



Office of the Legislative Assembly

# Civics and Citizenship—Australian curriculum

## Law making in Australia and the ACT—Year 8

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# Lesson 1—What are the sources of law?

**Inquiry question:** How laws are made and applied in Australia?

**Learning Objectives:** By the end of the lesson the students will have an understanding of how law is made in the Australia and the ACT through parliaments and the courts.

**Resources:** Videos—[How laws are made—Parliament](#) and [How laws are made—Courts](#); access to a computer and internet for research, case study starting links (x3), teacher notes for case studies.

## Australian curriculum

- How laws are made in Australia through parliament (statutory law) and through the courts (common law) (ACHCK063).
- Identify, gather and sort information and ideas from a range of sources (ACHCS055).

## Lesson orientation

The lesson focuses on the sources of law in Australian, statutory law made through parliaments and common law made through the courts.

Class discussion on laws to establish prior learning—suggested prompt questions:

- What is a law? (A rule, made by a parliament, that is used to order how the community behaves).
- Can students provide examples of laws that affect them? (There are many, a few possible examples include the road rules; compulsory wearing of bicycle helmets; and movie/TV classification).
- Why do we have laws? (Keep order in society).
- What would happen if we didn't have laws? (Chaos—for example, imagine there were no road rules, no speed limit, no stop or give way signs, and you could drive on any side of the road!)
- Where are laws made? (parliaments and courts).
- Do the students know what statute law means? (Written law, passed in a parliament, known as an Act or statute).
- Do the students know that laws can be made through the court system? (Common law—Unwritten law that is based on custom and general principles as interpreted by a court and generally applied to situations not covered by statute).

## Lesson body

Watch the two videos by the Legal Information Access Centre, State Library of NSW:

- [How laws are made—Parliament](#)—This video explains how parliaments make law, explaining the process of a bill to an Act, how legislation changes over time, why the Commonwealth makes some laws and the states others, and delegated legislation such as regulations (10 minutes 47 seconds).

- [How laws are made—Courts](#)—This video explains the court hierarchy, the jurisdiction of courts and tribunals, and how courts can make new law by interpreting legislation, filling gaps in legislation, and developing the common law when there is no legislation (8 minutes 31 seconds).

Students to break into groups and each once chooses to research one of the following influential cases in Australian law, a starting link is provided to assist students in looking at the issue:

- [Mabo and others vs Queensland \(No. 2\)](#) 1992—The Mabo case
- [Commonwealth vs Tasmania](#) 1983—The Tasmanian Dams case
- [Commonwealth vs ACT](#) 2013

For each case, groups should answer the following questions:

- What are the issue(s) being decided by each case?
- Can the students determine the common law being determined by courts in each case?
- Can the students determine the statute law/s made by parliaments either before and/or after each case?

The teacher should determine what format they would like the information presented in, could be a written report or oral presentations.

## Lesson reflection

Feedback may be provided through an assessment item being submitted by students and/or by class discussion after written or oral presentations (depending on the selected method for presentation).

### Teacher notes—Case study answers

#### **Mabo and others vs Queensland (No. 2) 1992**

- British colonies settled in Australia in 1788 under the concept “*terra nullius*”—indigenous people did not own the land;
- a high court was case bought by four Meriam men and one Meriam women, claiming 'native title' to the Murray Islands in the Torres Strait;
- common law—the High Court recognised the rights of Indigenous Australians to native title on 3 June 1992 the High Court deciding in favour of the Meriam people by determining that the land was not “*terra nullius*”:
  - [High Court decision](#)—“are in agreement that the common law of this country recognizes a form of native title which, in the cases where it has not been extinguished, reflects the entitlement of the indigenous inhabitants, in accordance with their laws or customs, to their traditional lands and that, subject to the effect of some particular Crown leases, the land entitlement of the Murray Islanders in accordance with their laws or customs is preserved, as native title, under the law of Queensland.”; and
- common law decision resulting in a change to statutory law? Yes, the Commonwealth Government passed the statute law [Native Title Act 1993](#). This opened the way for claims by Aboriginal and Torres Strait Islander peoples to their traditional rights to land and compensation. With Eddie Mabo as the first named plaintiff, the case became known as the ‘Mabo Case’.

