



## Private Member's Bills in the House of Lords

### Summary

Members of the House of Lords who are not ministers can introduce private member's bills. Such bills are usually short and on uncontroversial matters. However, there is no restriction on the subject matter of private member's bills, and they have in the past been used to implement major social reforms, including the legalisation of homosexual acts in private for men over the age of 21 in England and Wales and changes to the law on abortion introduced the 1960s. In recent years, private member's bills have also been introduced on contentious issues such as assisted dying for the terminally ill.

There is no procedural distinction drawn between private member's bills and government bills in the House of Lords. As in the House of Commons, the majority of time spent on legislation in the House of Lords each session is spent on government bills. However, the amount of time made available to debate private member's bills tends to be more flexible than in the House of Commons; there is no formal limit on the number of days when private member's bills can be debated, for example, and there is no fixed time for when a debate on a private member's bill must end. Since the 2015–16 session, the order in which House of Lords private member's bills are debated has been established by a ballot at the start of each session.

While there may be greater opportunity to debate private member's bills in the Lords, this does not mean they are more likely to receive royal assent. There are a number of hurdles such a bill must cross, including time being made available to progress through the House of Commons. As a result, of the small number of private member's bills that receive royal assent each session, only a minority, if any at all, will have started in the House of Lords.

This Library briefing provides a profile of private member's bills in the Lords and recent statistics for the number passed each session. It also provides examples of the types of private member's bill introduced and commentary on the reasons why a Member might table a private member's bill. This briefing does not constitute procedural advice. Members requiring such advice should consult the Legislation Office's [A Guide to Private Members' Bills in the House of Lords](#) and contact the Legislation Office with any further enquiries.

### Table of Contents

1. Introducing Private Member's Bills in the Lords
2. Characteristics of Private Member's Bills
3. Aims of Members Introducing Private Member's Bills
4. Private Member's Bills per Session
5. Differences between Private Member's Bills and Government Bills in the Lords
6. Potential Hurdles
7. Lords Scrutiny of Commons Private Member's Bills

## Table of Contents

1. Introducing Private Member's Bills in the Lords	1
2. Characteristics of Private Member's Bills	2
2.1 Length and Complexity.....	2
2.2 Controversy .....	3
2.3 Subject Matter.....	3
3. Aims of Members Introducing Private Member's Bills	6
4. Private Member's Bills per Session	7
4.1 Private Member's Bills Prior to 2007–08 .....	7
4.2 Recent Private Member's Bills Statistics .....	7
5. Differences between Private Member's Bills and Government Bills in the Lords	11
6. Potential Hurdles	11
6.1 Availability of Time .....	11
6.2 Availability of Friday Sittings .....	13
6.3 Effect of Government Support .....	14
6.4 Consequences of Amendments.....	14
6.5 Consideration by Select Committee.....	14
6.6 House of Commons Scrutiny.....	15
7. Lords Scrutiny of Commons Private Member's Bills	16

---

A full list of Lords Library briefings is available on the [research briefings page](#) on the internet. The Library publishes briefings for all major items of business debated in the House of Lords. The Library also publishes briefings on the House of Lords itself and other subjects that may be of interest to Members.

House of Lords Library briefings are compiled for the benefit of Members of the House of Lords and their personal staff, to provide impartial, authoritative, politically balanced briefing on subjects likely to be of interest to Members of the Lords. Authors are available to discuss the contents of the briefings with the Members and their staff but cannot advise members of the general public.

Any comments on Library briefings should be sent to the Head of Research Services, House of Lords Library, London SW1A 0PW or emailed to [purvism@parliament.uk](mailto:purvism@parliament.uk).

## I. Introducing Private Member's Bills in the Lords

Members of the House of Lords who are not ministers are able to introduce their own bills, referred to as private member's bills.<sup>1</sup> This 'power of initiative' with regards to legislation is similar to that enjoyed by members of the House of Commons, as well as members of other legislatures around the world.<sup>2</sup>

The process of drafting a private member's bill varies. Private member's bills may be drafted by the Member, sometimes with the aid of lobbying organisations or with the aid of the Government if the bill has the Government's support.<sup>3</sup> This process is facilitated by the Legislation Office: the Member sponsoring the bill is required to provide a draft for discussion with the Legislation Office, and then a final version prior to the introduction of the bill.<sup>4</sup>

A private member's bill can be used to introduce legislation proposed and supported by the Government, yet which has not been introduced as part of the Government's own legislative agenda.<sup>5</sup> Such private member's bills are often described as 'handout bills' and are drafted by the Government or with the Government's aid. They may be given to a Member of the Commons or the Lords. However, the Cabinet Office state that, in practice, a handout bill starting in the Lords is less likely to receive royal assent than a handout bill starting in the Commons.<sup>6</sup> This is because when the bill arrives in the Commons, it takes its place at the end of list of bills to be debated and therefore may not be reached.<sup>7</sup>

Since 2015–16, a ballot has been used to select the order in which private member's bills would be debated.<sup>8</sup> A ballot was adopted following the agreement of the House of Lords to a recommendation made by the House of Lords Procedure Committee in its report, [Private Members' Bills, Topical Questions for Short Debate: Select Committee Reports](#).<sup>9</sup>

---

<sup>1</sup> House of Lords, [Companion to the Standing Orders and Guide to the Proceedings of the House of Lords](#), 2015, p 104, para 8.11.

