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Factsheet L4 Legislation Series

Revised August 2010

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House of Commons Information Office

Private Bills

Private bills are promoted by individuals or organisations outside the House (e.g. local authorities or companies) to obtain powers for themselves in excess of, or in conflict with, the general law. They should not be confused with private Members' bills, which are a type of public bill (see Factsheets L1 and L2). There are now relatively few private bills in each session. A summary of the processes involved in introducing a Private Bill can be found in Appendix B and C at the end of this factsheet.

Most Scottish private legislation is dealt with under a separate system of provisional orders (see Factsheet L9).

All Factsheets are available on the internet at: <http://www.parliament.uk/factsheets>

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Introduction

Private bills were common in the nineteenth century, and were used for the construction of railways, docks, harbours, and gas and water systems. Many projects for the construction of works (tramways, railways, canals, harbours etc.) for which a private bill was formerly necessary are now legislated for by a system of Orders made under the Transport and Works Act 1992 (further details given later in this Factsheet).

The bulk of private legislation for Scotland is carried out under the provisions of the Private Legislation Procedure (Scotland) Act 1936. (This process is dealt with in Factsheet L9 'Order Confirmation Bills and Special Procedure Orders', and is generally unaffected by the Transport and Works Act). For hybrid bills (bills which are a combination of public and private bills), see Factsheet L5 'Hybrid Bills'.

Procedure on Private Bills

Preliminary Stages

Private bills are brought in after a petition by the person or organisation who desires the bill. These petitions, except in certain limited circumstances, have to be presented to Parliament on or before 27 November in each year.

A private bill seeks rights and powers over and above those sanctioned by public acts or the common law. Therefore, it is assumed that other interested parties may wish to object. Parliament requires that the promotion of a bill is advertised publicly in newspapers and the official gazettes on or before 11 December each year. Also, all persons particularly likely to be affected by the bill should be notified; for instance, in the use of a bill to permit the construction of a cemetery, residents living within 275 metres of the proposed site should be informed.

Parliamentary Agents

The drafting of private bills and their conduct through the two Houses is a complex process, and the promoters entrust it to a firm of parliamentary agents. There are several firms who have satisfied the Speaker with their knowledge of private bill procedure and who alone may accept fees for taking a bill through Parliament. The names and addresses of these firms are given in Appendix A on page 8 of this Factsheet. One or more clerks, many of whom have long and detailed experience of private bill work, assist the actual agent, who is often one of the partners of the firm.

One of the most difficult duties of an agent is the need to negotiate with possible objectors to the bill, both before and during its parliamentary progress. It will generally be both cheaper and swifter to deal with such opponents before the expensive business of employing counsel to argue the case in a private bill committee becomes necessary.

Depositing Copies of the Bill

Copies of the bill have to be deposited with various interested authorities, and made available to Members and Officers of the House through the Vote Office. Members of the public may purchase copies of bills from the parliamentary agents, who are the legal representatives of the promoters of the bill for the purpose of dealing with Parliament. They are, however, not available from The Stationery Office.

In the rare cases where public works are to be constructed, such as railways, roads,

bridges, canals and reservoirs, Government departments have to be notified. Plans for public works are deposited in:

- Both Houses of Parliament (see Factsheet P15 'Deposited Papers').
- The Department for Environment, Food and Rural Affairs and the Department for Transport.
- The county or other councils for the area affected.
- The Parliamentary Archives office where plans are open for public inspection.

These works bills, in most circumstances, also require the submission of an Environmental Assessment on or before 4 December in the year in which they are presented.

From the 1991-92 session, bills have had to be accompanied by an explanatory memorandum.

Petitioning Against Bills

Persons or organisations that object to a private bill may petition both Houses against it. Naturally, they may also contact their Member of Parliament; this latter case may result in a blocking motion (see page 4) being tabled. Petitioning the House may involve employing a professional parliamentary agent; otherwise, the petitioner can act for him or herself or be represented by a friend or colleague. The petition must be drawn up in accordance with the rules of the House.

