

35th Yukon Legislative Assembly



**Tenth Report
of the
Standing Committee on Rules, Elections and
Privileges**

Remote Participation

March 7, 2024



Yukon Legislative Assembly

Standing Committee on Rules, Elections and Privileges

35th Yukon Legislative Assembly

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Hon. Jeremy Harper, MLA
Speaker
Yukon Legislative Assembly

Dear Speaker:

On behalf of the members of the Standing Committee on Rules, Elections and Privileges, appointed by order of the 35th Yukon Legislative Assembly, I have the honour to present the committee's tenth report.

Respectfully,

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke at the end, positioned above a horizontal line.

Hon. Richard Mostyn, Chair
Standing Committee on Rules,
Elections and Privileges

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Preface

The Standing Committee on Rules, Elections and Privileges

On May 17, 2021, the Yukon Legislative Assembly adopted the following motion, as amended:

THAT the Hon. Richard Mostyn, the Hon. John Streicker, Patti McLeod, Brad Cathers, and Annie Blake be appointed to the Standing Committee on Rules, Elections and Privileges established pursuant to Standing Order 45(1);

THAT the committee meet a minimum of four times each calendar year;

THAT the committee convene no later than 30 days after the adoption of this motion by the Assembly;

THAT the committee have the power to call for persons, papers, and records and to sit during intersessional periods;

THAT the committee review, as necessary, such standing orders as it may decide upon;

THAT the committee, following the conduct of any such review, report any recommendations for amendment to the Assembly; and

THAT the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the committee.

(Motion No. 9)

Pursuant to this Order of the House and Standing Order 45(1), the Standing Committee on Rules, Elections and Privileges met four times in 2021 (June 11, August 17, September 21, and December 21), five times in 2022 (February 10, 17 and 24, and October 14 and 17), four times in 2023 (April 4 and 18, August 9, and December 13), and thrice to date in 2024 (January 17, February 13 and March 5), to review the Standing Orders of the Yukon Legislative Assembly.

Lane Tredger served as a substitute for committee member Annie Blake at the meetings from June 2021 through February 2022. On April 14, 2022, the Legislative Assembly amended the membership of the committee with the adoption of Motion No. 302, thereby replacing committee member Annie Blake with Lane Tredger.¹ The Hon. Nils Clarke served as a substitute committee member for the Hon. Richard Mostyn on January 17, 2024.

¹ Motion No. 302 identifies Lane Tredger as Emily Tredger. MLA Tredger changed their name March 29, 2023.

This report

This tenth report contains the committee's recommendations regarding remote participation in sittings of the Legislative Assembly.

The Standing Committee on Rules, Elections and Privileges discussed the topic of hybrid sittings and participation by video conference at its meetings on April 4, August 9, and December 13, 2023, and January 17, February 13, and March 5, 2024.

Previous Sessional Orders for Video Conference Participation

The following sessional order, Motion No. 744, was passed (as amended) by the House on October 12, 2023.²

THAT, for the duration of the 2023 Fall Sitting, any Member of the Legislative Assembly who is unable to attend sittings of the House in person due to illness may participate in the sittings of the House by video conference, notwithstanding Standing Order 8 or any other Standing Order, and by video conference shall:

- (1) be recognized to speak in debate, notwithstanding Standing Order 17;
- (2) be permitted to vote, notwithstanding Standing Order 25;
- (3) be permitted to participate in counts in Committee of the Whole, notwithstanding Standing Order 44 and Standing Order 44.1;
- (4) contribute to constituting quorum in the Legislative Assembly, under Standing Order 3 and the *Yukon Act*; and
- (5) be considered to have attended the sitting of the Legislative Assembly, with no deduction of indemnity required under subsection 39(5) of the *Legislative Assembly Act*.

Sessional orders adopted for the 2022 Spring Sitting (Motion No. 294), the 2022 Fall Sitting (Motion No. 427) and the 2023 Spring Sitting (Motion No. 586) required a Member of the Legislative Assembly to be unable to attend "due to COVID-19 symptoms, illness, or protocols". Similar sessional orders to permit participation by teleconference due to COVID-19 reasons were passed in the 2021 Fall Sitting (Motion No. 84) and the 34th Legislative Assembly's 2020 Fall Sitting (Motion No. 213) and 2021 Spring Sitting (Motion No. 420).