<sup>2</sup> A study of bicameral legislatures, commissioned by the Dutch Parliament, found that the right of initiative for members of the second chamber was common in OECD countries with bicameral legislatures (Ministry of the Interior and Kingdom Relations of the Netherlands, [Bicameral Legislatures: An International Comparison](#), November 2015, p 23).

<sup>3</sup> Robert Rogers and Rhodri Walters, *How Parliament Works*, 2015, p 200.

<sup>4</sup> The role of the Legislation Office in the House of Lords in regards to the private member's bills is set out in: House of Lords, [A Guide to Private Members' Bills in the House of Lords](#), May 2015; and [Companion to the Standing Orders and Guide to the Proceedings of the House of Lords](#), 2015, p 104, para 8.12.

<sup>5</sup> Cabinet Office, [Guide to Making Legislation](#), July 2017, pp 330–3.

<sup>6</sup> *ibid*, pp 301–2.

<sup>7</sup> *ibid*, pp 300–1.

<sup>8</sup> UK Parliament website, [House of Lords Private Member's Bill Ballot 2015–16](#), 27 May 2015.

<sup>9</sup> [HL Hansard, 9 January 2014, col 1629](#); and House of Lords Procedure Committee, [Private Members' Bills, Topical Questions for Short Debate: Select Committee Reports](#), 10 December

## **Parallel Bills introduced in Both Houses**

Similar private member's bills may be introduced in the House of Lords and in the House of Commons during the same session. This may improve the chances of one of these bills progressing through Parliament because it potentially enables debate on the issues at stake to take place in both Houses at the same time. In such cases, one bill would proceed to royal assent while the other is abandoned. For example, the House of Lords Reform (No 2) Bill was a private member's bill introduced by Dan Byles (the then Conservative MP for North Warwickshire), which received royal assent in the 2013–14 session, becoming the House of Lords Reform Act 2014.<sup>10</sup> This bill was similar to the House of Lords Reform Bill [HL], tabled by Lord Steel of Aikwood (Liberal Democrat) in the same session, and included many of the proposals for Lords reform put forward by Lord Steel in previous sessions.<sup>11</sup>

A similar situation took place during the 2015–16 session. Two similar bills were tabled: the [Access to Medical Treatments \(Innovation\) Bill](#), sponsored by Chris Heaton-Harris (Conservative MP for Daventry) and the [Medical Innovation Bill \[HL\]](#), sponsored by Lord Saatchi (Conservative). Similar bills had also been introduced by Lord Saatchi in previous sessions.<sup>12</sup> The Medical Innovation Bill [HL] was not given a second reading in the House of Lords in the 2015–16 session. However, the Access to Medical Treatments (Innovation) Bill, sponsored by Lord Saatchi when it came to the House of Lords, did receive royal assent.<sup>13</sup>

## **2. Characteristics of Private Member's Bills**

### **2.1 Length and Complexity**

There is no limit to the scope or subject matter of private member's bills introduced in the Lords. However, some trends may be identified. One relates to their length and complexity. The House of Lords Constitution Committee has described it as common for private member's bills introduced in either Houses to be "short and not [...] contain detailed schedules".<sup>14</sup> This is in part a practical consideration given the many hurdles which a private member's bills must overcome, as described in section 6.<sup>15</sup>

---

2013, HL Paper 63 of session 2013–14, pp 3–4.

<sup>10</sup> [HL Hansard, 14 May 2014, col 1920](#).

<sup>11</sup> Further information on the reforms proposed by Lord Steel is provided in: House of Lords Library, [History of the House of Lords: A Short Introduction](#), 27 April 2017, p 18.

<sup>12</sup> House of Lords Library, [Access to Medical Treatments \(Innovation\) Bill](#), 23 February 2016.

<sup>13</sup> [HL Hansard, 23 March 2016, col 2520](#).

<sup>14</sup> House of Lords Constitution Committee, [European Union \(Referendum\) Bill](#), 2 January 2014, HL Paper 109 of session 2013–14, p 6, para 16.

<sup>15</sup> Robert Rogers and Rhodri Walters, *How Parliament Works*, 2015, p 200.

The average length of private member's bills introduced in the Lords since the 1999–2000 session achieving royal assent was five pages.<sup>16</sup>

## 2.2 Controversy

A further trend is that private member's bills tend to be uncontroversial, although there has been some notable exceptions to this over the last 100 years. In the 1950s, it was the expectation that private member's bills should avoid controversial issues entirely. For example, Peter Bromhead, in his 1956 study *Private Member's Bills in the UK Parliament*, described private member's bills as having little chance of success unless they avoided large political issues.<sup>17</sup> However, later in the 20th Century, private member's bills were used as a vehicle for implementing controversial social reforms. For example, in the 1960s, private member's bills were passed to abolish the death penalty, to legalise abortion, to enact a partial legalisation of homosexuality and to end theatre censorship.<sup>18</sup>

