

Regional Assembly Bylaw

CHAPTER 1 (2020 SUPPLEMENT)
OF THE CONSOLIDATED BYLAWS, 2020

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CHAPTER 1 (2020 SUPPLEMENT)
OF THE CONSOLIDATED BYLAWS, 2020

**A Bylaw Respecting the Constitution,
Powers and Privileges of the
Regional Assembly**

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 SHORT TITLE
1 Short title

This Bylaw may be cited as the *Regional Assembly Bylaw*.

INTERPRETATION

2 Interpretation

(1) In this Bylaw,

- (a) "Assembly" means the Regional Assembly;
- (b) "committee" means any standing, special or select committee of the Assembly;
- (c) "leader of a recognized party" means the leader in the Assembly of a party

represented by two or more members, other than the Regional Minister or the Leader of the Opposition, whose party was a registered party in accordance with Section 18 of the *Region of Cape Breton Island Act* and had candidates standing for election for three quarters of the seats of members in the latest general election of members of the Assembly and whose party received ten per cent or more of the votes officially recorded in the latest general election of members of the Assembly;

- (d) "municipal district" means a polling district as defined in the *Municipal Act*;
- (e) "ordinarily resident" means ordinarily resident as provided in subsection (1A);
- (f) "outside member" means a member of the Assembly who is ordinarily resident

outside of the county where the Assembly ordinarily sits;

- (g) "Speaker" means the Speaker of the Assembly.

(1A) Subject to the regulations made pursuant to Section 18 of the *Region of Cape Breton Island Act*, a member of the Assembly is ordinarily resident at the principal place where the member is settled in and maintains an ordinary mode of living with its accessories, relationships, and conveniences and where the member lives as an inhabitant and not as a visitor, and a member may only be ordinarily resident at one place for the purpose of this subsection.

(2) In this Bylaw, description references to streets, roads, rights-of-way, water features or railways signifies the centre line of the streets, roads, rights-of-way, water features or railways unless otherwise described or stated.

PART I

CONSTITUTION OF THE REGIONAL ASSEMBLY

3 Composition of the Regional Assembly

The Assembly is composed of a Regional House of Assembly, a County Chamber and a representative of the Mi'kmaq people in the Region.

4 Composition of sitting members of the Assembly

(1) The Regional House is composed of twenty-six members, of whom two are elected from each of the thirteen electoral districts named and described as follows:

(2) Each member of the Assembly has one vote in the Assembly.

(3) Excepting by-elections, when a candidate for member of the Regional House in an election for the members of the Assembly garners the highest number of votes from the district, he or she shall become First Member of that district, and the candidate with the second highest number of votes from that district shall become Second Member of that district.

5 The County Chamber

(1) The County Chamber is composed of one county vote in the Assembly for each county in the Region.

(2) The members of the Assembly of the electoral districts within their respective counties each share the county vote of their county.

(3) When a majority of the shareholders of a county vote who participate in a decision of the Assembly vote in the positive, their county vote shall also be in the positive, and the county vote shall otherwise be in the negative, or omitted when none of the shareholders participate in the decision.

6 Mi'kmaq representative

(1) The Assembly hereby declares its intention to include as a member of the Assembly a person who represents the Mi'kmaq people, such member to be chosen and to sit in a manner and upon terms agreed to and approved by representatives of the Mi'kmaq people.

(2) Until the representative referred to in subsection (1) is included, the Regional Minister, the Leader of the Official Opposition and the leader of a recognized party shall meet at least annually with representatives of the Mi'kmaq people concerning the nature of Mi'kmaq representation in accordance with the wishes of the Mi'kmaq people, and the Regional Minister shall report annually to the Assembly on the status of the consultations.

7 Independent electoral boundaries commission

(1) In this Section, "commission" means the independent electoral boundaries commission appointed pursuant to this Section.

(2) The electoral districts described in Section 4 have effect until new electoral districts are approved pursuant to this Section.