The House lays down who may and who may not object to private bills. An individual may petition if he or she is "directly and specially" affected by the bill; in other words, if he or she is affected in a way different from the public or community at large. Representatives of the community, such as a town or parish council, or an amenity society, could petition if the community's interest was affected. If the bill's promoters object that a petitioner has no right to be heard, there is a body called the Court of Referees, a committee of senior back-benchers assisted by Speaker's Counsel, which examines the grounds of each petition (known as the *locus standi*) and decides the case.

More detailed information about how to petition against a private bill can be found on our website at <http://www.parliament.uk/documents/upload/CommonsPetitioningKit.pdf>.

Standing Orders

A separate set of Standing Orders for private business exists in each House. Every Petition for a bill must comply with the conditions laid down in these Orders, and the officials who ensure this are the Examiners, the Clerks of Bills for each House. The Examiners are Officers of their respective Houses.

The promoters of a bill or their agents must appear before the Examiners, and the scrutiny must begin on 18 December in each year.

If, as a result of this, the Examiner considers that the requirements of Standing Orders have not been complied with, the petition is referred to the Standing Orders committee. This committee is composed of eleven Members, and it may enquire further into the matter and report to the House. (In certain circumstances, even if it has not complied, the bill may nevertheless be allowed to proceed).

The Standing Orders committee also meet to consider the propriety of dispensing with Standing Orders for a bill which promoters wish to present outside of November (a "late" bill). It also meets if provisions additional to that originally advertised in the public notices should be required.

Passage of Private Bills First and Second Reading

The Chairman of Ways and Means in the Commons and the Lord Chairman of Committees in the Lords decide which bills shall start in the Commons and which in the Lords. There are many factors which have to be taken into account in making this decision, but in general, substantial local authority legislation and other complex bills are, for logistic reasons, started in the Lords. However, any private bill which appears politically contentious will generally be started in the Commons.

Private bills go through the same stages as public bills (see Factsheet L1 'Parliamentary Stages of a Government Bill'), but different rules apply.

The bill, when laid upon the Table, is deemed to have had its first reading. It is then put down for second reading.

There is a special time for the House to consider private bills which are not opposed by Members of Parliament; this is immediately after prayers, usually from Tuesdays to Thursdays, although Mondays are also sometimes used. This is the time for Unopposed Business and all private bills are initially dealt with at this time. The Clerk reads out the title of the bill: if it is not objected to, it goes through the relevant stages (intervals between stages are prescribed by Standing Order).

Once the second reading has been objected to in person, a "blocking motion" may be tabled by any Member. This has the effect of halting further progress until time is found for a debate (during opposed private business) or the blocking motion is withdrawn (or more accurately not renewed). Blocking motions are notified to the House in the private business section of the Vote Bundle (see Factsheet P16 'The Vote Bundle'). It is usual for the Chairman of Ways and Means to nominate 7 pm on a Monday or Tuesday, 4pm on a Wednesday or 3pm on a Thursday for debate, in which case it may continue for three hours. Debates cannot take place on a Friday. The public business in progress at the above times is interrupted automatically to allow the opposed private business to be debated.

In recent years, second and third reading debates on opposed private business have tended to be rather wide-ranging; Members who put down blocking motions may wish to discuss the merits of the particular bill or to allow more time for the promoters and petitioners against the bill to reach some reconciliation. While the debate may seem wide ranging, the Chairman will ensure that it always remains

within scope.

Committee Stage

Once a private bill has its second reading, it is committed to one of two committees:

Opposed Bill Committee

The bill goes to this committee if there are Petitions against it. Committees on opposed bills in the Commons consist of four impartial Members nominated by the Committee of Selection. Each Member has to sign a declaration that he has no interest, and that his constituents have no local interest, in the bill, and that he or she will not vote on any question without having heard the evidence about the matter. Since March 1991 Members have also had to declare they recognise their obligation to attend every meeting.

Unopposed Bill Committee

If there are no petitions against a bill it is referred to an unopposed bill committee consisting of

seven members: the Chairman of Ways and Means and his or her two Deputies (ex officio), and four members from a panel nominated by the Committee of Selection. In practice, however, the four nominated members will meet with only the Chairman or one of the Deputies. Procedure in the unopposed bill committee is less involved than in an opposed committee and generally brief; the main business is for the promoter to prove the need for the bill and answer questions put to him by the committee. These committees are, however, often able to delve effectively into the technical aspects of the bill. The Speaker's Counsel assists them.