However, with these exceptions, it has remained the norm that private member's bills tend to be uncontroversial. Professor Meg Russell, in her 2013 study *The Contemporary House of Lords*, characterised most modern private member's bills introduced in the House of Lords as being similar to their House of Commons counterparts in that they are on "small and non-controversial" areas of law.<sup>19</sup> Professor Russell notes this is not exclusively the case. She cites the bills on assisted dying for the terminally ill introduced by Lord Joffe (Labour) in the 2003–04, 2004–05 and 2005–06 sessions as contemporary examples of the use of private member's bills as a means of raising a controversial issue. A bill on this issue, entitled the Assisted Dying Bill [HL], was also sponsored during the 2015–16 session by Lord Falconer of Thoroton (Labour) and during the 2016–17 session by Lord Hayward (Conservative), but neither progressed to receive royal assent.<sup>20</sup>

## 2.3 Subject Matter

Robert Rogers and Rhodri Walters, in *How Parliament Works*, argue that it is difficult in the modern day to categorise the subject matter of successful private member's bills.<sup>21</sup> They characterise the scope of these bills as being very wide. However, they do identify two groups within the broad range of private member's bills on the basis of the specific changes they seek to achieve: bills that seek to address social issues and bills that seek to tidy up anomalies or gaps identified in the statute book.

---

<sup>16</sup> See Table 2 of this briefing.

<sup>17</sup> Peter Bromhead, *Private Member's Bills in the UK Parliament*, 1956, p 126.

<sup>18</sup> Robert Rogers and Rhodri Walters, *How Parliament Works*, 2015, p 204.

<sup>19</sup> Meg Russell, *The Contemporary House of Lords*, 2013, p 194.

<sup>20</sup> [HL Hansard, 4 June 2015, col 523](#); and [9 June 2016, col 825](#).

<sup>21</sup> Robert Rogers and Rhodri Walters, *How Parliament Works*, 2015, p 204.

## Social Issues

As discussed in section 2.2 of this briefing, private member's bills have been used as a route to achieve specific social reforms. The Abortion Act 1967 began as a private member's bill introduced by David Steel (the then Liberal MP for Roxburghshire, Selkirkshire and Peeblesshire) in 1966.<sup>22</sup> The Bill subsequently gained government support, and received royal assent on 27 October 1967.<sup>23</sup> Legislation to combat the spread of so called 'video nasties' in the 1980s was also introduced as a private member's bill by Graham Bright (the then Conservative MP for Luton South).<sup>24</sup> This Bill received royal assent on 12 July 1984, becoming the Video Recordings Act 1984.<sup>25</sup>

Donald Shell stated in 2008 that the House of Lords has played a specific role in the past in regards to social reforms, arguing that in the late 1960s the House of Lords took "a lead in tackling so-called issues of conscience that MPs and government were reluctant to face because of the existing state of public opinion".<sup>26</sup> Mr Shell cited the example of debates in the Lords during the 1960s on the decriminalisation of homosexuality. The decriminalisation of homosexual acts between men aged over 21 eventually came into effect following the passing of a House of Commons private member's bill, the Sexual Offences (No 2) Bill, sponsored in the Lords by the Earl of Arran (Conservative).<sup>27</sup> However, Mr Shell also claimed that issues of conscience in the modern day are more commonly dealt with by means of a free vote on a government bill than was the case in the 1960s.<sup>28</sup>

## Gaps in Legislation

The two House of Lords private member's bills that received royal assent in the 2014–15 session both provide examples of bills responding to gaps in legislation: the [House of Lords \(Expulsion and Suspension\) Bill](#), introduced by Baroness Hayman (Crossbench), which made provision empowering the House of Lords to expel or suspend Members; and the [Mutuals' Deferred Shares Bill](#), introduced by Lord Naseby (Conservative), which provided for mutuals to issue deferred shares.<sup>29</sup>

<sup>22</sup> [HC Hansard, 22 July 1966, cols 1067–165.](#)

<sup>23</sup> [HC Hansard, 27 October 1967, col 2015.](#)

<sup>24</sup> D Marsh, P Gowin and M Read, 'Private Members Bills and Moral Panic: The Case of the Video Recordings Bill (1984)', *Parliamentary Affairs*, 1986, vol 39 no 2, pp 179–96.

<sup>25</sup> [HC Hansard, 12 July 1984, col 1341.](#)

<sup>26</sup> Donald Shell, *The House of Lords*, 2008, p 94.

<sup>27</sup> [HL Hansard, 13 July 1967, cols 1283–323.](#) Further information on the partial decriminalisation of homosexuality is provided in: House of Lords Library, [Sexual Offences Act 1967: 50th Anniversary](#), 19 July 2017

<sup>28</sup> Donald Shell, *The House of Lords*, 2008, p 94.

<sup>29</sup> Further information on the reforms proposed by Baroness Hayman is provided in: House of Lords Library, [History of the House of Lords: A Short Introduction](#), 27 April 2017, p 19.

The Hansard Society cites the Forced Marriage (Civil Protection) Act 2007 as a further example of a bill which resolved an issue which had not otherwise been covered by existing legislation.<sup>30</sup> The Bill, introduced in the House of Lords on 16 November 2006 by Lord Lester of Herne Hill (Liberal Democrat), was intended to provide protection for individuals against being forced to enter into marriage without their consent.<sup>31</sup> The Bill received government support and achieved royal assent on 26 July 2007.<sup>32</sup>