## Commonwealth vs Tasmania 1983

- The Commonwealth Government passed a statute law—the [\*World Heritage Properties Conservation Act 1983\*](#);
- a High Court case bought by the Commonwealth Government to stop work on the dam under the Commonwealth's responsibility for external affairs (Australian Constitution—Chapter I, Part V, Section 51(xxix));
- common law—the High Court clarified the scope of the external powers given to the Commonwealth in the Australian Constitution Chapter I, Part V, section 51 (xxix)—as one that was broad enough to protect listed world heritage areas in Australia as part of the Australian Government's international treaty obligations to protect significant areas of the environment:
  - [\*\*High Court decision\*\*](#)—“The Court found that the *World Heritage Properties Conservation Act 1983* was supported by the external affairs power in part, and that the Commonwealth was able to list the Franklin dam area as a world heritage site. The HEC was a trading corporation under the Constitution and could be prohibited from undertaking construction activities.”; and
- common law decision resulting in a change to statutory law? No, statute law was passed prior to the high court case.

## Commonwealth vs ACT 2013

- The ACT Legislative Assembly passed a statute law—the [\*Marriage Equality \(Same Sex\) Act 2013\*](#) on 22 October 2013;
- a High Court case bought by the Commonwealth Government resulted in the ACT statute law being struck down for inconsistency with its federal counterpart (Australian Constitution—Chapter V Section 109);
- common law—the High Court clarified the scope of the marriage power given to the Commonwealth in the Australian Constitution Chapter I, Part V, section 51 (xxi)—as one that was broad enough to include members of the same sex:
  - [\*\*High Court decision\*\*](#)—“The Court held that "marriage" in s 51(xxi) of the Constitution refers to a consensual union formed between natural persons in accordance with legally prescribed requirements which is not only a union the law recognises as intended to endure and be terminable only in accordance with law but also a union to which the law accords a status affecting and defining mutual rights and obligations. "Marriage" in s 51(xxi) includes a marriage between persons of the same sex.”; and
- common law decision resulting in a change to statutory law? Yes, at the time of the High Court case the [\*Marriage Act 1961\*](#) defined marriage “the union of a man and a woman to the exclusion of all others, voluntarily entered into for life”. A postal vote of the Australian people was conducted on the issue of same-sex marriage resulting in a YES vote to allow it in Australia. The Act was changed by the Australian parliament which amended it by changing the definition of marriage to be “the union of 2 people to the exclusion of all others, voluntarily entered into for life”.

# Lesson 2—Passage of legislation in the ACT

**Inquiry question:** How laws are made and applied in Australia?

**Learning Objectives:** By the end of the lesson the students will have an understanding of how statute law is made in Legislative Assembly for the ACT.

**Resources:** Resources 1 to 5—Learning through roleplay; video—[The legislative process](#); poster—[Legislative process in the ACT Assembly](#); and factsheet—[How laws are made](#)

## Australian curriculum

- How laws are made in Australia through parliament (statutory law) and through the courts (common law) (ACHCK063).

## Lesson orientation

The lesson focuses on the process of passing a statute law through the Legislative Assembly for the ACT (see resource 5).

Watch the video—[The legislative process](#)—This video explains laws are passed in the Legislative Assembly for the ACT (4 minutes 3 seconds).

## Lesson body

Class discussion to determine a topic for an Assembly debate about a proposed law that can be conducted in the classroom as a roleplay. Some possible examples could include (but not limited to): the voting age should be lowered from 18 to 16 years; raising the legal drinking age from 18 to 21 years; or road rules for young drivers (L and P plate).

## Lesson reflection

Class discussion—possible questions: did students understand the process for the passage of legislation? How do students think they might have input into the legislative process in the ACT?

## Extension

Explore the education resources of various court jurisdictions in Australia, explore the types of law (for example, criminal, civil and customary law). Conduct a roleplay for a trial in Australia to further build on learning to meet the Australian curriculum knowledge and understanding for laws and citizens.

# Lesson 3: Executive law (delegated legislation)

**Teacher note:** It is recommended that the teacher review the various resources relating to delegated legislation prior to conducting this lesson to ensure they have an understanding of this concept. This type of legislation involves the inclusion of the power to make delegated laws (also called subordinate legislation) in an Act which is passed by the Assembly. Not all Acts include the provision to make delegated law, however when it is included this gives the right to a minister or their delegate to make further laws, often called regulations, orders, or rules under that Act. Delegated legislation is always presented in the Assembly and the parliament has the power to disallow any delegated law they do not agree with. Delegated laws often deal with the practical application of an Act, for example road rules, fines and fees associated with the operation of the Act.

**Inquiry question:** How laws are made and applied in Australia?

**Learning Objectives:** By the end of the lesson the students will understand the difference between statutory and common law from executive law (delegated legislation).

**Resources:** poster—[Separation of powers](#); factsheets—[How laws are made](#) and [ACT Legislation Register](#); website—[Sources of law](#); website—[ACT Legislation Register](#); video—[Delegated legislation](#).

## Australian curriculum

- How laws are made in Australia through parliament (statutory law) and through the courts (common law) (ACHCK063), elaborations:
  - distinguishing statutory and common law from executive law (delegated law) and identifying how parliaments can disallow delegated legislation; and
  - discussing examples of recent laws passed through parliaments that enact government policy.

