

PROCESS CONVENTION

Standing Committee Review of Legislation

Application

This process convention does not apply to Appropriation Acts, Supplementary Appropriation Acts, Miscellaneous Statutes Amendment Acts or any other legislative initiative, for which legislative proposals are not normally required by Cabinet. It does not apply to bills administered by the Board of Management or Speaker of the Legislative Assembly.

Guiding Principles: **1, 2, 3, 4, 5, 6 and 9**

General Considerations

Given the role that Committee plays in reviewing legislation, it is fundamental to consensus government that the Standing Committee on Accountability and Oversight (AOC) have an opportunity to review legislative proposals and provide advice to Cabinet prior to its introduction in the Legislative Assembly.

Legislative proposals are Cabinet documents that must be kept confidential.

While Cabinet decisions on legislative proposals are pending, individual Ministers can not make any commitments regarding the initiative.

All advice and communication from AOC on legislative initiatives is addressed to the Government House Leader, as they have responsibility for the Government's legislative agenda.

AOC's review of legislative proposals may not be conclusive in terms of reaching full agreement prior to a bill's introduction in the Assembly. AOC's advice will guide the government in determining the advisability of proceeding.

Nothing in this process convention precludes Cabinet's prerogative to introduce bills in the Legislative Assembly or the right of Standing Committees and Regular Members to debate and introduce amendments to these bills.

Authority

This Process Convention is established under the authority of Caucus, the Executive Council and the Standing Committee on Accountability and Oversight. It may be amended by the agreement of all parties.

Process

1. A legislative proposal is prepared, signed by the Minister responsible and submitted to Cabinet via the Cabinet Secretariat.
 - a) The legislative proposal shall identify the complexity of the legislative initiative based on the following categories:
 - i) Low – such as minor or housekeeping amendments to existing legislation and codifies existing practices and policies;
 - ii) Medium – such as significant changes to existing legislation to expand the scope of an Act, introduce new powers or authorities, or codify new policies or practices; or
 - iii) High – such as a repeal or replacement of an existing Act, or introduces a new legislative scheme or regime.
 - iv) The descriptions of these categories are just guides, and some initiatives may fall into a different category based on scope.
 - b) The legislative proposal shall identify whether the legislation will be developed in accordance with the Indigenous Government Legislative Development Protocol so that the Process Convention on Introduction, Consideration and Enactment of Bills Drafted Pursuant to the Intergovernmental Council Legislative Development Protocol would apply. The legislative proposal shall identify where s. 22(2) of the *Northwest Territories Act*, SC 2014 may apply to a bill which would require the consent of the Governor in Council.
2. At the discretion of the Government House Leader or at the request of the sponsoring Minister, a legislative proposal may be reviewed by Cabinet before it is referred to the AOC.
3. Once reviewed and approved, the Government House Leader forwards the legislative proposal to the Chair of AOC. All Members are copied on this correspondence..
4. AOC shall review the legislative proposal. Where a legislative proposal identifies the initiative as high complexity, departmental officials should be prepared to provide a briefing on the proposal. AOC retains the prerogative to request a briefing on any legislative proposal. However, it is understood that at such a briefing officials cannot make changes to the proposal or make any commitments regarding the content of a bill.
5. AOC's advice on a legislative proposal is provided in a letter from the Chair to the Government House Leader. The sponsoring Minister is copied on this correspondence. As part of its response, AOC can indicate it does not agree with the Government's assessment of the Bills complexity.
6. AOC will work to provide a response to legislative proposals within six weeks of receipt. The Government House Leader will forward legislative proposals to AOC upon receipt

7. Upon receipt of AOC's advice and an assessment report by central agencies, the Government House Leader will arrange for the legislative proposal to be put before Cabinet for final consideration. The proposal, assessment report and AOC correspondence goes before Cabinet as a package.
8. The Government House Leader will, prior to the beginning of each sitting of the Legislative Assembly, provide Caucus with a list of bills anticipated for introduction in that sitting, and an overall update on the Government's legislative agenda.

