

**REPORT FROM THE CLERK OF THE
YUKON LEGISLATIVE ASSEMBLY
ON THE ABSENCE OF MEMBERS
FROM SITTINGS OF THE LEGISLATIVE ASSEMBLY
AND ITS COMMITTEES**

Date: October 1, 2020

INTRODUCTION

Subsections 39(5) and 39(6) of the *Legislative Assembly Act*, R.S.Y. 2002, c.136 state:

- 39(5) From the indemnity payable to a member under this section a deduction of \$100 shall be made
- (a) for each day the member is absent from a sitting of the Legislative Assembly;
 - (b) for each day the member is absent from a sitting of a committee of which they are a member, if the absence is not excused by the rules of the committee providing for another member of the Legislative Assembly to take the place of the absent committee member; and
 - (c) for each day the member is named and suspended from the service of the Legislative Assembly.
- (6) No deduction shall be made under subsection [5] in respect of any absence resulting from
- (a) the sickness of the member;
 - (b) a sickness or death in the immediate family of the member;
 - (c) any cause beyond the reasonable control of the member as determined by the Speaker; or
 - (d) the attendance of the member at any meeting or event as a member of the Executive Council, as a representative of the Government of the Yukon or as a representative of the Legislative Assembly.

The Members' Services Board establishes the administrative procedures followed in implementing this legislation. On November 10, 1981 the Board provided the following direction:

- (1) Each M.L.A. is responsible for declaring his absence from a sitting of the Assembly or of a committee. This is to be done by filing a statement with the Clerk outlining the sitting missed and requesting the required deduction from the member's indemnity.
- (2) The Clerk is to prepare a report to be tabled by the Speaker describing the occasions on which deductions have been made from members' indemnities. This report will normally be tabled near the beginning of a sitting of the Assembly.
- (3) Proper notice should be given of committee meetings to protect members from missing meetings which are called on the spur of the moment and for which a member would thereby be liable to lose pay. The Board urges that forty-eight hours' notice of committee meetings be given when the House is in session and two weeks' notice be given when the House is not in session or is in a period of lengthy adjournment.

The Board reviewed these procedures on June 13, 1995 and the following is an extract from the Minutes of that meeting:

It was noted that there have been occasions on which Members have been absent from sittings of the Assembly and no request has been made for a

deduction to be made from their MLA indemnity pursuant to section 39 of the *Legislative Assembly Act*. Discussion then took place on the interpretation which can be placed on the wording of the law in respect to those situations in which a Member can be absent without claiming a deduction from the indemnity.

AGREED, THAT the Clerk develop, for consideration by the Board, a form which could be used by Members of the Legislative Assembly to declare their absence from sittings of the Assembly and to:

- (a) request that a deduction of \$100 be made from their indemnity for each day of absence, or
- (b) provide reasons for their absence when they are not requesting a deduction from their MLA indemnity.

FURTHER AGREED, THAT such forms would be submitted to the Clerk and that the Clerk would include them in reports to the Legislative Assembly on the absence of Members and deductions from Members' indemnities.

The Board at its meeting of November 9, 1995 approved forms for declaring absence from sittings of the Assembly and of sittings of committees of the Assembly.

The absence of Members from sittings of the Assembly and its committees was brought to the attention of the Board at its meeting of January 15, 2010. At issue were inconsistencies in the way in which Members completed the declaration forms. The Board

AGREED, THAT if a member requests no deduction and the reason given does not fall within the list of acceptable absences pursuant to section 39 [5] and [6] of the *Legislative Assembly Act*, then the Director, Administration, Finance & Systems will request that the Speaker of the Yukon Legislative Assembly determine if the reason for being absent falls within the exceptions identified in subsection [6].

At its meeting on July 25, 2017 the Board was again advised that there were inconsistencies in the manner in which MLAs were completing their declarations respecting absence from a sitting or committee meeting of the Yukon Legislative Assembly. The Board

AGREED on motion of Brad Cathers, seconded by Hon. Tracy-Anne McPhee, THAT the Director, Administration, Finance & Systems advise all MLAs that they must adhere to section 39 of the *Legislative Assembly Act*.

FURTHER AGREED, THAT the absence form will be amended to include only the acceptable reasons for no deductions; THAT the Director, Administration, Finance & Systems (Director) will advise all MLAs that if the reason for their absence from a sitting or committee meeting of the Yukon Legislative Assembly does not comply with one of the four acceptable reasons identified on the form that \$100.00 will be deducted from their indemnities; and THAT the Director will notify MLAs that attending a constituency event, funeral for a constituent, caucus event, etc. does not fall under the category of attending an event "as a representative of the Legislative Assembly" and therefore does not constitute an acceptable reason for absence.

REPORT

For the period from March 5, 2020 to September 30, 2020, two statements were submitted to the Clerk respecting absence from a sitting of the 34th Legislative Assembly. In both of these statements a reason was provided for the absence of the member and no deduction was made from the member's indemnity. The member's name, the dates absent and the reasons provided for each absence are as follows:

Declaration of absence and reason provided

<u>Member</u>	<u>Date(s) Absent</u>	<u>Reason Given For Absence</u>
(1) Don Hutton	March 10, 11, 12, 16 and 17, 2020.	"Sickness of the member." (paragraph 39(6)(a))
(2) Ranj Pillai	March 11, 12, 16, 17 and 18, 2020.	"Sickness of the member: Advised by physician to obtain COVID testing" (paragraph 39(6)(a))

For the period from March 5, 2020 to September 30, 2020, no statements were submitted to the Clerk respecting an absence from a sitting of a committee of the 34th Legislative Assembly.



Dan Cable, Clerk
Yukon Legislative Assembly