## Lesson orientation

Class discussion on laws to reinforce prior learning on the separation of powers and law making—suggested prompting questions:

- What does the separation of powers mean? (division of powers in the Westminster System—Legislature, Executive and Judiciary);
- What are the law making powers of the legislature? (Statutory law—Statutes (Acts) of a parliament);
- What are the law making powers of the judiciary? (Courts—Common law); and
- Do the students know that laws can be made by the executive? Let's explore this further.

## Lesson body

Students to research (group or individual):

- the meaning of Executive law (it is law created by an executive government, often called delegated or subordinate legislation);
- how is this type of law made (it is not made by a direct vote of a parliament, but by other entities—often ministers or senior public servants—to which the parliament has delegated its law-making power through an Act); and

- what does delegated legislation look like (types of subordinate or delegated legislation are rules or codes, disallowable instruments, notifiable instruments, and regulations).

Watch the video [Delegated legislation](#) (5 minutes 40 seconds)

Class discussion on the video, did the information provided align with students answers to the above questions, Teacher to clarify any highlighted differences and answer any further questions from students. Use the following case study to further explore delegated legislation.

What does all this mean? Case study example (teacher directed)

1. Find the ACT Legislation Register, all laws for the ACT are available on this website.
2. Search in current Acts for the [Road Transport \(Driver Licensing\) Act 1999](#).
3. Note the administering minister and directorate (public service area) who are responsible for the Act and any delegated legislation created under the Act.
4. What does the Act do? Look at Part 1 Section 3—Object of the Act (provides for a driver licensing system in the ACT).
5. Look at Part 2, Division 4.2, Section 26—Regulation-making power—delegates power to the executive to make regulations (executive law) under the Act.
6. Look at Part 2, Division 4.2, Section 28—Driver Licensing System—sets out the areas that executive law can be made in relation to driver licensing in the ACT.
7. Search for the [Road Transport \(Driver Licensing\) Regulation 2000](#).
8. Look at the title page to verify the Act that the regulation has been made under.
9. Browse the contents page to see the range of law created for driver licensing in the ACT that have been determined by an executive law.

Students to conduct research on current issues in the news related to government policy in the ACT [alternatively they could search for policy connected to other areas of the Australian curriculum for year 8, these might include consumer law to support economics and business, water or place and liveability (e.g. services, facilities, environment) law to support geography units].

Students (divide into groups) to explore the ACT legislation register to answer the following, can they identify:

1. an Act created to enact government policy on their identified issue?
2. the responsible minister and directorate for the Act?
3. the section that allows for delegated law to be created? (not every Act will have this); and
4. the subordinate law if a delegated power has been given.

Class report back on what each group found, discuss each example.

## Lesson reflection

Can students identify the law-making powers of each of the three branches of the Westminster system in the ACT and who makes them:

- Legislature (parliament)—Statute law (Acts);
- Executive (government)—Delegated law; and
- Judiciary (courts)—Common law

# Resources

## Resource 1—Considering a bill (proposed law) roleplay

The Roleplay encourages students to be active learners through playing specific roles to gain a deeper understanding of the process for considering proposed legislation/a bill in the Legislative Assembly. Students will be able to debate issues that are important to them through the process.

The roleplay activity is based on passing a bill in the ACT and presents an opportunity to acquaint students with a number of key democratic concepts, including where the ideas for laws come from, how they become laws of the Territory, and the role of elected representatives in considering and passing legislation.

### Planning for the roleplay

Before completing the roleplay, students will need to be familiar with the Assembly, resources for this include:

- Videos—[Parliamentary roles in the Assembly](#) and [The legislative process](#)
- Poster—[Who's who in the Assembly chamber](#)
- Factsheet—[The parliament's structure](#) and [How laws are made](#) (see also resource 5)

This roleplay is designed for students to debate a bill on a given topic with students each preparing a short speech to use during the debate. The chosen topic forms the basis of a new bill, which is a draft law, which once passed by a parliament becomes a law.

Once students have been introduced to the Assembly the roles will need to be allocated. In its 30-year history, the ACT has only had one government that has held majority in its own right (6<sup>th</sup> Assembly), all other governments have been minority government with the cross bench holding the balance of power. The balance of power is the ability of one person or party to decide the issue by the way they vote. This occurs when the distribution of voting power in a parliament is that neither the government, nor the opposition, have enough numbers in their own right to win a vote.

For the purposes of this roleplay, and to reflect the history of minority government in the ACT, students should be divided so that:

- there are two Clerks (these are parliamentary officers, not members);
- the government has one member less than a majority;
- the crossbench should have a minimum of two members; and
- the opposition is formed from the remaining members.