### **Other Types of Private Member's Bill**

- During the 2010–15 parliament, a number of private member's bills were introduced relating to the House of Lords following the dropping of the Coalition Government's House of Lords Reform Bill.<sup>33</sup> The [Extension of Franchise \(House of Lords\) Bill \[HL\]](#), sponsored by Lord Dubs (Labour) during the 2013–14 session, would have enabled Members of the House of Lords to vote in general elections. This Bill did not receive royal assent.
- Private member's bills have also been used to call for the government to hold inquiries. For example, in 2008, Lord McNally (Liberal Democrat) introduced the Iraq War Inquiry Bill [HL].<sup>34</sup> A parallel bill was also introduced in the House of Commons by Edward Davey (Liberal Democrat MP for Kingston and Surbiton) on the same day.<sup>35</sup> Neither bill received second reading. During the 1964–65 and 1966–67 sessions, Michael Foot (the then Labour MP for Ebbw Vale) introduced private member's bills calling for inquiries into the operations over Suez in 1956.<sup>36</sup>
- During the 2010–15 parliament a number of private member's bills were introduced in the House of Commons to establish a referendum on the UK's continued membership of the European Union by 2017.<sup>37</sup> None of these were successful, with the June 2016 referendum instead established in law by the Government's European Union Referendum Act 2015, passed in the 2015–16 session.

<sup>30</sup> Hansard Society, [Enhancing the Role of Backbench MPs: Proposals for Reform of Private Member's Bills](#), 2011, p 11.

<sup>31</sup> [HL Hansard, 16 November 2006, col 19.](#)

<sup>32</sup> [HC Hansard, 26 July 2007, col 1068.](#)

<sup>33</sup> House of Lords Library, [House of Lords Reform 2010–15](#), 25 March 2015.

<sup>34</sup> [HL Hansard, 20 March 2008, col 369.](#)

<sup>35</sup> [HC Hansard, 20 March 2008, col 1097.](#)

<sup>36</sup> House of Commons Library, [Iraq: Calls for an Inquiry and Historical Precedents](#), 4 June 2015, pp 21–2.

<sup>37</sup> Further information on this bill is provided in: House of Commons Library, [European Union \(Referendum\) Bill](#), June 2014.

### 3. Aims of Members Introducing Private Member's Bills

Although only a minority of private member's bills starting in the House of Lords become law, there are a number of other reasons why a Member of the House of Lords might table a private member's bill. In its 2011 report on private member's bills in the House of Commons, [Enhancing the Role of Backbench MPs: Proposals for Reform of Private Member's Bills](#), the Hansard Society identified a number of aims an MP might seek to achieve by tabling a private member's bill, some of which also might apply to private member's bills in the House of Lords. One was for private member's bills being used to 'prod' the Government into changing a policy.<sup>38</sup> The Hansard Society suggested this might lead to a Minister agreeing to bring forward their own legislation to avoid the passage of an unwanted private member's bill, or to increase awareness of a particular issue, encouraging the Government to introduce its own legislation in the future. Professor Meg Russell, Daniel Gover and Kristina Wollter of University College London, in their study of the influence of Parliament on the executive, identified this process as one of a number of ways in which Parliament influences policy before the formal legislative process begins.<sup>39</sup> *How Parliament Works* argues that the use of private member's bills to promote the issue of disability rights in the 1990s created moral pressure on the Government to introduce its own legislation.<sup>40</sup>

David Natzler and Douglas Millar, in their chapter for the 1993 publication *The House of Lords at Work*, identified a number of advantages for a Member in tabling a private member's bill as a tool for furthering debate on an issue.<sup>41</sup> They argued that the successive stages of a bill in the Lords allow for a subject to be debated numerous times each session and requires the Government to respond in detail to a specific set of proposals. It also allows for the possibility of a vote on a substantive issue. Lord Norton of Louth (Conservative) has also commented that private member's bills can often be a means of airing issues that are likely to engage the public, claiming that "members of the public are sometimes more engaged with issues raised in private member's bills than they are with the normal run of government legislation".<sup>42</sup>

---

<sup>38</sup> Hansard Society, [Enhancing the Role of Backbench MPs: Proposals for Reform of Private Member's Bills](#), 2011, p 10.

<sup>39</sup> Meg Russell, Daniel Gover, and Kristina Wollter, '[Does the Executive Dominate the Westminster Legislative Process?: Six Reasons for Doubt](#)', *Parliamentary Affairs*, 2016, vol 69 no 2, pp 286–308.

<sup>40</sup> Robert Rogers and Rhodri Walters, *How Parliament Works*, 2015, p 204.

<sup>41</sup> Donald Shell and David Beamish (eds), 'Private Member's Bills' in *The House of Lords at Work*, 1993, pp 189–90.

<sup>42</sup> Lord Norton of Louth, '[Private Member's Bills](#)', Lords of the Blog, 16 May 2013.



## 4. Private Member's Bills per Session

### 4.1 Private Member's Bills Prior to 2007–08

Peter Bromhead, in his 1958 book *The House of Lords and Contemporary Politics*, provided a summary of the developments in the use of private member's bills during the early- to mid-20th Century. He characterised the situation in 1958 in similar terms to that which might be used to describe the present day situation: a Member of the House of Lords was more likely than an MP to see their bill debated, but less likely to see it receive royal assent.<sup>43</sup> For example, during the 1934–35 session, twelve private member's bills were introduced in the House of Lords, of which all but one were debated. None went on to receive royal assent. Mr Bromhead noted that, between 1945 and 1955, the use of private member's bills dropped off with the total number introduced during that period “hardly exceeding a dozen”.<sup>44</sup>

Donald Shell, in his 2007 study of the House of Lords, noted that between 2001 and 2004, of the 45 private member's bills introduced by Members of the House of Lords, only two received royal assent, of which both were introduced during the 2001–02 session: the Tobacco Advertising and Promotion Bill, introduced by Lord Clement Jones (Liberal Democrat) and the National Heritage Bill, introduced by Baroness Anelay of St Johns (Conservative).<sup>45</sup>

### 4.2 Recent Private Member's Bills Statistics

Table 1 provides statistics for the number of private member's bills introduced and the number passed each session from the 2007–08 to the 2016–17 session. During this period, the majority of private member's bills which have received royal assent originated in the House of Commons. Table 2 lists those private member's bills introduced in the House of Lords since the 1999–2000 session which have received royal assent.

