy

The Constitution of India, the supreme law in India, was enacted by the Constituent Assembly on 26<sup>th</sup> November, 1949; but came into effect on 26<sup>th</sup> January, 1950. It was for this reason that 26<sup>th</sup> January, 1950 is celebrated as the Republic Day of India, because it is from this date that the Constitution of India established India as a Republic. Also, India had its first President Dr. Rajendra Prasad who held office as the President of India with effect from 26<sup>th</sup> January, 1950. The President of India is the head of state and first citizen of India. The President is also the Commander-in-Chief of the armed forces of India. The Republic of India mainly comprises of the following three branches *viz.* The Legislature, The Executive and The Judiciary. All these three arms have their own independent objectives and purpose as follows:

S.No.	Particulars	Purpose
1	The Legislature (or the Parliament)	<ul style="list-style-type: none"> <li>India, being a federal structure, has got governments operating at the Centre level and the State level</li> <li>The Parliament is the supreme legislative body in India.</li> <li>At the Centre level, the Legislature comprises of the Upper House (the Rajya Sabha) and the Lower House (the Lok Sabha)</li> </ul>

S.No.	Particulars	Purpose
		<ul style="list-style-type: none"> <li>At the State level, the state Legislature comprises of the Upper House (the Vidhan Parishad) and the Lower House (the Vidhan Sabha). As of 2011, 6 (out of 28) states have an Upper House: Andhra Pradesh, Bihar, Jammu and Kashmir, Karnataka, Maharashtra, and Uttar Pradesh.</li> </ul>
2	The Executive	<ul style="list-style-type: none"> <li>The executive branch is the part of government that has sole authority and responsibility for the daily administration of the state.</li> <li>The executive power is vested on mainly the President of India by <b>Article 53(1)</b> of the Constitution of India.</li> <li>The President has to act in accordance with aid and advise tendered by the head of the government (Prime Minister of India) and his/her Council of Ministers (the cabinet) as described in <b>Article 74</b> (Constitution of India).</li> </ul>
3	The Judiciary	<ul style="list-style-type: none"> <li>The Indian judiciary is independent of the executive and legislative branches of the government according to the Constitution.</li> <li>It consists of the Supreme Court of India at the top, followed by High Courts (21 in number) of respective states with district judges sitting in District Courts and Magistrates of Second Class and Civil Judge (Junior Division) at the bottom.</li> </ul>

The following chart will better present the above mentioned hierarchy in India:



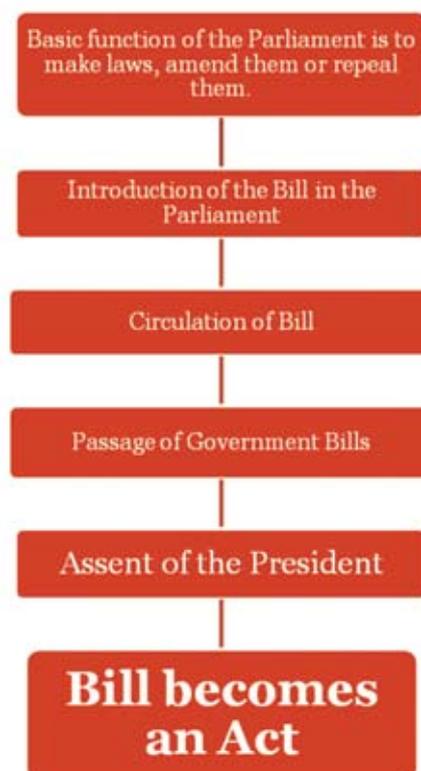
### Bill Vs. Act

- 1.1. The basic difference between a 'Bill' and an 'Act' is that a Bill is a statute in the draft form and cannot become a law unless it has received the approval of both the Houses of the Parliament and the assent of the President of India.
- 1.2. As soon as the bill has been framed, it has to be published in the newspapers and suggestions are invited from the general people, and after going through the suggestions of the people the bill is amended and then Bill may be introduced in the Parliament by:
  - 1.2.1. Ministers (such bills are known as Government bills) or
  - 1.2.2. Private members (such bills are known as Private Members' bills)
- 1.3. Let us now discuss in detail the Legislative process i.e. the procedure which leads to the formation of an Act from a Bill.

### Legislative process [Parliamentary Procedure Abstract Series No. 36]

- 1.1. The comprehensive legislative process, which begins with the introduction of the bill in the Parliament, discussions on the provisions of the bill and then ending with the assent of the President of India. These are provided in the Parliamentary Procedure Abstract Series No. 36.

The following graphic presentation will better explain the summary of the said Legislative Process:



- 1.2. As mentioned above, the basic function of the Parliament is to make laws, amend them or to repeal them. India being a federal country, laws can be made separately at different levels by the Union Government (Federal Government) for the entire country and by the State Governments for their respective states. The process of law making begins with the introduction of a Bill in either House of Parliament. However, Money Bills and Bills which, *inter alia*, contain provisions for any of the matters attracting sub-clauses (a) to (f) of clause (1) of Article 110 of the Constitution of India cannot be introduced in the Rajya Sabha. They can be introduced only in Lok Sabha on the recommendation of the President. A seven days notice in writing is required to be given by the Member of Parliament of his intention to move for leave to introduce the Bill. The Speaker may, however, allow the motion to be moved at a shorter notice.
- 1.3. After the introduction of the Bill, the next stage is the Circulation of the Bill. It is required that at least two days before the day on which the Bill is proposed to be introduced; copies thereof must be made available for use. This requirement of prior circulation, however, does not apply to Appropriation Bills and Finance Bills (off course to maintain the secrecy of such bills). The Speaker may, however, permit the introduction of a Bill without prior circulation or after circulation for a period shorter than two days, if adequate reasons are given in a Memorandum for consideration of the Speaker as to why the Bill is proposed to be introduced earlier than two days after circulation of copies or without prior circulation.
- 1.4. Subsequent to the introduction and circulation of the Bill comes the part where the discussions in respect of the various provisions of the Bill take place. It is termed as the Passage of the Bill (since in this part, the Bill passes through both the Houses of the Parliament with detailed discussions being held on the various provisions of the Bill). During the passage of a bill, it undergoes three readings in each House, i.e., the Lok Sabha and the Rajya Sabha, before it is

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submitted to the President for assent. Each such reading can further be sub-divided into different stages wherein different tasks are undertaken. Let us now analyse each such reading which takes place in the Parliament.