As an example, for a class of 29 students they could be assigned the following roles:

- one Clerk and one Deputy Clerk (parliamentary roles, not members); and
- 12 government members, 11 opposition members and four cross bench members; or
- other variations are 12 government members, 12 opposition members and three cross bench members; or 13 government members, 12 opposition members and 2 cross bench members.

This all represent a hypothetical 27 Member Assembly (the Assembly actually has 25 members) and allows the cross bench to hold the balance of power so they can vote with either the government or the opposition to pass a bill (In this example, a majority is 14 members (demonstrating how balance of power works in a parliament with minority government). The Speaker is a member from the government side and also has a vote.

Once the parties have been formed and roles allocated, students will be able to draft short speeches on the bill that is to be debated. The Speaker and Clerks do not make speeches. Students prepare their speeches on the chosen topic from either an affirmative (government) or negative (opposition) stance, crossbench members can select for themselves to take either an affirmative or negative stance and write a speech accordingly (remember that in this example, the bill will succeed or fail depending on how the crossbench members decide to vote).

The roleplay follows the four stages of the ACT's legislative process (resource 5) and copies of the roleplay script will need to be provided for the Speaker, Clerk, Deputy Clerk and leaders of each party (government, opposition, crossbench) (6 copies). It is the teacher's choice if all students are to be provided with a copy of the script to help them follow the process, or if they will only need their prepared speeches so they can participate in the section of the roleplay that calls for open debate from the floor, the Speaker calls for this after the Chief Minister, Leader of the Opposition and crossbench members have spoken.

## Parliamentary roles

### Speaker

- The Speaker is a member who is then elected by a majority of Assembly members to the position of Speaker on the first sitting day of a new Assembly.
- The Speaker controls the proceedings in the Assembly and is responsible for ensuring that members follow the 280 standing orders (rules) that govern the operation of the Assembly.
- Any members wanting to speak during debate must stand up and Speaker will call on them by name for example "Member Smith".
- To maintain order, if more than one member is talking at the same time, the Speaker will often say "order" or "order, members".
- For the purposes of this roleplay, the Speaker will be conducting the meeting of the parliament, will call on members to speak, maintain order and put the question at the end of the debate for a vote.

### Clerk

- The Clerk and Deputy Clerk are parliamentary officers and are not elected. They have an extensive working knowledge of the 280 standing orders and provide advice to the Speaker on sitting days to help enforce these. They also provide independent and impartial parliamentary advice to the Speaker and MLAs. The Clerks are experts on procedure and keep the official record of sitting days, announce each order of business, time debates, ring division bells and count the votes.
- For the purposes of this roleplay, the Clerk will read out the title of the bill and count votes if a division is called.

## Deputy Clerk/Sergeant-at-Arms

- The Deputy Clerk of the Legislative Assembly is also the Serjeant-at-Arms. The Serjeant-at-Arms announces the Speaker and carries in the mace at the start of a sitting day and places it on the stand, large end faces the Government side of the Assembly when placed in the stand.
- Under the Speaker's direction, the Serjeant may be required to escort members who have been acting in a disorderly manner from the chamber.
- For the purposes of this roleplay, the Deputy Clerk will lead the Speaker into the chamber, carrying a mace (if the students have created one) and count the votes if a division is called.
- Watch the mace being carried into the Legislative Assembly for the ACT at the commencement of a sitting day ([2 April 2019](#))

## Chief Minister

- The Chief Minister is the head of the government. The party with the largest number of members in the Assembly usually forms government.
- The Chief Minister can appoint up to eight members to be ministers (together, they are known as the executive).
- For the purposes of this roleplay, the Chief Minister is sponsoring/proposing the bill and II, government members wishing to speak need to develop reasons to support the bill when writing their speeches.

## Leader of the Opposition

- The Leader of the Opposition is the head of the party that forms opposition. This is usually the party with the second largest number of members in the Assembly.
- The role of the opposition is to scrutinize the government. Opposition members are given shadow ministerial responsibilities. They are called shadow ministers as they are responsible for "shadowing" the portfolio responsibilities held by government ministers.
- The opposition party does not always oppose government bills. Sometimes it agrees with the government to help pass legislation in the Assembly.
- For the purposes of this roleplay the opposition is against the bill, members of the opposition need to think of reasons why they do not support the bill when writing their speech.

## Crossbench

- The members on the crossbench are made up of minor-party members and independents who do not belong to the major parties that usually form the government and the opposition.
- Crossbench members hold the balance of power when there is a minority government.
- For the purposes of this roleplay, crossbench members can decide their position on the bill and think of reasons either for, or against the bill when preparing their speeches. Depending on their decision, the bill will either pass or fail to pass (as the crossbench holds the balance of power on the bill). Crossbench members may wish to discuss their views with one another before deciding how they will vote.