(3) No later than the thirty-first day of December, 2021, and, thereafter, within ten years after the last change in electoral districts made pursuant to this Section, and at least once in every ten years

from the thirty-first day of December, 2021, an independent electoral boundaries commission shall be appointed and issued terms of reference by a select committee of the Assembly constituted to appoint the members of the commission.

(4) The commission shall prepare, for approval by the Assembly, a report recommending the boundaries and names for the electoral districts comprising the Assembly.

(5) The commission must be broadly representative of the population of the Region, including at least one person representing the Mi'kmaq community of the Region, at least one person representing a linguistic community of the Region other than English or Mi'kmaq and at least one person representing a reasonably visible minority population of the Region.

(7A) The commission may not include a present or former

- (a) member of the Assembly;
- (b) member of the House of Assembly of Nova Scotia;
- (c) member of the House of Commons;
- (d) member of the Senate; or
- (e) Chief Electoral Officer.

(7B) The terms of reference of the commission include the following:

- (a) there is a right to effective representation and elector parity is the prime factor in determining the electoral boundaries;
- (b) deviation from elector parity is justified because of geography;
- (c) deviation from elector parity may be justified because of historical, cultural or linguistic settlement patterns and because of political boundaries;
- (d) subject to clause (e), the estimated number of electors in each electoral district may vary by no more than 25% above or below the estimated average number of electors per electoral district;
- (e) subject to subsection (7C), the preliminary report must include electoral boundaries for the existing number of electoral districts and for at least one different total number of electoral districts; and
- (f) for greater certainty, the final report must include only one recommendation of electoral boundaries.

(7C) In determining the terms of reference of the commission in addition to those in subsection (7B), the select committee may

- (a) define terms in subsection (7B) and this subsection;
- (b) define parameters for deviation more than 25% above or below the estimated average number of electors per electoral district in exceptional electoral districts, including the scope for deviation, and determining the circumstances, such as communities and community interests, justifying the exceptional electoral districts;
- (c) determine the minimum and maximum number of electoral districts that the commission may consider;
- (d) direct or authorize the commission to recommend the number of electoral districts;
- (e) determine the number of different total numbers of electoral districts to be included in the preliminary report; and
- (f) determine such other matters as the select committee considers necessary or advisable.

(7D) The terms of reference are binding on the commission.

(7E) The commission shall

- (a) prepare a draft of proposed boundary changes prior to its first public hearings;
- (b) prepare a preliminary report and hold public hearings prior to preparing the preliminary report; and
- (c) following the preparation of the preliminary report, hold further public hearings prior to preparing its final report.

(7) The final report of the commission shall be laid before the Assembly, if the Assembly is then sitting, and the Regional Minister, or the Regional Minister's designate, shall table the report in the Assembly on the next sitting day.

(8) If the Assembly is not sitting when the final report of the commission is completed, the final report of the commission shall be filed with the Clerk of the Assembly and the Regional Minister, or the Regional Minister's designate, shall table the final report in the Assembly within ten days after the Assembly next sits.

(9) Within ten sitting days after the final report of the commission is tabled in the Assembly pursuant to subsection (7) or (8), the Government shall introduce legislation to implement the recommendations contained in the final report of the commission.

7A Report of Chief Electoral Officer

(1) The Chief Electoral Officer may prepare, for approval by the Assembly, a report recommending changes in the boundaries for the electoral districts comprising the Assembly if, in the opinion of the Chief Electoral Officer, the transfer of electors from one of those electoral districts to another contiguous electoral district would improve the administration of the elections in those electoral districts.

(2) The changes recommended by the report must not alter the number of electors in any electoral district by more than three hundred as reckoned using the most recent voters' lists.

(3) The report of the Chief Electoral Officer shall be laid before the Assembly, if the Assembly is then sitting, and the Regional Minister, or the Regional Minister's designate, shall table the report in the Assembly on the next sitting day.

(4) If the Assembly is not sitting when the report of the Chief Electoral Officer is completed, the report shall be filed with the Clerk of the Assembly and the Regional Minister, or the Regional Minister's designate, shall table the report in the Assembly within ten days after the Assembly next sits.