As discussed in this briefing, it should also be noted that not all of the private member's bills recorded as failing to reach royal assent were unsuccessful in terms of achieving a change to the statute book. For example, private member's bills may influence subsequent Government legislation.<sup>46</sup> Some private member's bills during this period were introduced in the House of Lords in parallel with bills introduced in the House of Commons which subsequently achieved royal assent.<sup>47</sup>

<sup>43</sup> Peter Bromhead, *The House of Lords and Contemporary Politics*, 1958, p 196.

<sup>44</sup> *ibid.*

<sup>45</sup> Donald Shell, *The House of Lords*, 2008, p 93.

<sup>46</sup> See section 3 of this briefing.

<sup>47</sup> See section 1 of this briefing for examples of private member's bills introduced in parallel during the same session.

**Table 1: Private Member's Bills per Session, 2007–08 to 2014–15**

Session	Private Member's Bills Starting in the House of Lords				Private Member's Bills Starting in the House of Commons			
	Total started in the House of Lords	Lords PMBs amended in the House of Lords	Lords PMBs brought to the House of Commons	Lords PMBs Receiving Royal Assent	Total started in the House of Commons <sup>48</sup>	Commons PMBs brought to the House of Lords	Total amended in the House of Lords	Commons PMBs Receiving Royal Assent
2007–08	15	2	6	0	100	3	1	3
2008–09	17	2	5	1	107	6	0	4
2009–10	14	2	6	2	63	6	0	5
2010–12	31	5	10	1	221	6	0	6
2012–13	33	0	3	0	100	10	0	10
2013–14	31	1	4	0	145	6	1	5
2014–15	34	5	4	2	134	8	0	8
2015–16	48	3	5	0	113	6	0	6
2016–17	51	4	5	0	112	8	0	8

(Sources: House of Lords [Public Bill Sessional Statistics](#), accessed 16 August 2017; and House of Commons, [Sessional Returns](#), accessed 16 August 2017)

<sup>48</sup> The total number of House of Commons private member's bills includes the 20 balloted bills, as well as ten minute rule bills and presentation bills.

**Table 2: Private Member's Bill Receiving Royal Assent since the 1999–2000 Session**

Session	Bill	Sponsor in the House of Lords	Short Title	Number of Pages <sup>49</sup>	Amendments	
					Tabled	Made
2014–15	<a href="#">House of Lords (Expulsion and Suspension) Bill [HL]</a>	Baroness Hayman (Crossbench)	A bill to make provision empowering the House of Lords to expel or suspend members.	2	5	5
2014–15	<a href="#">Mutuals' Deferred Shares Bill [HL]</a>	Lord Naseby (Conservative)	A bill to enable the law relating to societies registered under the Industrial and Provident Societies Act 1965 or the Friendly Societies Act 1992 and certain mutual insurers to be amended to permit and facilitate the use of new and additional classes of redeemable share capital and deferred share capital; to provide consequential rights to members of such societies or insurers; and to restrict the voting rights of certain members who hold such shares.	4	19	19
2010–12	<a href="#">Live Music Bill [HL]</a>	Lord Clement-Jones (Liberal Democrat)	A bill to amend the Licensing Act 2003 with respect to the performance of live music entertainment; and for connected purposes.	4	37	37
2009–10	<a href="#">Marriage (Wales) Bill [HL]</a>	Lord Rowe-Beddoe (Crossbench)	A bill to enable persons to be married in a place of worship in a parish in the Church in Wales with which they have a qualifying connection; and for connected purposes.	4	0	0
2009–10	<a href="#">Co-operative and Community Benefit Societies and Credit Unions Bill [HL]</a>	Lord Tomlinson (Labour)	A bill to make provision for societies to be registered as co-operative or community benefit societies and to re-name the Industrial and Provident Societies Acts; to apply to registered societies the provisions relating to directors' disqualification and to make provision for the application of certain other enactments relating to companies; to confer power to make provision for credit unions corresponding to any provision applying to building societies; and for connected purposes.	7	0	0

<sup>49</sup> This is the number of pages for the bill as introduced at first reading in the Lords.

