

Lesson 7: Legislature

- ▶ **The federal legislative function of Malaysia vested in the parliament.**

- ▶ **Parliament consist of:**
 - (1) YDPA**
 - (2) House of Representatives**
 - (3) Senate.**

Yang di-Pertuan Agong

- 1. Parliament is summoned to meet by the YDPA.**
- 2. The YDPA cannot allow 6 months to elapse between the last sitting in one session and the date appointed for its first meeting in the next session.**
- 3. The YDPA may prorogue (end a session) or dissolve (end the life of) parliament.**

Note:

- In the exercise of all the above functions, the YDPA acts on the advice of the Prime Minister.
 - But in withholding consent to a request for the dissolution of parliament, the YDPA acts at his discretion.
4. Unless sooner dissolved, parliament continues for 5 years from the date of its first meeting. At the end of the 5 years it is automatically dissolved.

- 5. Whenever parliament is dissolved, a general election is held within 60 days in West Malaysia and 90 days in East Malaysia from the date of the dissolution.**
- 6. Parliament must be summoned to meet not later than 120 days from the date of the dissolution.**
- 7. The term of office of a Senator is 3 years and is not affected by a dissolution of parliament.**

Senate

1. **Senate consists of 70 elected and appointed members:**
 - (i) **26 elected members (2 members elected by each of the 13 state legislative assemblies);**
 - (ii) **2 members for Kuala Lumpur, 1 member for Labuan and 1 member for Putrajaya, all to be appointed by the YDPA (on the advice of the PM); and**
 - (iii) **40 members to be appointed by the YDPA (on the advice of the PM).**

- 2. The Senators appointed by the YDPA (on the advice of the PM) must be :**
- (i) Persons who have rendered distinguished public service;**
 - (ii) Persons who have achieved distinction in the profession, commerce, industry, agricultural, cultural activities or social service;**
 - (iii) Persons who are representatives of racial minorities;**
 - (iv) Persons who are capable of representing the interests of aborigines.**

3. **Senator must be at least 30 years of age.
(But: Members of the House of
Representatives must be at least 18
years of age)- Art. 47 (Amended in 2019).**
4. **Senator cannot hold office for more than
2 terms either continuously or otherwise.**

House of Representatives

▶ The House of Representatives (Lower House) consists of 222 elected members.

- (1) 209 from various states: Johore(26), Kedah(15), Kelantan(14), Malacca(6), Negeri Sembilan(8), Pahang(14), Penang(13), Perak(24), Perlis(3), Sabah(25), Sarawak(31), Selangor(22), Terengganu(8)
- (2) 13 from the Federal Territories: Kuala Lumpur(11), Labuan(1) and Putrajaya(1).

Disqualification of membership

▶ A citizen is disqualified for being a member of either House if :

1. He is of unsound mind;
2. He is an undischarged bankrupt;
3. He holds an “office of profit” (any whole-time office in any of the public services);

4. He has been convicted of an offence and sentenced to imprisonment for a term of not less than 1 year or to a fine of not less than RM2000 and has not received a free pardon.

(Note: He is disqualified for a period of 5 years from the date of his release from custody or from the date on which the fine was imposed on him)

- 5. He has acquired citizenship of a foreign country or has made a declaration of allegiance to such a country.**
- 6. Having been nominated for election or having acted as election agent, he has failed to lodge any return of election expenses under the Election Offences Act 1954.**

Legislative Power

Though Parliament is the supreme law-making body, it cannot make any law it pleases.

The Constitution prescribes what laws may be made by Parliament and what laws may be made by state legislatures.

There are 3 lists (9th Schedule):

1. Federal List
2. State List
3. Concurrent List

Federal List

The Federal List enumerates matters with respect to which only Parliament may make laws.

Example:

1. Defence
2. Internal Security
3. External affairs
4. Finance
5. Education
6. Medicine and Health
7. Justice
8. Communications and transport

State List

The State List enumerates matters with respect to which only state legislatures may make laws.

Example:

1. Land matters
2. Burial and cremation grounds
3. Mining
4. Muslim law
5. Licensing of theatres
6. State holidays
7. Agriculture and forestry

Concurrent List

The Concurrent List enumerates matters with respect to which **either** Parliament or any state legislatures may make laws.