(5) Within ten sitting days after the report of the Chief Electoral Officer is tabled in the Assembly pursuant to subsection (3) or (4), the Government shall introduce legislation to implement the recommendations contained in the report.

(6) If the changes recommended by the report of the Chief Electoral Officer are approved by the Assembly, they have effect on and after the next dissolution or the next determination by the effluxion of time of the Assembly.

8 Electoral boundaries

- (1) In this Section, "municipal boundary" means a boundary of
- (a) a regional municipality;
 - (b) an incorporated town;
 - (c) a municipality of a county;

- (d) a municipality of a district;
- (e) a village.

(2) Subject to subsection (3), the boundaries of an electoral district set out in this Bylaw shall be altered only by amendment to this Bylaw.

(3) Where an electoral boundary as described in Section 4 is uncertain, the Chief Electoral Officer may determine the boundary to the extent necessary to remove the uncertainty for the purpose of conducting an election.

(4) Where the description of the boundaries of an electoral district refers to or incorporates a county boundary, municipal boundary or community boundary, the county boundary, municipal boundary or community boundary is the boundary as it existed on the first day of January, 2021.

(5) No electoral boundary shall cross over the boundary of a county, except only when the commission recommends the crossing for reasons of insufficient population in the county.

(6) When an electoral boundary shall cross over the boundary of two or more counties, the First Members and Second Members of those counties shall share their respective county votes, and a majority of their participating votes on a decision in the Assembly in the positive shall render all of their respective county votes to be in the positive, and those respective county votes shall otherwise be in the negative, or omitted from the decision when none of the respective members participate in the decision.

9 Duration and sittings of Assembly

(1) The Assembly shall continue for four years from the expiration of forty days after the issuing of writs for any general election unless sooner dissolved, and no longer.

(4) In each calendar year beginning in 2021, there shall be at least one sitting of the Assembly during the six-month period beginning on the first day of January and one sitting of the Assembly during the four-month period ending the thirty-first day of December.

(5) Nothing in subsection (4) prevents the Assembly from sitting at a time other than the periods set out in subsection (4).

(6) Subsection (4) does not apply during the six months immediately following ordinary polling day of a general election.

(7) No Assembly shall determine or be dissolved by the demise of the Crown.

10 By-election

(1) Where a seat in the Assembly becomes vacant, a writ for an election to fill the vacancy shall be issued within six months after the vacancy occurs and such election shall be held within forty-six days of the issuance of the writ.

(2) This Section does not apply where a vacancy occurs within twelve months before the expiry of the time limited for the duration of the Assembly by Section 8.

(3) If the Assembly is dissolved after the issue of a writ pursuant to this Section, such writ shall thereupon be deemed to have been superseded and withdrawn.

PART II

MEMBERS OF THE ASSEMBLY

A - QUALIFICATIONS

11 Qualifications

A person eligible as a member of the Assembly shall be a Canadian citizen of not less than eighteen years of age.

12 Commencement of membership

A person shall be a member of the Assembly when that person has been declared elected and returned as such by the returning officer.

B - RESIGNATIONS

13 Vacation of seat by member

Any member of the Assembly may vacate that member's seat by written notice to the Speaker, if the Assembly is in session, or to the Regional Secretary, if the Assembly is not in session.

14 Vacation of seat or resignation by Speaker

(1) The Speaker may vacate the Speaker's seat by a declaration to that effect in the Assembly, if in session, or by written notice to the Regional Secretary, if the Assembly is not in session.

(2) The Speaker may resign office as Speaker by a declaration to that effect in the Assembly, if in session, or by written notice to the Regional Secretary, if the Assembly is not in session.

