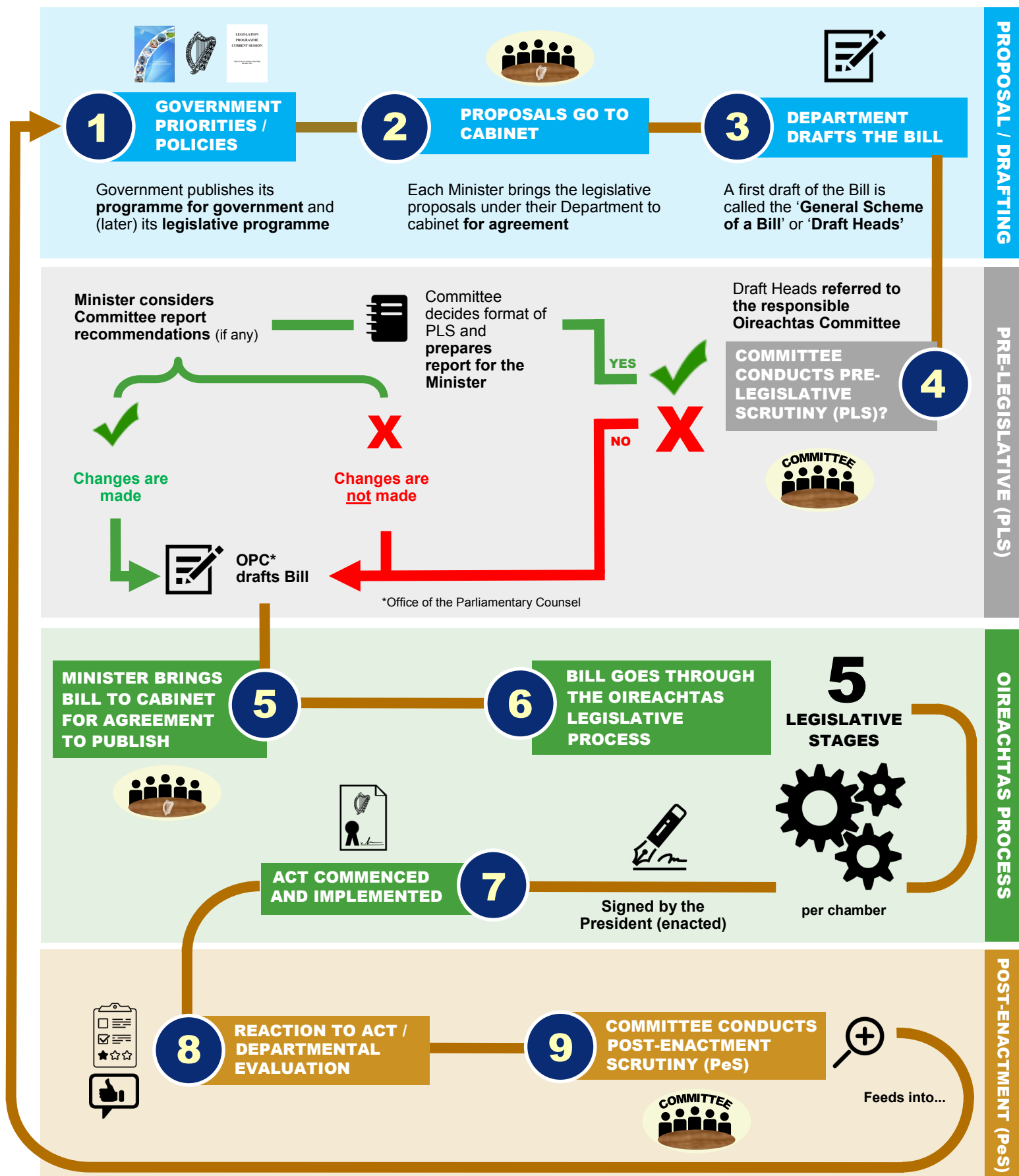




THE LEGISLATIVE REVIEW LOOP OF GOVERNMENT LEGISLATION



PROPOSAL / DRAFTING

- Once a new policy is approved by Government and following consultation with the Attorney General's Office, the responsible Department prepares the draft heads of the Bill and Memorandum to Government for approval (with the advice of the Office of Parliamentary Counsel (OPC) within the Attorney General's Office).
- The Department then prepares the draft Heads in numbered Heads. Each Head should comprise (a) instructions for drafting and (b) explanatory notes.
- The draft Heads are circulated to the Department of Finance and to every other Department which may be concerned, as well as to the Attorney General's Office.
- Following this consultation, the draft Heads are revised. The draft Heads and Memorandum are then submitted to the Government for approval to publish.