² Hansard October 12, 2023 pages 3948-3951

Current Standing Orders

The sessional orders regarding participation in sittings of the House via video conference make reference to several standing orders which were necessarily suspended to permit members to participate remotely.

Standing Order 8

Attendance of Members

- 8 Every member is bound to attend the service of the Assembly, unless leave of absence has been given by the Speaker. *Attendance of Members*

As noted in the *Annotated Standing Orders of the Yukon Legislative Assembly*,

One of the privileges of the Assembly is the authority to maintain the attendance and service of its Members. The Assembly has first call on the service of a member when the House is in session. This is the basis of certain privileges that members enjoy, including exemption from being called for jury duty and from being subpoenaed to attend court proceedings as a witness when the House is in session.³

Standing Order 17

Member Recognized by the Speaker

- 17 (1) Every member desiring to speak shall rise in his or her place and address the Speaker. *Member speaking*
- (2) When two or more members rise to speak, the Speaker shall call upon the member who, in the Speaker's opinion, first rose but a motion may be made that any member who has risen "be now heard" and the motion shall be put immediately without debate or amendment. *Members rising simultaneously*

House of Commons Procedure and Practice states:

A Member must be in his or her designated place and must stand in order to be recognized to speak. The Speaker may, however, exempt any Member with a disability from these requirements on an ongoing basis. Otherwise, temporary individual exceptions to these two conditions have occurred, for example, when a Member has been unable to rise as a result of an injury or illness.⁴

³ *Annotated Standing Orders of the Yukon Legislative Assembly*, May 5, 2021, page 15.

⁴ *House of Commons Procedure and Practice*, Third Edition, 2017, page 610.

Standing Order 25

- 25 (1) A division shall be called
 - (a) if two members rise in their places and say “division”; or
 - (b) if the Speaker is unable to ascertain the count from the voice vote.
- (2) When a division is called for, either before the question is put or after the voice vote, the Speaker shall immediately ring the division bells.
- (3) Once the bells have started ringing, no further debate shall be permitted.
- (4) The Speaker shall stop the bells, state the question and order the taking of the division after the bells have rung for two minutes if all members are present in the Chamber or after five minutes if all members are not present in the Chamber.
- (4.1) The Speaker may stop the bells, state the question and order the taking of the division after two minutes and prior to the expiration of five minutes if all the House Leaders and all independent members have indicated to the Speaker that they would not object to proceeding with the division even though all members are not present in the Chamber.
- (5) No member shall enter or leave the Assembly during the final statement of the question, nor then leave the Assembly until the division has been fully taken and the result announced.
- (6) Each member present shall vote unless he or she has a direct pecuniary interest. *Each Member shall vote*
- (7) Upon a division, the Yeas and Nays shall be entered in the Votes and Proceedings.

The current standing orders regarding divisions make reference to members being present in their places and not entering or leaving the Chamber.

Standing Order 44 and Standing Order 44.1

Count in Committee of the Whole

- 44 (1) Upon the request of two members, a count shall be called on any question. *Count in Committee of the Whole*

- (2) When a count is called for, either before the question is put or after the voices have been given, the Chair shall immediately ring the division bells.
- (3) Once the bells have started ringing, no further debate shall be permitted.
- (4) The Chair shall stop the bells, state the question and order the taking of the count after the bells have rung for five minutes.
- (5) The Chair may stop the bells, state the question and order the taking of the count prior to the expiration of five minutes if:
 - (a) all members are present in the Chamber; or
 - (b) the House Leaders have indicated to the Chair that they would not object to proceeding with the count even though all members are not present in the Chamber.

In comparison to the provisions for video conferences, the earlier sessional orders for participation by teleconference during the COVID-19 pandemic notably lacked the option for members to participate in a count in Committee of the Whole. During a count, “[u]nlike a division with the Speaker in the Chair, the clerk at the table does not poll members individually and there is no formal division sheet that records each member’s vote.”⁵

Standing Order 3

Quorum

- 3 (1) Pursuant to section 15 of the *Yukon Act* a majority *Quorum* of the members of the Legislative Assembly, including the Speaker, is necessary to constitute a meeting of the Assembly for the exercise of its powers, but if there is not a quorum, the Speaker shall take the Chair and adjourn the Assembly until the next sitting day.
- (2) If, at any time during a sitting of the Assembly, the Speaker’s attention is drawn to the fact that there does not appear to be a quorum, the Speaker shall cause the bells to ring for four minutes and then do a count. If there is still not a quorum, the Speaker shall adjourn the Assembly until the next sitting day.