## Members in the chamber

- All members stand when the Speaker enters the chamber, led in by the serjeant-at-arms (with the mace if one has been created);
- After the acknowledgement the Speaker sits, they are the only member in the chamber who does not need to stand to speak once proceedings are underway.
- All other members must stand when they are speaking, all members should start their speech with “Thank you Mr or Madam Speaker” (depending on if there is a male or female speaker in the chair).
- Members may only speak once during the debate. Time limits can be imposed if required.
- Members can show support for speeches by saying “Hear, Hear”; or disagreement with speeches by saying things like “No”, “That’s wrong” or “We disagree”.

## Commencing the roleplay

### Setting the scene

The bill to be debated is a government bill and, therefore, government members will be arguing the affirmative case (i.e. that the bill should be supported), the opposition will be opposing the bill and the cross bench will decide for themselves if they wish to support or oppose the bill. Teacher to remind students of these conditions.

### Preparing speeches for the bill debate

- Having determined who is the government, opposition and cross bench members, each student will need a piece of paper and pencil. In a preparation the roleplay, allow 5-10 minutes for every student to write a short paragraph on the topic:
  - As the proposer of the bill,<sup>1</sup> the Chief minister will prepare two short speeches—1. an introductory paragraph on why the bill is needed and what it will achieve if it is passed (presentation speech); and 2. a concluding speech to be delivered after everyone has spoken in the ‘Agreement in Principle Stage’;
  - government members will prepare a paragraph in support of the bill;
  - The Leader of the Opposition will prepare a speech opposing the bill, they speak first in the agreement in principle stage of the bill
  - opposition members will prepare a paragraph speaking against the bill; and
  - cross bench members can decide for themselves which side to argue and will prepare a speech accordingly. Cross members can act individually (as independents), or they may like to work together as a minor party, and all support the same side of the topic.
- Proceed to set up the classroom as a parliamentary chamber (see under heading ‘Chamber set up below’) and commence the roleplay.

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<sup>1</sup> Every member of the Assembly can introduce bills to the Assembly, and while most bills debated in the Assembly will be government bills which are presented by ministers, a small number each year are also presented by other MLAs, these are known as private member bills.

- the Speaker and two Clerks are the only students who do not need to prepare a speech as part of the roleplay. The Speaker is generally a government member; however, as they are primarily responsible for maintaining order in the parliamentary chamber, they do not participate in the debate.

## Debate in the chamber

Teacher to outline standing orders for the session (see resource 3—Parliamentary standing orders). The standing orders may be displayed prominently on a board for reference by the students, copies may be provided to each the government, opposition and crossbench members for use during the debate.

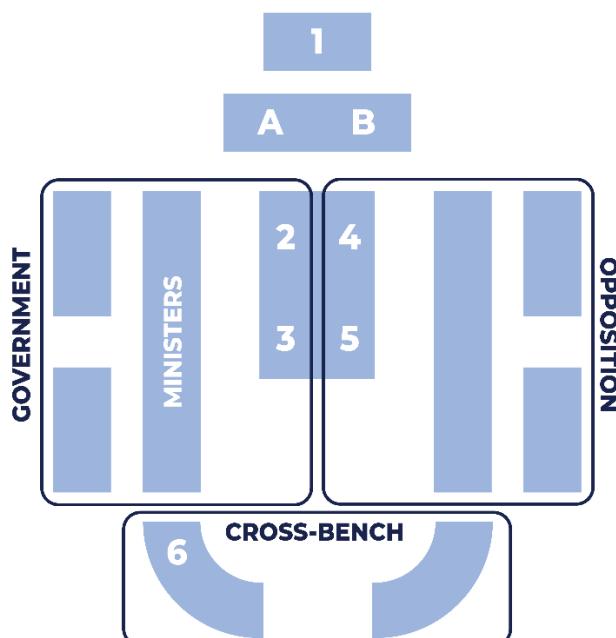
At the end of the debate on the bill (i.e. after all the speeches have been delivered), the Speaker will call a vote on each statement. This first vote is always “on the voices”, the Speaker will say “all those in favour, say ‘Aye’”, all those against say ‘No’”. The Speaker will then make a call on the voices by saying either “I think the ayes have it” OR “I think the no’s have it” (see resource 3—Standing order 9).

Any member may disagree with the Speaker’s call and seek a formal vote. To do this a member simply declares the opposite of what the Speaker has ruled (see resource 3—Standing order 10):

- If the Speaker declares that “I think the ayes have it”—a member disputing will respond “I think the noes have it”; or
- If the Speaker declares that “I think the noes have it”—a member disputing says “I think the ayes have it”.