A. Drafting of a Bill

1. Where a proposed Bill is being drafted in collaboration with a Technical Working Group or Indigenous Governments, the sponsoring Minister shall consider whether and how the appropriate Standing Committee could be engaged in the process. In doing so, the Minister may wish to consult with Committee.

B. Introduction of a Bill

1. After a Bill is read for the second time, the sponsoring Minister shall table a plain language summary of the bill in the Assembly and as per Subsection 6(1) of the *United Nations Declaration on the Rights of Indigenous Peoples Implementation Act* a Statement of Consistency. Where relevant, the summary may also include information on the purpose of the Bill, and engagement undertaken in developing the Bill.
2. Upon second reading of a Bill, where AOC and the Government House Leader agree that a high complexity legislative initiative requires a longer-period of review, the responsible Standing Committee shall seek unanimous consent to waive the Rules to provide a review period of 180 days.

C. Standing Committee Review of a Bill

1. On high complexity legislative initiatives, at the request of the Standing Committee, the sponsoring Minister may arrange for knowledgeable Departmental staff to accompany Standing Committees when they are conducting public hearings on a bill. The Departmental staff may be asked to provide a presentation on the Bill or answer any technical questions from the public that are referred to them by the Committee Chair. The sponsoring Minister and Standing Committee shall agree on the role of Departmental staff before any public hearing process begins.
2. At any time prior to clause by clause review of a Bill, the Standing Committee can request to meet with the sponsoring Minister and their officials to discuss technical or policy issues that have been raised during their engagement on the Bill.
3. All correspondence related to a Bill, shall be between the Government House Leader and the Chair of the Standing Committee reviewing the Bill, copying the sponsoring Minister, the Chief of Staff, the Clerk, the Deputy Clerk, House Procedure and Committees, the Manager, Research and Committee Advisory Services, Committee staff and the Director of Legislative Affairs and House Planning.

4. As early as possible, Standing Committee shall share with the Government House Leader and sponsoring Minister any amendments Committee will be proposing to the Bill. Similarly, the sponsoring Minister shall share as early as possible Cabinet's position on the amendments with Standing Committee. Recognizing this exchange may often occur during a sitting, Committee will seek to provide a minimum of 48 hours' notice of amendments prior to clause-by-clause review, and a Minister will seek to advise of Cabinet's position a minimum 2 hours prior to clause-by-clause review. When the Assembly is not sitting Committee will attempt to give as much notice as possible for Cabinet to consider any amendments that Committee is proposing.
5. Amendments to legislation moved and adopted by Committee during its clause by clause review, will fail unless concurred with by the sponsoring Minister. Any amendment not concurred with by the sponsoring Minister can be moved by a Member during Committee of the Whole review of the Bill.
6. The Standing Committee may, by way of a motion moved and adopted by Committee, report that a Bill not be proceeded with at the clause-by-clause review.
7. In the case of a bill that Standing Committee reports as not to be proceeded with, a motion is then required before the Bill can be considered in Committee of the Whole.
8. In a rare circumstance where a Standing Committee chooses to not report a bill back to the House, that bill will remain on the Orders of the Day and the Sponsor may give notice of intent to move the bill into Committee of the Whole for further consideration.

D. Review of Legislation Following Standing Committee's Report on the Bill

1. During clause-by-clause review of a bill in Committee of the Whole, any Member may move a motion to amend the Bill. If the motion is passed, the Bill is amended. Concurrence from the sponsoring Minister is not required.
2. A Member may also move amendments to a bill at third reading. If the motion is adopted by the Assembly, the bill is amended. Concurrence from the sponsoring Minister is not required.
3. All motions to amend a bill must be in writing and in English and French.

Chair, Caucus

Date

Chair, Executive Council

Date

Chair, Standing Committee on
Accountability and Oversight

Date