PRE-LEGISLATIVE SCRUTINY (PLS)

- The purpose of PLS is to enhance the democratic process by allowing Members of the Dáil/Seanad to consider and debate legislative proposals before the final Bill is published.
- When the draft Heads are approved at cabinet, they are referred (by a letter from the Minister) to the relevant Oireachtas Committee requesting that PLS be undertaken. This letter should outline the Department's own pre-legislative preparatory work in advance of drafting the Heads and provide a list of all stakeholder submissions received (if any).
- Dáil Standing Orders (146A) give Committees the power to consider the Heads of Bills, but do not require them to do so.
- Where the Oireachtas Committee decides **not to proceed** with PLS (i.e. that consideration is not necessary), the Committee Clerk must inform the Minister in writing.
- Where the Oireachtas Committee decides to **proceed** with PLS, the Committee Clerk must inform the Minister in writing and detail the proposed timelines.
- PLS stage (usually) takes 8 weeks from publication of the Heads to publication of the Committee report. Ideally, drafting of the Bill awaits the PLS report from the Committee.
- Many different forms of PLS "report" can be produced by the Committee including:

(A) Letter / Communiqué	(B) Report	(C) In-depth Report
Summarising the following: <ul style="list-style-type: none"> Key issues raised by stakeholders and experts (thematic) Written submissions received Committee / hearing transcripts (usually included as appendices) 	Incorporating the following: <ul style="list-style-type: none"> Key issues raised by stakeholders and experts (thematic) Committee recommendations Some (brief) policy / legislative context and policy implications 	Incorporating the following: <ul style="list-style-type: none"> Key issues raised by stakeholders and experts (thematic) Committee recommendations Full, broad policy context and legislative background Policy implications Performance indicators

OIREACHTAS PROCESS

- When approval is given by the cabinet, the responsible Minister will request the Attorney General arrange for the drafting of a Bill. The OPC then assumes responsibility for the drafting of the Bill.
- The OPC drafts the Bill in conjunction with the legislative section in the Department.
- When the Department and the OPC are satisfied with the draft Bill, and all legal and outstanding policy issues have been resolved, the Parliamentary Counsel assigned to draft the Bill will transmit the final draft to the Department.
- The Minister will then present the Bill to cabinet for a decision to publish the Bill.
- Parliamentary Counsel also draft all Government amendments that are moved at Committee or Report Stage during the passage of the Bill through the Houses of the Oireachtas.

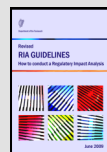
POST-ENACTMENT (PeS)

- The primary purpose of post-enactment scrutiny (PeS) is to ascertain whether the legislation (a) has achieved the original policy objective (b) should continue in force in its current form (c) requires amendment in some way; or (d) should be repealed or revoked in its entirety.
- PeS allows the Oireachtas to close the Legislative Review Loop and, among other things, improve the implementation and delivery of policy objectives, and expose teething problems to inform new legislation.
- PeS by Oireachtas Committees is mentioned in the Government's Programme for a Partnership Government and is set down in Standing Order 164A (Dáil Éireann) and Standing Order 137A (Seanad Éireann). This states that 12 months following enactment of a Bill (except the Finance Bill and Appropriation Bill), the responsible Minister will provide a report which "reviews the functioning of the Act". A number of PeS reports have been published by Departments to date including 4 in 2016. All PeS reports are available in the Library's online public access catalogue at opac.oireachtas.ie

REGULATORY IMPACT ANALYSES

The draft Memorandum seeking Government / cabinet approval for the General Scheme of a Bill should also be accompanied by a Regulatory Impact Analysis (RIA) for legislation involving changes to the regulatory framework. A RIA is a tool used for the structured exploration of different options to address particular policy issues including:

- Any possible side effects or hidden costs;
- Likely costs of compliance on the individual citizen or business;
- Costs of enforcement on the State;



The RIA Guidelines are available from the Department of An Taoiseach [here](#) (June 2009).

"EXCEPTIONAL CIRCUMSTANCES"

The Heads of all Bills, except in "exceptional circumstances" will be provided by Ministers to the relevant Oireachtas committee. "Exceptional circumstances" include:

- Emergency Bills;
- Bills which are required to implement Budget changes such as the Finance Bill and Social Welfare Bill;

OFFICE OF THE PARLIAMENTARY COUNSEL TO THE GOVERNMENT (OPC)

The OPC is a constituent part of the Attorney General's Office. The Attorney General is the legal adviser to the Government under the Constitution.

While no Government Bill can be initiated in either the Dáil or Seanad unless it has cabinet approval, a draft Government Bill will not be placed on the agenda for cabinet unless it has been drafted and cleared by the OPC.

The OPC also provides drafting advice to the Department in the drafting of the General Scheme / draft Heads.