

PROCESS CONVENTION

Introduction, Consideration and Enactment of Bills Drafted Pursuant to the Intergovernmental Council Legislative Development Protocol

Application:

This Process Convention applies to bills drafted in cooperation with Indigenous Governments pursuant to the Intergovernmental Council Legislative Development Protocol (the “Protocol”).

For greater clarity, the Protocol forms the basis of a cooperative process of development of legislation and regulations with respect to lands and resources between Intergovernmental Council (IGC) Indigenous Governments and the lands and resources departments of the GNWT.

Guiding Principles:

1. The devolution of jurisdiction over lands and resources to the Northwest Territories in 2014 was not merely a transfer of legislative jurisdiction from the Government of Canada to the Government of the Northwest Territories. Rather, it was a commitment to ensuring that decisions about NWT lands and resources are made cooperatively by public and Indigenous governments in the Northwest Territories.
2. The relationship between the GNWT and the IGC Indigenous Governments, particularly as it relates to the development of land and resources legislation resulting from Devolution, is a government-to-government relationship. IGC Indigenous Governments are not merely “stakeholders” in the drafting and consideration of legislation.
3. This Process Convention shall not detract from, or in any way limit, the Inherent right to self-government of Indigenous Governments or infringe upon their own sovereign decision-making processes and structures.
4. This Process Convention shall not detract from the recognized privileges of the Legislative Assembly, its Members or committees.
5. This Process Convention shall not detract from the privileges and authorities of the Executive Council of the Government of the Northwest Territories or its individual Ministers.

Authority

This Process Convention is established by the agreement of the IGC and the Caucus, Executive Council and Standing Committee on Accountability and Oversight (AOC) of the NWT Legislative Assembly and may be amended with the agreement of all parties.

Process

The procedures laid out in this Process Convention apply exclusively to lands and resources bills drafted pursuant to the Protocol. They commence with the drafting of a Legislative Proposal and do not apply to the research and drafting of a bill by a Technical Working Group or other processes detailed in the Protocol.

For clarity, where this Process Convention requires that the Government House Leader (GHL) or a Minister advise or notify the IGC of process steps, make invitations to the IGC, or forward correspondence to the IGC, those requirements will be fulfilled if the required action is fulfilled by the GHL or Minister or by a designate of the relevant office.

Similarly, where this Process Convention requires or allows for the notification of, sharing of correspondence or draft amendments with, or the attendance and participation in committee meetings by the IGC, those requirements may be fulfilled by IGC elected leaders, representatives of the IGC Secretariat or a duly appointed Technical Working Group. As noted below, attendance on the floor of the Chamber of the Legislative Assembly to witness the Assent to Bills drafted under this Process Convention is restricted to elected leaders.

1. Legislative Proposal:

- a) A Legislative Proposal is drafted and signed by the sponsoring Minister and forwarded to AOC by the GHL. The GHL may refer a Legislative Proposal to Cabinet for review prior to referral to AOC.
- b) The Legislative Proposal shall indicate that the bill is to be drafted in accordance with the Protocol. It shall include details on the collaborative work that has taken place to date, the plan for further collaboration through the establishment of a Technical Working Group and any significant areas of disagreement that have arisen to date or are expected to arise. It will also identify the non-IGC Indigenous Governments and Organisations that have been invited to participate on a Technical Working Group.
- c) AOC shall review the Legislative Proposal and may request a briefing from the sponsoring Minister prior to providing its advice.
- d) AOC's advice on a Legislative Proposal is provided in a letter from the Chair to the GHL, copied to the sponsoring Minister. AOC will provide its advice on a Legislative Proposal within six weeks of its receipt, subject to its meeting schedule. AOC's advice on the Legislative Proposal will indicate which standing committee the bill will be referred to once Second Reading has been given.
- e) Upon receipt, the GHL will forward AOC's advice on the Legislative Proposal, and any subsequent exchanges between the GHL and AOC on the Legislative Proposal, to the IGC.
- f) The Legislative Proposal and all correspondence associated with it are confidential documents. All correspondence with the standing committee at the Legislative Proposal stage will be between the Chair of AOC and the GHL.

2. Introduction of a Bill

- a) The GHL, with copy to the sponsoring Minister, will advise the IGC of Cabinet's intention to give Notice of Motion of First Reading of a bill drafted under the Protocol. To allow some flexibility with House scheduling, this notice will identify the sitting week that Notice of Motion will be given but, in any case, will be provided at least two calendar days in advance.
- b) In speaking to Second Reading of a bill, the sponsoring Minister will advise the House that the bill has been drafted under the Protocol.
- c) Immediately following Second Reading, the chair of the standing committee to which the bill will be referred will seek unanimous consent of the House to waive the Rules of the Legislative Assembly and increase the committee's review period from 120 to 180 days.