In either case, the committee sits in a semi-judicial capacity, and may hear evidence presented by counsel. The function of the committee is to decide whether and in what form the bill should proceed. Proceedings of these committees are available on Bills before Parliament (<http://services.parliament.uk/bills/>). The archive of old hearings is kept in the Parliamentary Archives office.

Attendance by Members at other committees of the House is not generally compulsory. However, a Member appointed to a private bill committee is obliged to attend, and the House may impose penalties if he or she does not. Opposed bill committees in general meet both morning and afternoon on sitting Tuesdays, Wednesdays and Thursdays, until consideration of the bill is finished. Individual opponents of bills rarely employ counsel whereas the promoters usually do. Business is conducted in opposed bill committees rather in the fashion of a civil court, in that responsibility rests on the promoters to establish the case for the private bill. To this end, counsel for the promoters may call witnesses and display exhibits. The counsel for, or other representatives of the objectors, may then respond. They may put the case for the bill to be rejected outright, or may ask for it to be amended.

When this process is complete, the committee discusses the issues raised. Like all House of Commons committees, they do this in private. The committee considers whether the case for having a bill has been made.

There are two possible outcomes of this meeting:

Case Not Proved

If the case has not been proved (i.e., the preamble is said to have been found not proved) this is tantamount to rejection of the whole bill - just as if a public bill were thrown out on second reading. (Unopposed Bill Committees must also consider whether the preamble is proved and have occasionally found it not proved). This is what happened to an earlier private railway bill (the Crossrail Bill) in session 1994-95.

Case Proved

If the case has been proved, the committee states that the declared purpose of the bill has been established as proper and desirable. They then go on to consider whether any amendment is necessary; for instance, to protect the rights and interests of petitioners, or to limit the scope of the bill if it appears that the promoters have asked for excessive powers.

Consideration and Third Reading

After the committee stage, the bill is reprinted by the Agents if it has been amended, and is put down again for consideration immediately after prayers at the beginning of the sitting. Any Member can seek to move amendments; but in order to debate them the bill would, again, have to be set down for 7pm.

Third reading normally follows a few days later, but again this might be blocked until a debate is secured. The opportunity for any Member who is not on the bill committee to delay the bill is huge, although Government business managers are normally anxious to avoid too much time being taken up with opposed private business.

Lords Stages

The bill then goes to the Lords, where it goes through much the same process (including, if necessary, another Opposed Committee). However, the Lords would not restore to the bill a provision deleted by the Commons (or vice-versa) in order to save petitioners having to reprove their case. If the Lords amend the bill, the Commons as with a public bill must consider their amendments.

Suspension

Public bills usually have to complete their stages in both Houses before the end of the session (that is, normally in October or November), or they fail and have to start again in the next parliamentary session. With private bills, it is normal for any that have not been completed to be "suspended" (known as a Suspension Motion). Therefore, if the promoters apply, the House may decide to permit the bill to proceed in the next session, even if a general election supervenes. It is taken formally through all the stages it completed in the old session and carries on where it left off. If a private bill has not been suspended, it is possible that the bill can be "revived" (on a revival motion) in the new session to allow it to continue, especially if for some reason there was no time in the old session to consider a suspension motion.

Local and Personal Acts (Royal Assent)

The bill, when agreed to by both Houses, is presented for Royal Assent. Once enacted and printed, Private Acts are published in the Local and Personal Acts series. Their chapter numbers are printed in Roman numerals (e.g. 1988, cap xxxvi), and the

chapter numbers of Personal bills are italicised (e.g. 1988, cap.*xxxi*).

How to Trace the Progress of Private Bills

Information on the progress of private bills for the parliamentary session can be found on the Parliament website under the section 'Bills and Legislation', and then 'Private Bills before Parliament': http://www.parliament.uk/bills/private_bills.cfm. You can also find the text of bills from previous sessions from this page.