⁵ *Annotated Standing Orders of the Yukon Legislative Assembly*, May 5, 2021, page 68.

- (3) Eight members, including the Chair, shall constitute a quorum in Committee of the Whole.
- (4) While in Committee of the Whole, if the Chair's attention is drawn to an apparent lack of a quorum, the Chair shall ring the bells for four minutes and then do a count. If there is still not a quorum, the Chair shall report the matter to the Speaker, who shall repeat the procedure. If, on the Speaker's count, a quorum is present, the Assembly shall resolve itself into Committee; otherwise, the Speaker shall adjourn the Assembly until the next sitting day.
- (5) If the Speaker or the Chair believes a quorum to have been established before four minutes have elapsed, the bells shall be stopped and a count done.
- (6) Whenever the Speaker adjourns the Assembly for want of a quorum, the time of the adjournment and the names of the members then present shall be entered in the Votes and Proceedings.

Affected Guidelines and Practices

In addition to the standing orders that need to be addressed to permit hybrid sittings, current guidelines and established practices must be adapted to accommodate remote participation.

Guidelines for the Use of Electronic Devices in the Chamber

The Guidelines for the Use of Electronic Devices in the Chamber were adopted on October 29, 2012⁶ and are included as an addendum to the Standing Orders. The guidelines state that MLAs should not use electronic devices during the following times:

- a. Whenever the Commissioner of Yukon is present to deliver the Speech from the Throne, to grant Assent to bills; or for any other official or ceremonial purpose.
- b. Whenever the Speaker is offering prayers, ruling on a point of order, giving a statement on a procedural (or other) matter; or putting a motion to the House.
- c. During the Oral Question Period.

⁶ The explanatory note in the October 30, 2012 edition of the Standing Orders of the Yukon Legislative Assembly states: "An Addendum has been added to include the October 29, 2012 agreement among the House Leaders and the Independent Member regarding guidelines for the use of electronic devices in the Legislative Assembly Chamber."

- d. When a point of order or question of privilege is raised.
- e. During the taking of a Division, or during a Count in Committee of the Whole.
- f. At any other time so designated if, in the opinion of the Speaker or Chair of Committee of the Whole, the use impinges on the decorum or dignity of the proceedings.⁷

The guidelines also note that “Electronic devices may not be used as a recording device, camera, or pager.”⁸

Members who are participating remotely are not “in the Chamber” and therefore not restricted by the guidelines for electronic devices.

Electronic signatures and hard copy documents

On October 23, 2023, the Hon. Jeremy Harper made the following Speaker’s Statement:

Last Tuesday, October 17, the Minister of Health and Social Services participated in the proceedings of the Assembly by video conference, and during the Daily Routine, she gave oral notice of a motion. A paper copy of the motion was then provided to the Table.

Members will note that the motion, Motion No. 777, is currently on the Order Paper. The Sessional Order adopted on October 12, 2023, when Motion No. 744 carried as amended, allows members to participate in sittings by video conference when they are unable to attend in person due to illness. Providing notice of motion was not one of the permissible actions explicitly listed in the Sessional Order.

I have, however, determined that the intent of the Sessional Order is to authorize the full remote participation of MLAs when they are ill and that the Order of the House can be interpreted to permit members to perform all actions by video conference that they could perform while physically present in the Chamber.

As Speaker, it is my responsibility to ensure that each MLA’s right to be heard in the House is respected. I will note that the one exception that I think is warranted would be presiding over proceedings. The Chair must be physically present to ensure the proper operations of the Assembly.

On a related matter, our previous practice was to only accept on motion forms “wet” signatures — that is, original signatures in pen and not electronic, printed, or copied signatures. While our Standing

⁷ Standing Orders of the Yukon Legislative Assembly, Guidelines for the Use of Electronic Devices in the Chamber, Specific Rules, 1.

⁸ Standing Orders of the Yukon Legislative Assembly, Guidelines for the Use of Electronic Devices in the Chamber, Specific Rules, 5.

Orders still require motions to be provided in writing, I have decided to permit MLAs to submit motions, amendments, and committee reports with printed electronic signatures.