(3) In case of a vacancy happening in the office of Speaker by death, resignation or otherwise, the Assembly shall, with all practicable speed, proceed to elect another of its members to be Speaker and, until the election of a Speaker as aforesaid, the Deputy Speaker shall perform all the duties and exercise all the authority of Speaker

15 Duration of occupation of office of Speaker

Subject to Section 14, the Speaker shall be considered to have occupied that position from the date of the Speaker's election as a member of the Assembly or from the date the previous Speaker vacated office, whichever last occurs, until the date of the next following general election or a new Speaker is elected, whichever first occurs.

16 Duration of occupation of office of Deputy Speaker

Unless the Deputy Speaker's seat is vacated or the Deputy Speaker resigns or dies, the Deputy Speaker shall be considered to have occupied that position from the date of the Deputy Speaker's election as a member of the Assembly or from the date the previous Deputy Speaker vacated office, whichever last occurs, until the date of the next following general election or a new Deputy Speaker is elected, whichever first occurs.

PART III

DISQUALIFICATIONS AND INDEPENDENCE

17 Disqualification as member

- (1) Except as hereinafter specially provided, no person who
- (a) is a member of the Senate;
 - (b) is a member of the House of Commons of Canada;
 - (c) is selected in a nomination contest or otherwise chosen with the person's consent by a political party registered under the *Canada Elections Act* or the elections legislation of Nova Scotia or another province of Canada to be a candidate for that party for the representation of any electoral district in the House of Commons, the House of Assembly of Nova Scotia or the legislature of another province of Canada;
 - (d) is confirmed as a candidate under the *Canada Elections Act* or the elections legislation of Nova Scotia or another province of Canada for the representation of any electoral district in the House of Commons, the House of Assembly of Nova Scotia or the legislature of another province of Canada;
 - (e) accepts or holds any office in the service of the Government of Canada, the Government of Nova Scotia or the Government of Cape Breton Island to which any salary or wage of any kind is attached; or
 - (f) is officially nominated as a candidate under the *Municipal Elections Act*,
- shall be eligible as a member of the Assembly unless that person has resigned such office before nomination for election as such member, and given notice of such resignation to the Regional Secretary, or shall sit or vote in the Assembly during the time that person holds such office.
- (2) Clause (e) of subsection (1) does not include the office of a member of the Executive Council or any office that is held by a member of the Executive Council as such a member.

18 Conflict of interest

- (1) Except as otherwise provided in this Bylaw, no person holding or enjoying, undertaking or executing, directly or indirectly, alone or with another, personally or by the interposition of a trustee or third person, any contract or agreement with the Government of Cape Breton Island or with any minister or department thereof for which any public money of Cape Breton Island is to be paid for any service, work, matter or thing, shall be eligible as a member of the Assembly or shall sit or vote therein.
- (2) Except as otherwise provided in this Bylaw, no person holding or enjoying, undertaking or executing, directly or indirectly, alone or with another, personally or by the interposition of a trustee or third person, any contract or agreement with the Government of Nova Scotia or with any minister or department thereof for which any public money of Nova Scotia is to be paid for any service, work, matter or thing, shall be eligible as a member of the Assembly or shall sit or vote therein.

19 Vacation of seat required

- (1) Except as otherwise provided in this Bylaw, if a member of the Assembly
- (a) becomes a member of the Senate;
 - (b) is selected in a nomination contest or otherwise chosen with the person's content by a political party registered under the *Canada Elections Act* or the elections legislation of Nova Scotia or another province of Canada to be a candidate for that party for the representation of any electoral district in the House of Commons, the House of Assembly of Nova Scotia or the legislature of another province of Canada;
 - (c) is confirmed as a candidate under the *Canada Elections Act* or the elections legislation

of Nova Scotia or another province of Canada for the representation of any electoral district in the House of Commons, the House of Assembly or the legislature of another province of Canada;

(d) accepts or holds any office in the service of the Government of Canada, the Government of Nova Scotia or the Government of Cape Breton Island to which any salary or wage of any kind is attached; or

(e) is officially nominated as a candidate under the *Municipal Elections Act*, that member's seat in the Assembly shall thereupon become vacant and that member shall immediately advise the Speaker in writing accordingly.