Tracing Private Acts

Finding tools for Local and Personal Acts are discussed in Factsheet L12 'Tracing Acts of Parliament'. Some examples of reference sources are given below:

- Chronological table of Local Legislation 1797 - 2002 (published by HMSO, with supplements to 1996 published by TSO).
- Index 1801 to 1947 and its continuation volume 1948 to 1966 (published by HMSO).
- Index to Statutes – for statutes affecting Greater London, published by the former Greater London Council.
- Domesday of English Enclosure Acts and Awards. (W E Tate). Published by Reading University.
- Internet – the full text of Private Acts since 1991 is available at <http://www.opsi.gov.uk/>

Private bill records are far more numerous than those of public bills. A database is maintained by the Parliamentary Archives office of evidence given to private bill committees between 1835-1917, as well as an index to Local and Personal Acts. Their contact details are given in the back of this factsheet.

Codification of Local Legislation

Local authorities exercise many powers under Local and Personal Acts. Because there has been a virtually continuous process of reorganisation of local government over the last hundred years, many authorities exercise powers over part of their areas which were obtained many years ago by predecessor authorities. For councils in England and Wales outside Greater London, the Local Government Act 1972, section 262, provided that the powers of these old Acts would expire unless re-enacted by new Acts; and after 1975 there were a large number of major bills promoted by Councils to modify, modernise, and rationalise these old laws.

Transport and Works Act

In 1986, a Joint Select Committee on Private Legislation was set up. This committee conducted a complete investigation of all aspects of the system during 1987 and 1988. The House debated the report, which included recommendations for the removal of "works bills" from the Scope of Private bill procedure. A bill was introduced in Session 1991-92 to give effect to these proposals, which became the Transport and Works Act 1992.

The procedure now means that those wishing to undertake works projects apply to the Secretary of State for an Order under the Act. Deposited plans and an environmental assessment are required as they were for Private bills. A local enquiry is then held at which objectors may be heard. (For further details see Blackstone's

Guide to the Transport and Works Act 1992).

It could be argued that this procedure removes works projects from parliamentary scrutiny, although there is a provision for the debate of projects identified by the Secretary of State as of national importance: in this case a motion to approve them has to be passed in each House after 56 days. All applications under the Act are notified by the Department of Transport to the House of Commons Weekly Information Bulletin, and listed at the end of the Private Bills section, with the source for copies. The application documents are also sent to the House of Commons Library for the information of Members of Parliament.

Under section 14(5)(a) of the Act, plans equivalent to deposited plans of private bills must be sent, after the making of an order, to Parliamentary Archives. Non-current application documents will also in due course be transferred to Parliamentary Archives from the Commons Library.

Work schemes legislated for by Orders under the Transport and Works Act will be local Statutory Instruments, printed and sold by the Stationery Office (contact details are given in the appendix).

Conclusion

Private Legislation is a complex subject; these notes provide an introduction to the subject. Any person who thinks he or she is likely to become personally involved with the process – as an objector or promoter, etc – of a private bill, is strongly advised to contact (in the first instance) the Private Bill Office. The House of Commons Information Office can advise on the existence and progress of private legislation and callers can be referred to the Private Bill Office when necessary.