3. Standing Committee Review

- a) All correspondence related to a bill at committee stage shall be between the standing committee and the GHL, with copy to the sponsoring Minister. The GHL will forward all correspondence of this nature to the IGC.
- b) If the standing committee requests a briefing from the sponsoring Minister before it commences public hearings, the Minister will invite representatives of the IGC to attend and participate.
- c) When scheduling public hearings on a bill, the standing committee shall consider conducting public hearings in those regions and communities that are not part of the IGC or did not participate on the Technical Working Group in addition to those that are.
- d) The standing committee will communicate directly with appropriate Indigenous Governments and Organisations when planning public hearings on a bill in their region or community and invite them to attend and participate in public hearings or schedule separate hearings to hear from them privately.
- e) The standing committee will endeavor to complete its public hearings within 120 days of the bill's referral, even if an extension has been granted in accordance with 2(c) above.
- f) To ensure adequate time for consideration and dialogue by the IGC, proposed amendments to the bill by either the standing committee or a private member should be shared with the GHL at least 28 calendar days before the day scheduled for clause-by-clause review of the bill.
- g) All proposed amendments to a bill will be shared by the GHL with the IGC. Following further collaboration with the IGC, the GHL will share Cabinet's response to the proposed amendments with standing committee and the IGC no later than seven days before the day scheduled for clause-by-clause review of the bill. This response will include a summary of discussions held on the proposed amendments by IGC members.
- h) If preliminary meetings with standing committee are required to discuss the proposed amendments prior to clause-by-clause review, the sponsoring Minister will invite representatives of the IGC to attend and participate.

4. Clause-by-clause Review

- a) The sponsoring Minister will invite IGC representatives to attend the clause-by-clause review of the bill and may refer questions and comments from the committee to one or more of these representatives for response.
- b) Any Member of the standing committee may propose amendments to the bill in accordance with the Rules of the Legislative Assembly and vote on these amendments as they see fit.
- c) The sponsoring Minister retains the exclusive right to concur with any amendment adopted at committee stage and will withhold concurrence if notice of the amendments was not provided in accordance with 3(g) of this process convention.
- d) An amendment that is defeated or not concurred with at committee stage may be reintroduced during Committee of the Whole review of the bill.

5. Committee of the Whole Review

- a) When a sponsoring Minister appears before Committee of the Whole to review a bill, and with Committee's agreement, the Minister will invite no more than two representatives of the IGC to appear in the Chamber as witnesses. These witnesses will be in addition to the departmental officials who normally appear with the Minister and are intended to represent all IGC Indigenous Governments involved in drafting the bill.
- b) These additional witnesses will be invited into the Chamber following the Minister's Opening Comments on the bill and before general comments from committee and clause-by-clause review.
- c) In Opening Comments, the Minister will remind the House that the bill has been drafted under the Protocol and will make reference to any non-IGC Indigenous Governments and Organizations that participated in the bill's drafting.
- d) With the agreement of the Chair, the Minister may refer any questions or comments on the bill or a proposed amendment to any of the witnesses present in the Chamber. The Minister will not unreasonably refuse to refer a question asked by a Member to a specific IGC witness.
- e) Any Member may move an amendment to a bill during clause-by-clause review in Committee of the Whole. If the motion is carried, the bill is amended. Concurrence of the sponsoring Minister is not necessary.
- f) Witnesses may remain in the Chamber during clause-by-clause review of the bill. The Minister shall return to their normal seat in the Chamber to vote on proposed amendments. Only Members of the Legislative Assembly may vote in Committee of the Whole.

7. Third Reading

- a) Any Member may move an amendment to a bill at Third Reading. If the Motion is carried by the Assembly, the bill is amended. Concurrence of the sponsoring Minister is not necessary.

8. Assent

- a) Prior to inviting the Commissioner to Assent to a bill that has been drafted under this Process Convention, the Speaker, with the concurrence of the House, will invite elected leaders of the IGC Indigenous Governments and any non-IGC Indigenous Government who participated in the drafting of the bill, to enter the Chamber and observe the proceedings from a place of prominence on the Chamber floor.

Smortselos

Chair of Caucus

March 6, 2023

Date

Caroline Cochrane

Premier

March 6th, 2023

Date

Kiwi Kelly

Chair, Standing Committee on AOC

March 6, 2023

Date

