

3.3 Submissions to Executive Council

There are two main forms used for submissions to Executive Council: (1) Report and Recommendation, and (2) Memorandum to Executive Council. This chapter will briefly explain the distinction between the forms and provide some additional advice on how to complete them.

Report and Recommendation to Executive Council

Matters delegated by the Legislature in statutes to the Governor in Council (Lieutenant Governor acting with the advice of Executive Council) are documented and submitted to the Executive Council Office by the responsible minister in a Report and Recommendation to the Executive Council, commonly referred to as an R&R.

An R&R is required to effect an Order in Council. The R&R should be prepared by the department officials who are familiar with the subject matter and understand the legislation being relied upon for authority to recommend a particular course of action to the Executive Council.

The solicitor assigned to the department will outline the legislative authority for the request in the R&R, complete the legal advice section, and draft the order to be issued, should the recommendation be approved by the Governor in Council. A Form of Order is structured similarly to the following:

“The Governor in Council on the report and recommendation of the Minister of _____ dated _____, 20___, and pursuant to Section _____ of Chapter _____ of the Revised Statutes of Nova Scotia, 1989, the _____ Act, is pleased to... (insert appropriate wording to describe the request for which approval is sought)...effective _____, 20___”.

If a particular effective date is requested, it should be included in the Form of Order. If the effective date is to be the date of the Order, the effective date should be noted as “Date of Order.”

Any additional legal schedules (forms, drafting instructions, etc.) should also be drafted by the solicitor in consultation with department staff and appended to the submission. The completed R&R must be approved by the department solicitor following approval by the department’s leadership. The solicitor signs the last page on the final draft of

the submission, on behalf of the Attorney General. Finance directors also sign each submission to Executive Council to attest to the financial review of the request.

Following legal and finance signature, the submission should be forwarded to leadership, as per departmental practice, and the deputy minister for final review.

The minister signs and dates the R&R in the spaces provided on the last page of the R&R. Supporting documentation must be attached to the R&R (refer to the Transaction Guide to determine which supporting documents are required). At this point the R&R is ready to leave the submitting department and be forwarded to Executive Council Office.

The signed R&R is forwarded to the Executive Council Office, where it is logged and forwarded to the respective Cabinet Advisor and Department of Finance and Treasury Board (FTB) Corporate Financial Advisor for analysis before it is submitted to Executive Council and/or its committees for consideration.

After consideration by the Executive Council, the R&R is returned to the Clerk of the Executive Council, who prepares the Order in Council (OIC) for signature by the Lieutenant Governor, confirming the decision of Executive Council.

SUPPORTING DOCUMENTS

- Communications Plan
- Other required appendices per the type of transaction as set out in the Transaction Guide

Report and Recommendations Requesting Regulations

An R&R requesting the enactment of new or amended regulations follows the same process that is outlined above, with the following additions.

Following the review of the final submission draft and the proposed regulations, the Registrar of Regulations is required to sign the R&R indicating that the regulations are in the form required by the registrar. The registrar returns the R&R and draft regulations to the solicitor, who reviews and signs the R&R. The R&R is then reviewed and signed following the process noted above.

Supporting documentation must be attached to the R&R (How Regulations are Prepared).

SUPPORTING DOCUMENTS

- Form “A” (Draft regulations)
- Regulations Analysis Form

Regulations Analysis Form

A Regulations Analysis Form must accompany the R&R when it pertains to adding, amending, or repealing regulations. This form compares the proposed regulations to the current regulations section by section. The Regulations Analysis Form provides Executive Council with the before and after implications of the amendments.

- Communications Plan

Memorandum to Executive Council

Proposals that require policy decisions, but not an Order in Council, are documented and submitted to the Executive Council Office by the responsible minister in a Memorandum to Executive Council.

A Memorandum to Executive Council is used to seek approval for all significant policy decisions in government such as:

- Requests for new or amended legislation (note: legislation requests use the special Request for Legislation Memorandum template; all other requests use the standard Memorandum template)
- major corporate policy
- major reorganization, restructuring
- substantive changes to business processes
- new programs (even if approved in budget)
- personal service contracts (if Treasury and Policy Board or Executive Council approval is required)
- corporate administrative policies and procedures
- other decisions as outlined in the Transaction Guide.