Example:

1. Social welfare
2. Scholarships
3. Protection of wild animals
4. Prevention of cruelty to animals
5. Preservation of heritage
6. Drainage and irrigation
7. Culture and sports

Legislative Procedure

▶ How are laws made in Malaysia?

A law begins with a Bill (a proposed / draft Act)

A particular Minister or Ministry prepares the Bill with the assistance of the Attorney General's Chamber.

The Bill is then submit to the Cabinet for discussion. Amendments (if any) may be made.

When the Bill is agreed upon by the Cabinet, it will then be tabled in Parliament.

Normally, a Bill is required to go through 4 stages in each Houses of Parliament: First Reading, Second Reading, Committee Stage and Third Reading.

First Reading

- ▶ **First Reading is a mere formality. The Minister gives the clerk at least one day oral notice of his intention to present a Bill.**

- ▶ **On that day, the Minister merely read out the short title and long title of the Bill. There is no debate and no voting.**
- ▶ **The Minister may do so even if the Bill has not been prepared provided the short title and the long title of the Bill have been made available to the clerk previously.**
- ▶ **The Speaker will then set a date and time for the Second Reading and this is usually within the next few days.**

Second Reading

▶ **This is the most important stage. It can only be done if the Bill has been printed and circulated to all members.**

The Minister concerned stands in his place and moves a motion: “Mr. Speaker, Sir, I beg to move that XXXX Bill be now read a second time.”

The Minister then explains its purposes, main principles and issues of policy involved.

- ▶ **There will normally be vigorous debate by the opposition on the purposes and general principles of the Bill. Discussion on the details of the Bill are not permitted at this stage.**
- ▶ **No amendments are allowed. The Minister is allowed to reply to points raised on the floor.**
- ▶ **Finally, the Speaker puts to vote that the Bill be now read a second time. If it is approved, the Speaker declares the Bill to be read a second time.**

Committee Stage

- ▶ Also known as “amendment stage” .
- ▶ When the debate on the 2nd Reading has been completed, the Speaker says: “House in Committee.” This means that the Bill is committed a Committee of the whole House. All members of the House take part in the debate.
- ▶ Here members may discuss the **details** of the Bill in a definite order. The clauses are considered first, follow by the schedule and finally the preamble.

- ▶ **Amendment may be made at this stage.**
- ▶ **Votes are taken on each proposed amendment.**
- ▶ **After the detailed discussion, the Minister moves a motion: “Mr. Chairman, Sir, I beg to move that the Bill be now reported to the House”.**
- ▶ **The Chairman then says: “House Resumes”.**
- ▶ **The Minister then reports to the House: “Mr. Speaker, Sir, I beg to report that the XXXX Bill has been considered in Committee and has been agreed to with/without amendment.**

Third Reading

- ▶ **After reporting, the Minister moves that the Bill be read a 3rd time and passed. He says: “Mr. Speaker, Sir, I beg to move that the Bill be read a 3rd time and be passed.”**
- ▶ **Here, no substantive amendments are allowed. Only amendments to make minor corrections and oversights may be proposed. The Speaker then puts the motion to vote.**
- ▶ **When the motion has been agreed to, the Bill is accordingly passed.**

- ▶ After the Bill has been passed by the House of Representatives, it is then submitted to the Senate which follows a similar procedure to that in the House of Representatives.
- ▶ Senate has only power to delay, not to veto.

Money Bill

- ▶ If the Senate does not pass the money Bill within 1 month after the Bill was presented to it, the Bill can then be submitted to the **YDPA** for his assent.

Non-money Bill

- ▶ **If the Senate refuses assent or gives assent subject to amendments the House of Representative does not agree to, then in the following session (must be a lapse of at least 1 year), the House of Representative must enact the same Bill a second time.**
- ▶ **If the Senate again refuses assent within 1 month after the Bill is presented to it or gives assent subject to amendments, the reenacted Bill can then be presented to the YDPA for his assent.**

- ▶ **The YDPA must within 30 days after a Bill is presented to him assent to the Bill by causing the Public Seal to be affixed to the Bill.**
- ▶ **Once a Bill is assented to by the YDPA, it becomes law (Act).**
- ▶ **In the event that the YDPA refuses or delays assent, the Bill shall become law 30 days after it is presented to him.**

- ▶ Once a Bill becomes law, it has to be published in the Gazette before it can be enforced.