Session	Bill	Sponsor in the House of Lords	Short Title	Number of Pages <sup>49</sup>	Amendments	
					Tabled	Made
2008–09	<a href="#">Law Commission Bill [HL]</a>	Lord Lloyd of Berwick (Crossbench)	A bill to make provision in relation to the Law Commission.	2	0	0
2006-07	<a href="#">Forced Marriage (Civil Protection) Bill [HL]</a>	Lord Lester of Herne Hill (Liberal Democrat)	A bill to make provision for protecting individuals against being forced to enter into marriage without their free and full consent; and for connected purposes.	5	35	28
2001–02	<a href="#">National Heritage Bill [HL]</a>	Baroness Anelay of St Johns (Conservative)	A bill to make further provision in relation to the functions of the Historic Buildings and Monuments Commission for England; and for connected purposes.	6	3	1
2001–02	<a href="#">Tobacco Advertising and Promotion Bill [HL]</a> <sup>50</sup>	Lord Clement-Jones (Liberal Democrat)	A bill to control the advertising and promotion of tobacco products and for connected purposes.	11	117	42
1999–2000	Census (Amendment) Bill [HL]	Lord Weatherill (Crossbench)	A bill to amend the schedule to the Census Act 1920 to enable particulars to be required in respect of religion.	1	2	2

<sup>50</sup> The Tobacco Advertising and Promotion Bill [HL] began as a private member's bill, but was sponsored in the House of Commons by the then Secretary of State for Health, Alan Milburn.

## 5. Differences between Private Member's Bills and Government Bills in the Lords

The *Companion to the Standing Orders* states there is “no procedural distinction between bills sponsored by a Minister and those introduced by other Members of the House”.<sup>51</sup> There are two exceptions to this identified in the *Companion*. Firstly, private member's bills cannot be carried over from one session into another.<sup>52</sup> Secondly, while the sponsor of a government bill is required, under the Human Rights Act 1998, to make a statement as to the compatibility of the bill with the European Convention on Human Rights, there is no such requirement for the sponsors of a private member's bill.<sup>53</sup>

## 6. Potential Hurdles

While there is no procedural distinction between a government bill and private member's bill, private member's bills introduced in the Lords still face a number of specific hurdles before they can become law. These obstacles combined mean that only a minority of bills receiving royal assent each session are private member's bills and, of those, a smaller number, if any, are those introduced first in the House of Lords.

### 6.1 Availability of Time

One of the potential hurdles is the availability of time. The way in which time is allocated for the scrutiny of private member's bills is different than in the House of Commons. As a result, there can be greater opportunity for private member's bills to be debated in the Lords. However, this does not result in Lords private member's bills being more likely to reach royal assent.

In the House of Commons, a set number of sitting Fridays each session are allocated for scrutiny of private member's bills and, on those Fridays when such time is reserved, business cannot proceed beyond a certain time.<sup>54</sup> In the House of Lords procedure, there is no concept of government or private member's “time”, nor are specific times allocated for the debate of private member's bills.<sup>55</sup> However, it should be noted that, although the amount of time available is more flexible than in the House of Commons, private member's bills may still fail to find time to complete all of their stages in the Lords. While there is no fixed number of days for the consideration of

---

<sup>51</sup> House of Lords, [Companion to the Standing Orders and Guide to the Proceedings of the House of Lords](#), 2017, p 107, para 8.30. Procedural guidance is provided in the House of Lords, [A Guide to Private Members' Bills in the House of Lords](#), May 2015.

<sup>52</sup> *ibid*, p 103, paras 8.08–8.09; and p 107, para 8.30.

<sup>53</sup> *ibid*, p 107, para 8.26.

<sup>54</sup> Robert Rogers and Rhodri Walters, *How Parliament Works*, 2015, pp 199–202.

<sup>55</sup> House of Lords, [Companion to the Standing Orders and Guide to the Proceedings of the House of Lords](#), 2017, p 107, para 8.30.

private member's bills, the length of a session still presents a finite number of opportunities for a private member's bill to be considered.

Further, government and private member's bills are not necessarily on an equal footing when it comes to how time is allocated. The allocation of time to private member's bills is decided by Government Whips in consultation with other groups in the House, referred to collectively as 'the usual channels'.<sup>56</sup> Robert Rogers and Rhodri Walters, in their book *How Parliament Works*, describe the process for allocating time in the House of Lords as a negotiation involving a number of different factors, including the demands of 'private members'.<sup>57</sup> However, the Government's ability to get its own legislative agenda through will be the predominate consideration for the Chief Whip.

The usual channels may also consider the likelihood of a particular private member's bill becoming law when deciding whether to allocate it time. The *Companion to the Standing Orders* identifies that, in practice, "the House normally accords priority to proceedings on government bills except where private member's bills are not expected to give rise to debate".<sup>58</sup> The Cabinet Office guidance on the legislative process states time is normally found "as long as there is a theoretical prospect of the bill becoming law".<sup>59</sup>

The House of Lords has published the following statistics on how much time has been allocated to government bills and private member's bills over previous sessions. These figures indicate, on average, 48 percent of time in the main Chamber is spent on government legislation, compared to less than 4 percent on private member's bills:

**Table 3: Percentage of Time Spent Each Session in the Lords on Government and Private Member's Bills since 2007–08<sup>60</sup>**

Session	Private Member's Bills (%)	Government Bills (%)
2007–08	2.6	53.6
2008–09	3.5	52.8
2009–10	4.7	42.4
2010–12	2.3	53.7
2012–13	2.5	44.1

<sup>56</sup> House of Lords, [Companion to the Standing Orders and Guide to the Proceedings of the House of Lords](#), 2017, p 34, para 3.30.

<sup>57</sup> Robert Rogers and Rhodri Walters, *How Parliament Works*, 2015, p 114.