This will assist the Clerks and members in processing forms for the Assembly as newer photocopiers provide nearly perfect representations of wet signatures and it is very difficult to distinguish from a photocopy or an inserted electronic signature. This will also allow members who are participating electronically to fully participate in proceedings.

I will note that the use of electronic signatures on forms does not apply to petitions.

The current Sessional Order on video conference participation will expire at the end of this Sitting. I urge the Standing Committee on Rules, Elections, and Privileges to consider providing more fulsome guidelines should a decision be made to make remote attendance permanent.⁹

As noted in the statement, electronic signatures are currently permitted on tabled documents with the exception of petitions which continue to require original “wet” signatures.

Printed hard copies are currently required for all tabled documents, including sessional papers, legislative returns, filed documents, committee reports, bills, amendments, notices of motions and petitions. These documents are stamped, dated and numbered at the Table and form part of the Legislative Assembly’s working papers which are the permanent archived records of the Assembly.

Technical and administrative challenges

Advance notice

To facilitate video conference participation, the Legislative Assembly Office must be informed with sufficient notice to set up a Zoom meeting and send the link to the members participating as well as the Hansard staff and video and audio recording contractors. A system test with the participating members and contractors prior to the start of the sitting is important for troubleshooting technical problems that could impact the sitting.

The Standing Committee on Rules, Elections and Privileges recommends

THAT the Speaker and Clerk of the Legislative Assembly be notified directly *as soon as possible* when a member wishes to participate in a sitting by videoconference.

⁹ Hansard October 23, 2023 page 4081

Video conference coordinator

To smoothly operate a video conference a staff person will be required to preform the following tasks:

- Set up the Zoom meeting
- Provide meeting details to participants and contractors
- Test audio and video with participants prior to sitting
- Monitor the video conference to inform the Table and Speaker of technical issues
- Manage the display on the screens in Chamber
- Monitor chat to respond to questions from participants
- Provide updates through chat to participants such as notice of 5-minute bells, or length of speaking time remaining
- Mute or request participants unmute as necessary

Audio control

The audio console system in the Chamber is operated by Hansard staff. There is currently no ability to mute video conference audio through the console – it must be done by the Zoom host. It is also not possible to unmute a participant’s microphone, members participating remotely must unmute themselves.

Remote participants are only able to hear audio from microphones that are turned on. They cannot hear off mic remarks such as the Speaker’s warnings about speaking time remaining. When the Speaker calls for order, all other microphones are shut off and this can appear more abrupt for remote participants.

All audio coming from remote participants is received by the console system as a single source. Hansard and the Legislative Assembly Office are not able to pull automatically generated microphone data for remote participants.

Potential technical problems

Remote participation in proceedings will be reliant on multiple technical systems that can potentially have problems.

The Legislative Assembly currently uses Zoom. Should Zoom be temporarily out of service the systems are not set up to be able to easily switch to a different video conference service.

Internet connectivity and bandwidth issues are a common problem in Yukon, especially in certain rural areas.

Review

Due to the constantly evolving nature of the technology for remote participation, further amendments to the Standing Orders may be required in the future.

The Standing Committee on Rules, Elections and Privileges recommends:

THAT, following the adoption of new provisions for virtual sittings, the standing orders regarding video conference participation be reviewed:

- (1) following the one-year anniversary of the relevant new standing orders; and**
- (2) after an occasion when a majority of the Members of the Legislative Assembly participate remotely.**

New Chapter of the Standing Orders

After careful consideration of the matter, the committee has prepared a new chapter for the Standing Orders of the Yukon Legislative Assembly to create permanent provisions for remote participation in sittings.

The Standing Committee on Rules, Elections and Privileges recommends:

THAT the Standing Orders of the Yukon Legislative Assembly be amended by adding Chapter 15: Remote Participation.

Chapter 15: Remote Participation

Remote Sittings in Extraordinary Circumstances

- 78 The Speaker may direct that one or more sitting days occur remotely when: *Direction for Assembly to sit remotely*
- (a) a state of emergency or public health emergency has been declared;
 - (b) unusual circumstances make it unsafe or unfeasible for the Assembly to meet at its regular location; or
 - (c) the Speaker is satisfied, after consultation with the House Leaders, that the health and safety of members would be at risk by meeting in person.