#### 1.4.1. First Reading

The First Reading refers to the motion for leave to introduce a Bill in the House on the adoption of which the Bill is introduced. The First Reading comprises of the following three stages:

- Stage I: Procedure regarding opposing the Introduction of Bill

This is the stage wherein the introduction of the Bill is opposed. The introduction of the Bill can be opposed either on the grounds of ultra vires competence or other general grounds. In the former case, the Speaker of the House may permit a full discussion thereon; while in the latter, the Speaker may allow brief statements from the member who opposes the motion and the Minister who moved the motion and thereafter, put the motion to the vote of the House.

- Stage II: Publication of Bills in the Gazette

Once the introduction of the Bill is not opposed in the House, the Bill is published in the Gazette of India (such publication can take place only after the Bill has been introduced). However, for publishing the Bill even before its introduction, the Minister-in-charge of the Bill has to obtain the permission of the Speaker. If changes are made in the Bill after it has been published in the Gazette, it becomes a new Bill and the motion for leave to introduce the Bill has to be moved again as in the case of any other Bill.

- Stage III: Reference of Bills to Departmentally Related Standing Committees (DRSC)

This is the stage where a Bill can be referred by the Chairman of the Rajya Sabha or the Speaker of the Lok Sabha to examine such Bills (since the particular Department can better analyse the provisions of a Bill) introduced in either House and make report thereon in the given time (normal time allowed is three months).

#### 1.4.2. Second Reading

In this phase, various detailed discussions are held on the different provisions contained in the Bill; and the Bill is considered clause-by-clause by the Parliament to make any suitable amendments in the draft statute. This

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phase comprises of the following two stages:

- Stage I: Discussions on the principles of the Bill

This is the stage where preliminary discussions are held on the chief principles of the Bill. Broadly speaking, at this stage, the points which are considered include as to whether the Bill is to be taken into consideration or not. If the bill is thought fit to be considered, then

it is circulated for the purpose of eliciting opinion thereon by referring it to a Select Committee of the House or a Joint Committee of both the Houses. If the bill is referred to a Select Committee or a Joint Committee, then the Committee considers the bill in detail and invites memoranda from public at large as well as from specialised interest groups to place materials and points of view before the Committee.

- Stage II: Clause-by-clause consideration of the Bill

The stage II of the Second Reading in the passage of the Bill where detailed discussions take place on each clause of the bill. Amendments can be moved at this stage also. The protocol adopted in this stage is that each amendment and each clause is put to the vote of the House. Such amendments become part of the bill if they are accepted by a majority of the members present and voting. When all the discussions are concluded and the various amendments, clauses have been put to the vote of the House, the Stage II of the Second Reading is deemed to be over when the voting is completed.

#### 1.4.3. Third Reading

The Third Reading in the passage of the Bill is the final segment in the passage of the Bill wherein the limited discussions are held that the Bill, as amended, be passed or not. At this point of time, the debate is confined to arguments either in support or rejection of the Bill without referring to the details involved. Though no detailed dialogue is held at this point, but still; at this stage also, amendments can be allowed in the bill only if they are merely formal, verbal or consequential.

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**The process of law making begins with the introduction of a Bill in either House of Parliament.**

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#### 1.5. Withdrawal of bills

Any bill introduced in the Parliament can be withdrawn at any stage of its discussion by the minister in charge of the bill who introduced it in the Parliament. However, the withdrawal is permitted only on the following grounds:

- 1.5.1. The legislative proposal for which the bill was introduced in the Parliament is to be dropped.
- 1.5.2. The bill is to be replaced subsequently by a new bill which substantially alters its provisions.
- 1.5.3. The bill is to be replaced subsequently by another bill which includes all its provisions.

#### 1.6. Joint sitting

A Joint sitting of the both the houses of the Parliament can take place in respect of all bills, except a money bill and a Constitutional amendment bill. A joint sitting takes place in the following cases:

- 1.6.1. The bill passed by one House is rejected by the other House, or
- 1.6.2. The Houses have disagreed to the amendments to be made in the Bill, or
- 1.6.3. More than six months have elapsed from the date of receipt of the Bill by the other House without the Bill being passed

In all/any such circumstances, the President of India may call a joint sitting of the two houses of the Parliament to resolve the deadlock.

#### 1.7. Assent of the President

- 1.7.1. After the Bill is passed by both the Houses of the Parliament, it is sent to the President of India for its assent, who is empowered to give its assent or withhold its assent or to return the Bill (if it is not a Money bill), with its recommendations to the Houses for reconsideration. In such cases, if the Houses pass the Bill again with or without amendments, the President cannot withhold its assent to such a Bill.
- 1.7.2. In case of a Constitutional Amendment Bill (CAB), the President is bound to give its assent to a CAB presented to it for its assent.
- 1.7.3. Once the assent of the President is given to a Bill, the Bill becomes an Act.

This is the journey of a Bill before it becomes an Act. ■