Appendix A - List of Parliamentary Agents

Firm	Agent	Parliamentary Clerk
<p>Bircham Dyson Bell LLP 50 Broadway, Westminster London SW1H 0BL Tel: 020-7227 7000 Fax: 020-7233 1351 Email: pamthompson@bdb-law.co.uk Website: www.bdb-law.co.uk</p>	<p>I H McCulloch P H Thompson E N W Brown R J V Owen</p>	<p>Mrs P J Thompson 020-7783 3437</p>
<p>Eversheds LLP 1 Wood Street London, EC2V 7WS Tel: 020-7919 4500 Fax: 0845-497 4919 Email: monicapeto@eversheds.com Website: www.eversheds.com</p>	<p>J A Durkin Miss M A R Peto S Collings</p>	<p>Mr K. Sanderson Mr D C White 0845 497 4800</p>
<p>Sharpe Pritchard Elizabeth House 4-7 Fulwood Place London WC1V 6HG Tel: 020-7405 4600 Fax: 020-7222 1451 Email: parliamentary@sharpepritchard.co.uk Website: www.sharpepritchard.co.uk</p>	<p>W A Lewis</p>	<p>Ms D Baker</p>
<p>Winckworth Sherwood Minerva House 5 Montague Close London SE1 9BB Tel: 020-7593 5005 Fax: 020-7593 5199 Email: agorlov@wslaw.co.uk Website: www.wslaw.co.uk</p>	<p>P M C F Irving Mrs A M H Gorlov H S Wiggs</p>	<p>Mr D. Walker</p>
<p>Berwin Leighton Paisner LLP Adelaide House London Bridge London EC4R 9HA Tel: 020-3400 1000 Fax: 020-3400 1111 Email: Helen.kemp@blplaw.com Website: www.blplaw.com</p>	<p>Ms H Kemp</p>	<p>Mr A. Rosamond</p>
<p>Vizards Tweedie LLP Barnards Inn, 86 Fetter Lane, London EC4A 1AD Tel: 020-7405 1234 Fax: 020-7405 4171 Email: ron.perry@vtlaw.co.uk</p>	<p>R E Perry</p>	<p>No Clerk</p>

Website: www.vtlaw.co.uk		
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Appendix B - Introducing a Private Bill

A person/organisation presents a petition to change a law or to introduce a new law.

The petitioner contacts a Parliamentary Agent who then prepares a bill.

Except in certain limited circumstances private bills are presented to Parliament on or before 27th November each year.

The bill must be advertised publicly in newspapers etc. by **11th December** each year. All people likely to be affected by the bill should be notified.

Copies of the bill should be deposited with interested authorities and made available to Members and Officers of the House.

Members of the public can purchase copies of the bills from the Parliamentary agents appointed.

The Chairman of the Ways and Means in the Commons and the Lord Chairman of Committees in the Lords on advice from Counsel decide on whether the bill will start in the House of Commons or in the House of Lords.

NB: In general, substantial local authority legislation and complex legislation begins in the Lords.

1st Reading – Bill is formally presented to the House.

2nd Reading – Principles of the bill are debated in the chamber.

Unopposed Bill Committee Stage

Each Committee on Unopposed Bills is comprised of seven Members: four chosen from a panel nominated by the Committee of Selection at the beginning of each session, and the Chairman of Ways and Means and his two deputies.

Opposed Committee Stage

Opposed Bill Committee comprises: Four impartial Members nominated by the Committee of Selection.

The committee decides whether and in what form the bill should proceed.

Committee decides: 'Case not proved'

Bill is rejected – process stops here.

Committee decides: 'Case proved'

Bill is accepted and amendments are made as necessary to promote the rights and interests of petitioners, or to limit the scale of the bill if it appears the promoters have asked for excessive powers.