A formal count of the votes is known as ‘a division’ and, for the purposes of the roleplay, this can be done through a simple show of hands. Following this, the Clerks will count the votes and give the result to the Speaker to announce (see resource 3—Standing order 10).

## Chamber setup



## **Key**

1. Speaker (usually a government member)

A-B. Clerk, Deputy Clerk/Serjeant-at-Arms (not members)

2-3. Chief Minister, Deputy Chief Minister, desks behind the leaders are for ministers and government backbenchers

4-5. Leader of the Opposition, Deputy Leader of the Opposition, desks behind the leaders are for opposition members

6. Crossbench (second unnumbered curved bench also a crossbench if there are more than 25 members)

## **Classroom set-up**

Organise the classroom to look like the Assembly chamber. Tables can be used for the Speaker, clerks and leaders, surrounded by chairs in a “U” shape for all other members. Students move to their positions except for the Speaker and Sergeant-at-Arms, who will enter from a door/corner of the room once all students are standing in their position.

Once everyone is in position and ready to commence the roleplay, all students should be standing and then the Sergeant-at-Arms and the Speaker can enter the chamber in a procession. Students can sit once the acknowledgement to country is done.

## Resource 2—Roleplay script

**Explanatory notes:** There is one ceremonial activity that takes place before the sitting begins. Firstly, all members stand in front of their seats. At the same time, the Deputy Clerk/Serjeant-at-Arms and Speaker stand outside the chamber. The Serjeant-at-Arms carries the mace over their shoulder and leads the Speaker into the chamber. The Serjeant-at-Arms announces the Speaker, then places the mace on the stand in front of the Clerk's desk with the larger end facing the government. The Serjeant-at-Arms remains standing while the Speaker undertakes an acknowledgement to country to show respect for the Ngunnawal people and allows for a 30 second silence so that members can either pray or reflect prior to the commencement of the sitting day.

Serjeant-at-Arms and Speaker procession—Serjeant-at-Arms (carrying mace over their right shoulder) and Speaker stand at the entry to the chamber.

**Serjeant-at-Arms:** *Members, please stand*

*Members, the Speaker*

Serjeant-at-Arms walks to the table (places mace on front of desk if there is one) and stands in front to their chair, remain standing; Speaker walks to their chair, remains standing.

**Speaker:** *I acknowledge that we are meeting on the lands of the Ngunnawal people, the traditional custodians. I respect their continuing culture and the unique contribution they make to the life of this area. I would ask members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.*

Speaker sits

**Speaker:** *Thank you members please sit.*

All members and clerks sit.

### Presentation of the bill

**Explanatory notes:** Before presenting a bill, the sponsoring minister/member gives notice of their intention to the Clerk that they wish to present a bill. This allows for the bill to be listed on the Notice Paper which is the official list of business before the Assembly. The bill is scheduled for presentation on a sitting day and is called on by the Clerk and the Speaker then calls on the minister/member to present their bill to the Assembly. At the same time as the minister/member makes their presentation speech and presents the bill they will also present accompanying documents which include an explanatory statement and Human Rights Act compatibility statement.

Speaker: *Clerk, read out the title of the Bill*

Clerk stands

Clerk: *Executive Business notice number 1—The [name of] Bill*

Clerk sits

Speaker: *I call on the Chief Minister*

Chief Minister stands

Chief Minister: *I present the [name of] Bill together with its explanatory statement and human rights compatibility statement*

*I move—That this bill be agreed to in principle*

Chief Minister sits

Speaker: *The question is—That this bill be agreed to in principle—Chief Minister*

Chief Minister stands

Chief Minister: *Thank you, Mr/Madam Speaker. This bill will....*

*[insert speech]*

*I commend the bill to the Assembly.*

At the conclusion of the speech Chief Minister sits

Leader of the Opposition stands

Speaker: *Leader of the Opposition*

Leader of the Opposition: *I move that debate be adjourned*

Leader of the Opposition sits.

**Explanatory notes:** Debate is adjourned to allow time for the bill to go to the Standing Committee on Justice and Community Safety—Scrutiny of Bills role and for Members to consult with the community and interest groups before coming back to the Assembly.

All Members vote by saying AYE when Speaker puts the question on adjournment.

