

# Legislative Council

## History

The Parliament of Western Australia has, as its genesis, an Order-in-Council issued in England in November 1830, and received and published in Western Australia in December 1831<sup>1</sup>. The Order-in-Council allowed for the establishment of a Legislative Council to make all necessary laws and to constitute all necessary courts for the 'peace, order and good government of the settlement'.

The Legislative Council, also known as the upper house, is based on the House of Lords in Britain where in the 13th century they formed two houses of Parliament. The House of Lords, having representatives of the religious leaders (Lord Spiritual) and magnates (Lord Temporal) came to be known as the upper house.

The House of Lords is superior in degree to the House of Commons as it has both a legislative and judicial function. The House of Lords is the highest court of appeal in both civil and criminal cases. Following a general election in 1889, the colony's sole house, the Legislative Council, met and decided unanimously on a resolution in favour of responsible government for the colony.

A constitution bill was passed and forwarded to the Secretary of State to the Colonies in London for presentation to the Imperial Parliament. The bill was eventually passed by the British Parliament, after some opposition, and received royal assent on 15 August 1890.

On 21 October of that year the act was proclaimed. This day became known as Proclamation Day, and for many years was celebrated with a public holiday.

<sup>1</sup> See the State Records Office of Western Australia website for more information: [www.sro.wa.gov.au](http://www.sro.wa.gov.au).

The effect of the new Constitution was to substitute the old Legislative Council for two houses of Parliament – the Legislative Council and the Legislative Assembly in order to form a true Parliament of Western Australia.



Legislative Council Chamber

## Membership and Term of Office

Members of the Legislative Council are elected for a fixed term of four years from the time they take their seats following their election. There is no way that the Legislative Council can be dissolved prior to the end of each four-year term, even if there is an early election for the Legislative Assembly.

In 1987 a system of proportional representation was introduced for Legislative Council elections whereby, as near as possible, the number of seats obtained by each political party reflects the percentage of votes that the party received. Under this system the state is divided into six regions, with each region being allocated six elected representatives. To be elected, a candidate needs to poll a certain quota of votes. This differs from the Legislative Assembly, where each electorate elects only a single member. The current regions are as follows:

Agricultural Region	6 Members
East Metropolitan Region	6 Members
Mining & Pastoral Region	6 Members
North Metropolitan Region	6 Members
South Metropolitan Region	6 Members
South West Region	6 Members



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## Role and Function

One of the principles of maintaining a bicameral Parliament in a system of responsible government is that the two houses should have different representational compositions. Consequently, in Western Australia, the members of the Legislative Council are elected from different geographical regions and by a different system of voting from the way in which members of the Legislative Assembly are elected. This means that the political composition of the Council may be different from that of the Assembly.

Before legislation can become law, it has to be supported by both houses. As the government is formed in the lower house, it generally has the numbers to pass legislation in that house. Because the upper house is elected by a different method of voting, the government of the day may not necessarily have a majority in both houses. This gives the Legislative Council an important role as a check on the government, particularly when the government does not have a majority in the upper house and needs to obtain the support of at least some non-government members in order to pass legislation.

Although the majority of government ministers are drawn from the Legislative Assembly, at least one minister (and usually more) is always an upper house member.



Legislative Council crest



Some of the functions of the Legislative Council are:

## Legislating

Any bill, apart from a money bill, can be initiated in the Legislative Council. In practice, most bills are introduced by the government in the Legislative Assembly; however, bills that are introduced in the Legislative Assembly must also be passed by the Council (just as bills that are introduced in the Council must also be passed by the Assembly).

## Monitoring and reviewing government legislation, administration and expenditure

The Council is often called a 'house of review' because of its function of monitoring and reviewing legislation and scrutinising the government's budget and the administration of government departments and other public agencies.

## Gathering information and publicising issues

One of Parliament's responsibilities is to inform the public of, and debate, the government's actions and any other matters of concern within our society. Procedures for carrying out these functions include:

- committees;
- Question Time; and
- other parliamentary procedures, including moving motions, conducting urgency debates, introducing bills, and presenting petitions on behalf of members of the public.