(2) Clause (d) of subsection (1) does not include the office of a member of the Executive Council or any office that is held by a member of the Executive Council as such a member.

20 Exceptions

(1) Unless otherwise disqualified, nothing in Section 17, 18 or 19 shall render any person ineligible or disqualify that person from sitting or voting in the Assembly by reason of that person being

(a) a member of Her Majesty's Army, Navy or Air Force while on active service in wartime or an officer in the militia or a militiaman;

(b) in receipt of a pension or disability allowance for a disability incurred in active service in wartime;

(c) a justice of the peace, notary public, commissioner for administering oaths or coroner;

(d) interested as an executor, administrator or trustee only having otherwise no beneficial interest in any contract or agreement, as aforesaid, or being a person on whom the completion of any contract or agreement, express or implied devolves by descent or limitation or by marriage or as devisee or legatee, until twelve months have elapsed after the same has so devolved upon that person;

(e) a shareholder of an incorporated company having any such contract or agreement, unless such contract or agreement is for the building of a public work for the Province or the Region and such work has not been let by tender to the lowest bidder;

(f) a contractor for the loan of money or for securities for money to the Government of Nova Scotia or the Government of Cape Breton Island, under the authority of the Legislature or the Regional Legislature after public competition, or respecting the purchase or payment of the bonds, public stock or debentures of Nova Scotia or Cape Breton Island on terms common to all persons;

(g) the proprietor of or otherwise interested in any newspaper in which official advertisements are inserted or that is subscribed for by the Government of Nova Scotia or the Government of Cape Breton Island, or any minister, department or institution thereof;

(h) a surety or contractor or otherwise liable for the payment of money for or on account of any person in any Government institution;

(i) a surety for a public officer or other person required by law to furnish security to the Crown;

(j) a member of any medical board or commission of any hospital;

(k) in receipt of, or agreeing to receive, compensation in respect of any property taken or purchased by the Crown or any department or commission of the Government of Nova Scotia or the Government of Cape Breton Island where the amount of such compensation has been fixed

by an award made pursuant to the *Expropriation Act* or other Act of the Province or Bylaw of the Region, or where the judge of the county court for the county in which the property is situated has certified in writing that the amount of compensation is fair and reasonable;

(l) a party to any contract or agreement of a casual nature for the supplying of any service, work, matter or thing where such contract or agreement is not made in the course of continued and successive transactions of like manner;

(m) in the temporary or part-time employment or service of the Dominion of Canada, of the Province of Nova Scotia or of the Region of Cape Breton Island where such employment requires special qualifications or professional skill;

(n) a member of any commission, committee or other body appointed under the authority of any Bylaw of the Regional Legislature declared by such Bylaw to be entitled to remuneration or allowance while a member of the Assembly;

(o) a person holding a permanent, interim or temporary certificate or a permit as a teacher pursuant to the *Education Act*, including a principal, vice-principal or department head, and employed in the public service of the Province or the Region in a vocational school or community college.

(2) Sections 35, 36 and 38 to 40 of the *Civil Service Act* do not apply to a person referred to in clause (o) of subsection (1).

21 Disqualification for election

No person who is disqualified by the judgment of a court of competent jurisdiction from being elected to or sitting in the House of Commons of Canada, by reason of any violation of any Act of the Parliament of Canada relating to elections or to the trial of controverted elections of members of the House of Commons of Canada, shall be eligible for election as a member of the Assembly so long as such disqualification continues.

22 Disqualification on account of conviction

(1) A person who stand convicted of an indictable offence that is punishable by imprisonment for a maximum of more than five years is not eligible to be

- (a) nominated as a candidate for election as a member of the Assembly; or
- (b) elected as a member of the Assembly,

for a period of five years from the date of conviction and, if the sentence imposed for the offence or substituted by a competent authority has not been fully served at the end of that period, for the further time remaining to be served in that sentence.

(2) Where a conviction is set aside by a competent authority, any disability imposed by this Section is removed.