<sup>58</sup> House of Lords, [Companion to the Standing Orders and Guide to the Proceedings of the House of Lords](#), 2017, p 107, para 8.30.

<sup>59</sup> Cabinet Office, [Guide to Making Legislation](#), July 2017, p 318.

<sup>60</sup> House of Lords, [Business Statistics](#), accessed 16 August 2017. The percentages are from debates on private member's bills and government bills only and therefore do not add up to 100 percent. These figures exclude time spent in Grand Committee.

Session	Private Member's Bills (%)	Government Bills (%)
2013–14	4.3	48.4
2014–15	7.9	41.4
2015–16	3.7	48.4
2016–17	4.6	43.6

## 6.2 Availability of Friday Sittings

Debates on private member's bills in the Lords usually take place on a Friday, but can be debated on any day. Unlike the House of Commons, there is no set number of these days allocated for private member's bills. However, the House of Lords usually has around ten sitting Fridays each session, and often considers three or four private member's bills during a Friday sitting.

Unlike the House of Commons, there is no set time at which the House of Lords must adjourn during Friday sittings. However, the *Companion to the Standing Orders* states it is a "firm convention" that the House normally rises "by about 3pm on Fridays".<sup>61</sup>

On one occasion in the past, the House has enforced this convention, taking the unusual step of voting to end deliberations on a private member's bill after 3pm. During the 2013–14 session, the House agreed to end the second day of committee stage of the European Union (Referendum) Bill, a private member's bill introduced in the House of Commons and sponsored in the House of Lords by Lords Dobbs (Conservative).<sup>62</sup> The Bill would have made provision for the holding of a referendum on the UK's membership of the European Union before the end of 2017. The motion that the House resume—in effect ending committee stage that day—was moved by Lord Lipsey (Labour), who argued the House ought not to continue beyond 3pm on a Friday, given he believed debate on the Bill would continue far beyond that time.<sup>63</sup> After a division, this motion was passed.

Following the vote, the Bill, which had completed its stages in the House of Commons, did not progress beyond committee stage in the Lords.<sup>64</sup> Opponents of the Bill had argued the allocation of time for this particular Bill was an abuse of parliamentary process because it implemented policy supported by the Prime Minister, David Cameron, and was given time at the expense of other private member's bills.<sup>65</sup> Those supporting the Bill argued

<sup>61</sup> House of Lords, *Companion to the Standing Orders and Guide to the Proceedings of the House of Lords*, 2017, p 27, para 3.01.

<sup>62</sup> [HL Hansard, 31 January 2014, cols 1469–548.](#)

<sup>63</sup> [ibid, col 1542.](#)

<sup>64</sup> UK Parliament website, '[European Union \(Referendum\) Bill 2013–14 page](#)', accessed 20 May 2016.

<sup>65</sup> [HL Hansard, 24 January 2014, cols 856–7.](#)

that its opponents were attempting to block it through the use of delaying tactics.<sup>66</sup>

### 6.3 Effect of Government Support

The chances of a private member's bill being able to progress may be improved by the bill receiving government support. The Cabinet Office's guidance to Ministers and Civil Servants on legislation, *Guide to Making Legislation*, states the Government's Parliamentary Business and Legislation Committee should agree a handling position on private member's bills before second reading of that bill.<sup>67</sup> However, although the bill may receive government support, it is only in exceptional circumstances that a bill would receive government time.<sup>68</sup>

### 6.4 Consequences of Amendments

It is normally the case for a government bill that a number of amendments are tabled which will generate debate but not necessarily prevent the bill from progressing through Parliament. As a result of the potential constraints on the time available to scrutinised private member's bills in the Lords, the tabling of amendments to private member's bills may have an impact on their ability to progress, especially if those amendments are opposed by the sponsor of the bill.

Evidence of this is provided in the sessional statistics.<sup>69</sup> Since the 1999–2000 session, ten private member's bills starting in the House of Lords received royal assent. Of these, three passed without any amendments being tabled. A further four did have amendments tabled to them but all of these amendments were accepted. There were only three bills to which amendments were tabled and not accepted: the Forced Marriage (Civil Protection) Bill [HL], introduced during the 2006–07 session, and the Tobacco Advertising and Promotion Bill [HL] and the National Heritage Bill [HL], both introduced during the 2001–02 session.<sup>70</sup>

### 6.5 Consideration by Select Committee

As with any other public bills, the House of Lords can move that a private member's bill be committed to a select committee before it can continue. This can be done on the basis that the House believes a bill requires detailed

<sup>66</sup> [HL Hansard, 24 January 2014, col 919.](#)

<sup>67</sup> Cabinet Office, [Guide to Making Legislation](#), July 2017, p 320.

<sup>68</sup> Robert Rogers and Rhodri Walters, *How Parliament Works*, 2015, p 114.

<sup>69</sup> See Table 2 of this briefing.