Speaker: *The question is—That debate be adjourned, those of that opinion say “AYE” (Speaker waits for responses)*

All members: *Aye*

Speaker: *of the contrary “NO” (Speaker waits for responses)*

DECLARE RESULT

Speaker: *I think the AYES have it*

Speaker: *The question now is—That the resumption of debate be made an order of the day for the next sitting. Those of that opinion say “AYE” (Speaker waits for responses)*

All members: *Aye*

Speaker: *of the contrary “NO” (Speaker waits for responses)*

DECLARE RESULT

Speaker: *I think the AYES have it*

## Agreement in Principle

**Explanatory notes:** The bill will come back on again after a period of days/weeks to allow for members to debate the merits of the legislation, that is if it is a good idea or not. The member who adjourned the debate when it was presented speaks first. They are usually followed by the crossbench member and then any other member wishing to speak either for or against the bill. Each member has only one opportunity to speak during the agreement in principle stage except for the minister/member who originally presented the bill, they will close the debate on the agreement in principle stage. They usually take the opportunity to respond to issues raised by other members during the debate.

Speaker: *Clerk*

Clerk stands

Clerk: *Executive Order of the Day number 1—The [name of] Bill—  
resumption of debate on the question—That this Bill be agreed  
to in principle*

Clerk sits

Speaker: *I call on the Leader of the Opposition.*

Leader of the Opposition stands

Leader of the Opposition: Thank you, Mr/Madam Speaker. The Opposition will not be supporting this law because

*[insert speech]*

*I confirm again the Opposition will not be supporting this government bill.*

Leader of the Opposition sits

Speaker: *I call on Leader of the Crossbench to speak.*

Leader of the Crossbench stands

Leader of the Crossbench: *Thank you, Mr/Madam Speaker. I will be [supporting/not supporting] the government bill*

*[insert speech]*

*I confirm again the crossbench will be [supporting/not supporting] this government bill.*

Leader of the Crossbench sits

**Speaker:** *Are there any further members who wish to speak on the Bill?*

*[Speaker to select a member who is standing up]*

Members wishing to speak stand

Selected member remains standing to speak, all other members who were standing sit again

**Member:** *Thank you, Mr/Madam Speaker.* [Student makes their speech]

Member sits

[Repeat the process until all members who would like to speak have had a chance to present their case, remember everyone only gets 1 chance to speak. Once everyone has had a chance to speak the Bill moves to the vote]

**Speaker:** *Chief Minister*

Chief Minister stands to conclude the debate

**Chief Minister:** *Mr/Madam Speaker, I thank members for their contributions.*

*[insert speech]*

*I commend this bill to the Assembly.*

Chief Minister sits

**Speaker:** *The question now is—That this bill be agreed to in principle.*

*Those of that opinion say “AYE” (wait for responses)*

*of the contrary “NO” (wait for responses).*

DECLARE RESULT (decided on the voices).

*I think the [AYES/NOES] have it.*

### **Calling a division—questioning the Speaker’s ruling**

**Any member:** *The [Ayes/Noes] have it.* [say the opposite of the Speaker’s ruling]

Speaker: *Division called for, ring the bells—Lock the doors.*

(bells would be rung, members have 4 minutes to get to the Chamber if they are not already present)

Speaker: *Members who say aye, please raise your hands. Clerks please count the votes.*

Clerk and Deputy Clerk write number of yes votes on the division result sheet. Remember the Speaker is a government member and gets a vote, in this case would be voting yes with the government.

Speaker: *Members who say no, please raise your hands. Clerks please count the votes.*

Clerk and Deputy Clerk write number of no votes on the division result sheet, check that they have the same number for each (ayes and noes), if not do a recount. Clerk and Deputy Clerk to give the Speaker the piece of paper telling them how many people voted yes and how many voted no. Speaker will announce the result.

Speaker: *Members, the result is:*

*Ayes =                    votes*

*No =                    votes*

Speaker: *The Bill is [passed/not passed] by the Assembly*

## **Detail Stage**

**Explanatory notes:** If the bill has been agreed to in principle it moves onto the detail stage where the finer detail of the bill is considered. The detail stage is when amendments can be moved by any member to be considered by the Assembly. Consideration in the detail stage starts at clause 1 of the bill and the last item to be agreed upon is the title of the bill. The Assembly must agree to each clause, schedule and the title for the bill to pass in the Assembly. Not all bills will have amendments and this stage can be skipped if there is unanimous agreement in the Assembly. For the purposes of this role play it is assumed there are no amendments.

Speaker: *Is it the wish of the Assembly to dispense with the detail stage?*

All Members: *Yes*

## **Agreement**

**Explanatory notes:** The final stage in the legislative process is when the Speaker announces the bill and asks the Members to vote on it. There is no further debate allowed at this stage the Speaker puts the question by saying “The question is—That this bill be agreed to, if it has been amended the question will be That this bill, as amended, be agreed to. Those of that opinion say ‘AYE’, to the contrary ‘NO’.” The Speaker listens to the voices and decides, based on the voices whether or not the “Ayes” or the “Nos” win. The Speaker then says “I think the (AYES or NOES) have it,” and the bill is either passed or defeated.