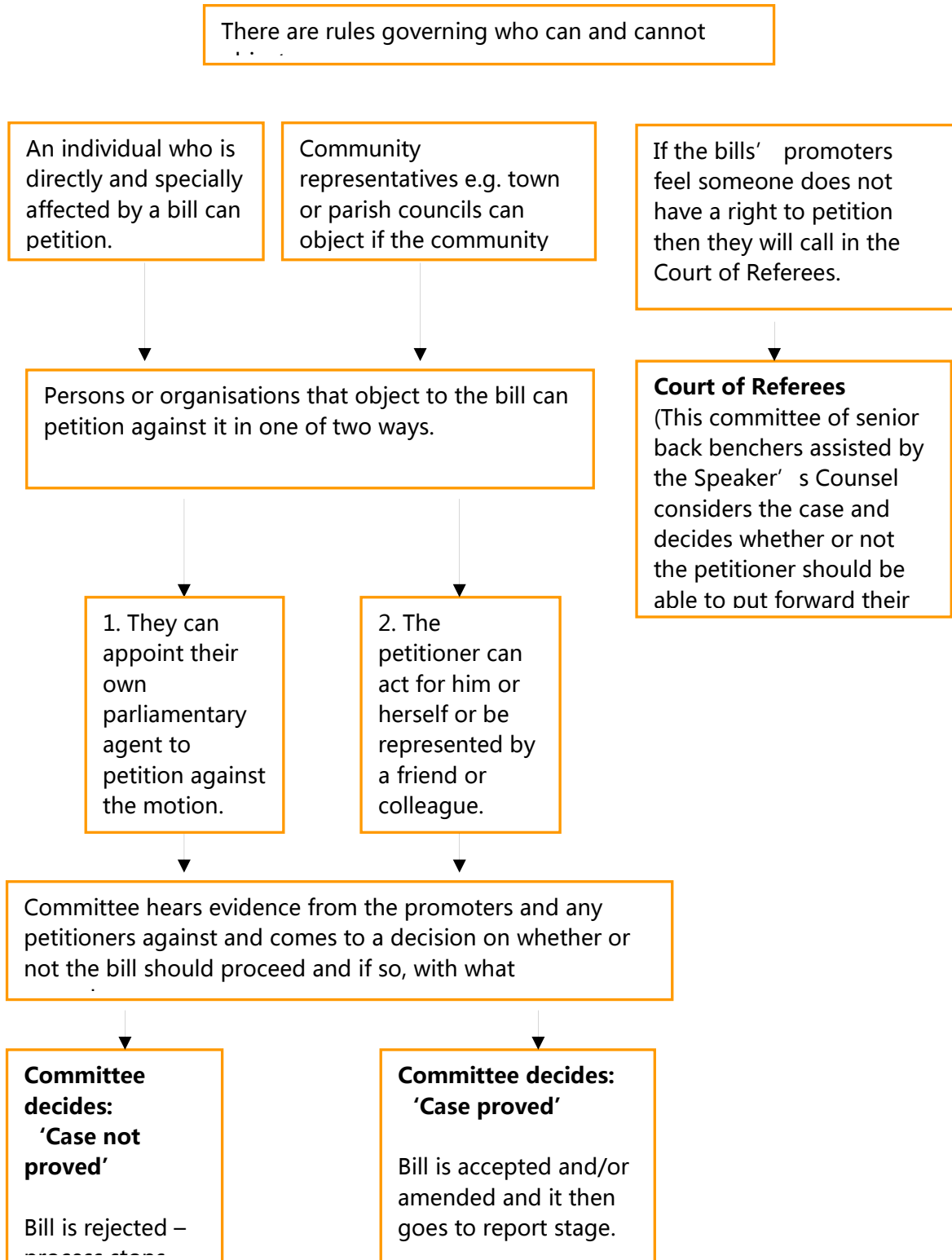
Report Stage - A revised bill is presented and MP's not on the committee are given an opportunity to request any changes to the bill (in practice this would be rare).

3rd Reading - The final version of the bill is presented in the chamber and it can be debated.

The process above is repeated but this time in the opposite House.

Bill receives **Royal Assent** and becomes an Act of Parliament.

Appendix C: Petitioning Against a Private Bill



Contact information

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Fax 020 7219 5839
hcinfo@parliament.uk
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House of Lords Information Office
House of Lords
London SW1A 0PW
Phone 020 7219 3107
Fax 020 7219 0620
hlinfo@parliament.uk

Education Service
Houses of Parliament
London SW1A 2TT
Phone 020 7219 4496
Fax 020 7219 0818
education@parliament.uk
www.parliament.uk/education/

Parliamentary Archives
Houses of Parliament
London SW1A 0PW
Phone 020 7219 3074
Fax 020 7219 2570
archives@parliament.uk

Parliamentary Bookshop
12 Bridge Street
Parliament Square
London SW1A 2JX
Phone 020 7219 3890
Fax 020 7219 3866
bookshop@parliament.uk

Factsheet L4 Private Bills

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| 1. Very useful | <input type="checkbox"/> | Fairly useful | <input type="checkbox"/> | Not much use | <input type="checkbox"/> |
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| 3. Clear | <input type="checkbox"/> | Not always clear | <input type="checkbox"/> | Rather unclear | <input type="checkbox"/> |

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Name

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