<sup>70</sup> The Tobacco Advertising and Promotion Bill [HL] is unusual in that it was adopted by the Government when it was introduced in the House of Commons and sponsored by the then Secretary of State for Health, Alan Milburn.



investigation or that taking evidence on provisions in the bill is necessary.<sup>71</sup> After deliberations, the committee decides on whether to recommend the bill should proceed. This usually takes place after second reading, but can happen at any stage before third reading.<sup>72</sup>

This procedure has not been used since committee scrutiny of the Assisted Dying for the Terminally Ill Bill, introduced by Lord Joffe (Labour), in the 2004–05 session. However, at this time, the Constitutional Reform Bill Committee noted that the practice of committing a bill to a select committee was “not unusual in respect of contentious private member’s bills”.<sup>73</sup> Subsequent to the Committee’s deliberations, the Assisted Dying for the Terminally Ill Bill was defeated at second reading when it was introduced in the 2005–06 session.<sup>74</sup> This procedure had previously been used ten years earlier for scrutiny of the Dangerous Dogs (Amendment) Bill, introduced by Lord Houghton of Sowerby (Labour) in the 1995–96 session.<sup>75</sup> The Dangerous Dogs (Amendment) Bill received royal assent when it was re-introduced in the 1996–97 session.<sup>76</sup>

## 6.6 House of Commons Scrutiny

If a private member’s bill completes all its stages in the House of Lords, it still must then be considered in the House of Commons where it may face a further set of procedural obstacles, the first being that a Member of the Commons must be found to sponsor it.<sup>77</sup>

A private member’s bill coming from the Lords is also subject to constraints on time allocated for non-government bills in the House of Commons. MPs wanting to table private member’s bills enter a ballot held at the start of each session. The first 20 in this ballot are selected and their private member’s bills are debated in this order. A House of Lords private member’s bill would not be debated until after those selected by the House of Commons ballot have been.<sup>78</sup> Indeed, because of this, the House of

<sup>71</sup> House of Lords Library, [Committee Procedures for Public Bills: Select Committees](#), 18 January 2016, p 1; and [Select Committees in the House of Lords](#), 3 November 2016, pp 3–4.

<sup>72</sup> House of Lords Library, [Select Committees in the House of Lords](#), 3 November 2016, pp 3–4.

<sup>73</sup> House of Lords Library, [Committee Procedures for Public Bills: Select Committees](#), 18 January 2016, p 2; and House of Lords Committee on the Constitutional Reform Bill, [Constitutional Reform Bill \[HL\]](#), 2 July 2004, HL Paper 125-I of session 2003–04, p 5.

<sup>74</sup> [HL Hansard, 12 May 2006, cols 1184–296](#).

<sup>75</sup> House of Lords Library, [Committee Procedures for Public Bills: Select Committees](#), 18 January 2016, p 2.

<sup>76</sup> [HL Hansard, 21 March 1997, cols 1181–2](#).

<sup>77</sup> Further information about private member’s bills in the House of Commons is provided in: House of Commons Library, [Private Member’s Bills](#), 11 April 2016. Unlike government bills, private member’s bills are not subject to the English Votes for English Laws procedure in the Commons. Further information on English Votes For English Laws is provided in: House of Commons Library, [English Votes for English Laws](#), December 2015.

<sup>78</sup> Robert Rogers and Rhodri Walters, *How Parliament Works*, 2015, p 202.

Commons Library suggest it is “extremely rare” for a private member’s bill starting in the Lord to make progress in the Commons.<sup>79</sup>

The bill is also unlikely to progress far in the House of Commons if it is amended. The Cabinet Office’s guidance on legislation states that if a private member’s bill coming from the House of Lords is amended in the House of Commons, or vice versa, this is likely to kill the bill.<sup>80</sup>

### **Talking Out a Bill**

A private member’s bill’s passage through the House of Commons may also be blocked through the tactic of ‘talking out’ the bill, or by a lack of quorum in the Chamber.<sup>81</sup> The use of this tactic can often be fatal to the chances of that bill progressing.<sup>82</sup> Talking out a bill refers to the practice when an MP or group of MPs opposed to the bill continues the debate upon it until the deadline for the close of business that day, thus preventing it from proceeding further. This is also referred to as a filibuster. As noted in *How Parliament Works*, the use of this tactic arises in part because, for a closure motion to be passed to close the debate, the supporters of the bill would need to have over 100 votes.<sup>83</sup> As most private member’s bills are considered in the House of Commons on a Friday when MPs are often in their constituencies, it may be difficult to find enough MPs to support the motion.

## **7. Lords Scrutiny of Commons Private Member’s Bills**

Similarly, private member’s bills starting in the House of Commons also have to go through stages of consideration in the House of Lords before they can receive royal assent. Although Members of the Lords can amend these bills, any amendments made in the Lords also need to be agreed by the House of Commons during parliamentary ping-pong. Consequently, such amendments are likely to risk the bill failing to receive royal assent because extra time would need to be allocated for this in the House of Commons. Donald Shell, in his 2008 book *The House of Lords*, argued that, for this reason, Members of the Lords are often reluctant to amend a private member’s bill that has already completed all of its House of Commons stages.<sup>84</sup> Between the 2007–08 to 2014–15 sessions the House of Lords has only made amendments to two private member’s bill first introduced in the House of Commons.<sup>85</sup>

<sup>79</sup> House of Commons Library, [Private Member’s Bills](#), 11 April 2016, p 11.

<sup>80</sup> Cabinet Office, [Guide to Making Legislation](#), July 2017, p 318.

<sup>81</sup> Robert Rogers and Rhodri Walters, *How Parliament Works*, 2015, p 256.

<sup>82</sup> *ibid.*

<sup>83</sup> *ibid.*, p 141.

<sup>84</sup> Donald Shell, *The House of Lords*, 2008, p 93.

<sup>85</sup> See Table 1 of this briefing.