Permitting Member to Participate Remotely

- 79 (1) The Speaker may, upon the request of a member at least three hours before the start of the sitting, allow that member to participate in a sitting day by video conference when: *Speaker may allow member to participate by video conference*
- (a) a state of emergency or public health emergency has been declared where the member is located that would prevent travelling to participate in a sitting;
 - (b) unusual circumstances make it unsafe for the member to travel to participate in a sitting;
 - (c) the Speaker is satisfied that the health and safety of the member, or the immediate family of the member, would be at risk if the member was required to participate in the sitting in person; or
 - (d) the Speaker is satisfied that the health and safety of other members and officers of the Legislative Assembly would be at risk if the member was required to participate in the sitting in person.
- (2) When making a decision to permit participation by video conference, the Speaker shall consider the circumstances of the member. *Considerations for allowing remote participation*

Rules for Participation by Video Conference

- 80 As far as they are applicable, the rules and procedures of the Legislative Assembly shall be observed when one or more members are participating remotely. *Rules of Assembly to be observed*
- 81 In addition to all rules and usual practices of the House, the following provisions shall apply to remote and hybrid House proceedings: *Additional rules for remote and hybrid sittings*
- (a) members who participate remotely in a sitting are counted for the purpose of quorum and are considered to have attended the sitting; *Remote members counted for quorum*

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| | (b) | any reference in the Standing Orders to the need for members to rise or be in their place, as well as any reference to the Table or the Chamber shall be interpreted in a manner consistent with the virtual nature of the proceedings; | <i>Interpretation of standing orders in virtual context</i> |
| | (c) | members participating remotely may introduce bills, table documents and present committee reports electronically, provided that the documents are received by the Clerk at the Table by the time of the tabling or presentation of the documents; | <i>Documents tabled electronically</i> |
| | (d) | members participating remotely may present petitions if the original documents are filed with the Clerk at the Table; | <i>Presenting petition remotely</i> |
| | (e) | when participating remotely, a member may move an amendment, provided that the amendment is received by the Clerk at the Table; | <i>Moving amendment remotely</i> |
| | (f) | a written notice of motion may be filed electronically, provided that the notice is received by the Clerk at the Table before 5:00 p.m.; | <i>Electronic notice of motion</i> |
| | (g) | the transmission of a document required for the continuation of proceedings by the Clerk to members by electronic means constitutes for all purposes the distribution and delivery of that document, regardless of whether a member has received the document. | <i>Electronic transmission of documents by the Clerk</i> |
| 82 | | A member appearing by video conference must be clearly visible to be recognized by the Speaker. | <i>Member clearly visible</i> |
| 83 | (1) | A member appearing by video conference must ensure the background displayed is neutral and not distracting. | <i>Video backgrounds neutral and not distracting</i> |
| | (2) | If the Speaker believes a video conference background is distracting or not neutral, the Speaker may order the member to change the background. | <i>Order to change video background</i> |

Divisions During Remote or Hybrid Sittings

- 84 (1) When the Speaker orders the taking of a division, each member participating remotely in the division shall vote when called by the Clerk. *Remote members voting*
- (2) Members participating by video conference must be clearly visible from the time the Speaker orders the taking of the division until the division has been fully taken and the result announced. *Remote members visible during division*
- 85 (1) If a member appearing remotely loses connection during the taking of a division, the Speaker may suspend proceedings for up to three minutes. If the member does not regain connection within three minutes, the Clerk shall provide the Speaker with the results of the division, and not record a vote for that member. *Lost connection during division*
- (2) In the event of a delay due to technical issues during the taking of a division, the normal hour of adjournment shall be delayed by an equivalent length of time. *Delay due to technical issues during division*

Counts in Committee of the Whole During Remote or Hybrid Sittings

- 86 When the Chair orders the taking of a count in Committee of the Whole, any members participating by video conference shall indicate their votes to the Clerk. *Remote counts*

Speaker to Ensure Effective Remote Participation of Members

- 87 (1) In extraordinary circumstances when multiple members are unable to connect remotely, the Speaker or Chair may suspend all or a portion of proceedings during a sitting day to ensure the full participation of members. *Suspending sitting day in extraordinary circumstances*
- (2) If a member appearing remotely loses connection while they have the floor, the Speaker or Chair may suspend proceedings for up to three minutes. If the member regains connection within three minutes, the member shall complete their speech. *Member losing connection during speech*
- (3) In the event of a suspension of all or a portion of the proceedings during a sitting day due to technical issues, an equivalent length of time shall be added to the Sitting. *Time added to Sitting for suspension due to technical issues*