Speaker:            *The question is—That this bill be agreed to.*

*Those of that opinion say “AYE”*

*Of the contrary “NO”.*

Speaker:            DECLARE RESULT (decided on the voices).

*I think the [AYES/NOES] have it.*

*The bill is [passed/not passed] by the Assembly.*

Speaker:            *It is my understanding that the Assembly wishes to adjourn.*

*The Assembly will resume on the next sitting day at 10 am.*

## **A Bill to an Act**

The Act is prepared and certified by the Clerk as a "true copy" as passed in the Legislative Assembly for the ACT. The Speaker sends the act to the Parliamentary Counsel's Office to be notified on the ACT Legislation Register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)).

## Resource 3—Parliamentary standing orders (rules)

1. Members wishing to address the Parliament should stand and wait for the Speaker to invite them to speak. The member remains standing while speaking and only that person speaks.
2. Members should address all comments directly to the Speaker, who should be referred to as “Mr Speaker” or “Madam Speaker”, accordingly.
3. Members shall remain in their seat in silence while the Speaker is addressing the Assembly.
4. Members shall refer to all other members as “Mr/Ms [name]”.
5. Members may only debate matters that are relevant to the question before the Speaker.
6. Members shall not use any language which is disorderly or disrespectful of another member. Coarse language is not acceptable.
7. Members shall not interrupt another member, and may not converse or make any noise or disturbance while another member is speaking.
8. If a member is persistently disorderly they may be “named” by the Speaker who says, “I name “Mr/Ms [name]”. If a member of the parliament is named, the Clerk will record their name. If a member is named three times the Speaker will call on the Serjeant-at-Arms to remove that Member from the chamber. If a member is removed they cannot return for the remainder of the sitting and are unable to vote on any matters being considered by the parliament during that sitting.
9. After debate, voting is conducted using a simple method of choosing “Aye” or “No”. The Speaker decides on the voices who has won the vote by saying either “I think the Ayes have it” OR “I think the Noes have it”.
10. If the result is doubtful or a member disagrees with the Speaker’s ruling there is a division, the vote goes to a show of hands and the Clerk counts the votes and records the results. The Clerk gives the result to the Speaker to announce.

## Resource 4—Division results sheet

The question is—That this bill be agreed to in principle

(Clerk and Deputy Clerk to complete by counting of raised hands when Speaker puts the question)

Ayes	Number in favour:
Noes	Number against:

**Further division counts if required:**

The question is—

(Clerk and Deputy Clerk to complete by counting of raised hands when Speaker puts the question)

Ayes	Number in favour:
Noes	Number against:

The question is—

(Clerk and Deputy Clerk to complete by counting of raised hands when Speaker puts the question)

Ayes	Number in favour:
Noes	Number against:

The question is—

(Clerk and Deputy Clerk to complete by counting of raised hands when Speaker puts the question)

Ayes	Number in favour:
Noes	Number against:

# Resource 5—Legislative process in the ACT—From a Bill to an Act

## Policy development—Prior to the parliamentary process

Policy development can originate in a number of ways, including but not limited to:

- party policy and new policy ideas;
- election commitments;
- community pressure; and
- Council of Australian Governments (COAG) and inter-governmental agreements.

### Legislation (Government and Private Members' Bills)

1. The party approves a policy position to allow for legislation to be developed.
2. Instructions forwarded to the Parliamentary Counsel's Office to prepare a draft Bill.
3. The party considers the draft and any changes are incorporated into a final Bill which is approved for tabling in Assembly.

## Parliamentary process

### Presentation

- The minister/member proposing the bill, presents it along with an explanatory statement (all Bills) and Human Rights Act compatibility statement (only for Government Bills);
- Minister/member moves that 'the Bill be agreed to in principle', makes presentation speech; and
- debate is adjourned, Bill is automatically referred to the Standing Committee on Justice and Community Safety (Legislative Scrutiny role).

### Agreement in principle

- In-principle debate on Bill resumes (any member can speak during the debate);
- the minister/member who presented the Bill closes the debate; and
- Bill is agreed to 'in principle'.

### Detail stage

- Bill considered in detail including clauses, schedules and title; and
- amendments moved and considered.

### Agreement/Negated

- final question, no debate allowed – 'that this Bill be agreed to' or 'this Bill, as amended, be agreed to'.

## A Bill to an Act—After the parliamentary process

1. The Act is prepared and certified by the Clerk as a 'true copy' as passed in the Legislative Assembly for the ACT.
2. Sent to Parliamentary Counsel's Office by the Speaker with a letter asking that it be notified on the [ACT Legislation Register](#) (ACT legislation does not require Royal Assent).