Memoranda to Executive Council should be prepared by the department officials who are familiar with the subject of the proposal (see Chapter 3.2 Developing and Submitting Your Proposal).

The minister will sign and date the last page of the memorandum in the spaces provided. Supporting documentation, including a Communications Plan, must be prepared and attached to the memorandum.

The signed memorandum is forwarded to the Executive Council Office, where it is logged and forwarded to the respective Cabinet Advisor and Department of Finance and Treasury Board (FTB) Corporate Financial Advisor for analysis before it is submitted to Executive Council and/or its committees for consideration.

After consideration by the Executive Council, the Secretary to the Executive Council prepares a Minute Letter, addressed to the responsible minister, confirming consideration of the matter and the decision of Executive Council and/or its committees.

SUPPORTING DOCUMENTS

- Communications Plan
- Other required appendices per the type of transaction as set out in the Transaction Guide

Report and Recommendation/Ministerial Appointment Form Requesting an Appointment to an Agency, Board, or Commission (ABC)

NON-ADJUDICATIVE ABCS

An R&R or Ministerial Appointment form, requesting an appointment requiring the approval of the House of Assembly Standing Committee on Human Resources, must have:

- a completed Form “A”,
- a Standing Committee on Human Resources Guidelines Form, and
- a Communications Plan

All pertinent circumstances that make the request necessary should be recorded in the R&R or Ministerial Appointment form. This includes the name and county of the potential appointee and whether the appointee was nominated by a particular stakeholder group or is to be appointed due to his/her civil service position.

The form should also include whether the appointment is a re-appointment, the relevant dates regarding the expiry of the previous appointment, the term of the new appointment, and the rationale for the length of term.

SUPPORTING DOCUMENTS

- Form “A”
- Standing Committee on Human Resources Guidelines
- Communications Plan
- Applicant’s cover letter and resume
- Application and resume for each appointee

Please note that the Form “A” and Guidelines are not required for non-adjudicative appointments exempted from review by the Human Resources Committee. See Rule 60 of the Rules and Forms of Procedure of the House of Assembly for descriptions of the exceptions. If the appointment is a nomination, a copy of the nomination letter and resume/bio of the appointee must be included.

Form “A”

The Form “A” must be submitted on 8 1/2” X 11” paper with an R&R or Ministerial Appointment for appointments to ABCs that must be considered by the House of Assembly Standing Committee on Human Resources. This form provides background information on the potential appointee and the ABC. According to the Rules and Forms of Procedure of the House of Assembly, appointments to ABCs and ministerial appointments are reviewed by the Human Resources Committee, with some exceptions as described in the Rules.

Standing Committee on Human Resources Guidelines

For those appointments that must be approved by the House of Assembly Standing Committee on Human Resources, the Human Resources Guidelines (Appendix 3-O) must be submitted on 8 1/2” X 11” paper. The form must be fully completed, and “n/a” cannot be used as an answer to any questions. An application package, including a resume, must be submitted for all applicants.

When an appointment requiring approval of the House of Assembly Standing Committee on Human Resources is approved by Executive Council, the Clerk of the Executive Council signs and dates the Form “A” indicating Executive Council Approval, and forwards the original Form “A,” the Human Resources Guidelines form, application, and resume to the House of Assembly Standing Committee on Human Resources. The Standing Committee has jurisdiction to approve or not approve the candidate(s) recommended for appointment.

When the Standing Committee approves a candidate for appointment, the chair of the standing committee signs Form “A” indicating approval and returns all original documents to the Clerk of the Executive Council. The Clerk will then (a) prepare the Order in Council requested by the R&R and process it for signature by the Lieutenant Governor; or (b) prepare and forward a Ministerial Appointment to the Department for the Minister’s signature.

ADJUDICATIVE ABCS

In the case of adjudicative boards, the R&R or Ministerial Appointment form should indicate that the appointee has been screened by the department's advisory committee on adjudicative boards, and only the short list of the most qualified applicants was considered by the minister.

SUPPORTING DOCUMENTS

- Precis of qualifications for all recommended appointees
- Communications Plan

Once approved by Executive Council, the Clerk will then (a) prepare the Order in Council requested by the R&R and process it for signature by the Lieutenant Governor, or (b) a Ministerial Appointment is prepared and forwarded to the department for the Minister's signature.

ENQUIRIES

Executive Director, Executive Council Operations
Executive Council Office
(902) 424-2541

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