23 Conviction of member

Where a person who is a member of the Assembly is convicted of an indictable offence that is punishable by imprisonment for a maximum of more than five years, that member forthwith ceases to be a member, and the seat of that member is and is deemed to be vacant until an election is held in that electoral district according to the bylaws.

24 Promotion of bill or other matter

(1) No member of the Assembly, and no barrister or solicitor who in the practice of the profession of law is a partner of any member of the Assembly, shall accept or receive, either directly or indirectly, any fee, compensation or reward for or in respect of the of the promoting of any bill, resolution, matter or thing submitted or intended to be submitted to the consideration of the Assembly, or any committee.

(2) Any person violating this Section shall be liable to a penalty of three hundred dollars, in addition to the amount or value of the fee, compensation or reward accepted or received by that person.

(3) Such penalty and such amount or value may be recovered in the Trial Division of the Supreme Court by any person who sues for the same.

(4) One half of the amount recovered shall belong to the Crown and one half to the person who sues, unless that person was a party to or implicated in the violation of this Bylaw in respect of which the action was brought, or was a witness at the trial of the action in which cases the whole shall belong to the Crown.

25 Ineligible person not to sit or vote

(1) No person declared by this Bylaw or by any other law or bylaw ineligible as a member of the Assembly shall sit or vote in the Assembly while under such disability.

(2) If any such person sits or votes in the Assembly, that person shall forfeit the sum of one thousand dollars for every day that that person sits or votes, and such sum may be recovered by an action against that person in the Trial Division of the Supreme Court at the suit of any person.

PART IV

POWERS AND PRIVILEGES

A - THE REGIONAL ASSEMBLY

26 Privileges, immunities and powers

(1) In all matters and cases not specially provided for by an enactment of this Region or the Province, the Assembly and the committees and members thereof respectively shall hold, enjoy and exercise such and the like privileges, immunities and powers as are from time to time held, enjoyed and exercised by the House of Commons of Canada, and by the committees and members thereof respectively.

(2) Such privileges, immunities and powers shall be part of the general and public law of the Region, and it shall not be necessary to plead the same, but the same shall in all courts of justice in this Region and the Province, and by and before all justices, be taken notice of judicially.

27 Liability of member

No member of the Assembly shall be liable to any civil action or to prosecution, arrest, imprisonment or damages by reason of any matter or thing brought by the member by petition, bill, resolution, motion or otherwise, or said by the member, before the Assembly.

28 No arrest of member during session

Except for any violation of this Bylaw, no member of the Assembly shall be liable to arrest, detention or molestation for any debt or cause whatever of a civil nature, during any session of the Regional Legislature, or during the fifteen days preceding or the fifteen days following such session.

29 Exemption from jury duty

During the periods mentioned in Section 28, all officers and servants of the Assembly, shall be exempt from serving or attending as jurors before any court of justice.

30 Power of Assembly to compel attendance and production

(1) The Assembly may at all times command and compel the attendance before the Assembly, or before any committee, of such persons and the production of such papers and things as the Assembly or committee deems necessary for any of its proceedings or deliberations.

(2) Whenever the Assembly requires the attendance of any person before the Assembly or before any committee, the Speaker may issue a warrant, directed to the person named in the order of the Assembly, requiring the attendance of such person before the Assembly or committee, and the production of such papers and things as are ordered.

31 No liability for act done on direction of Assembly

(1) No person shall be liable to damages or otherwise for any act done under the authority and within the legal power of the Assembly, or under or by virtue of any warrant issued under such authority.

(2) All persons to whom such warrants are directed may command the aid and assistance of all sheriffs, bailiffs, constables and others, and every refusal or failure to give such aid or assistance when required shall be a violation of this Bylaw.

(3) No action shall be brought against the Speaker or any officer of the Assembly, or any person assisting the Speaker or such officer, for any act or thing done by authority of the Assembly.

32 Rules

(1) The Assembly may establish rules for its government and the attendance and conduct of its members, and alter, amend and repeal the same, and may punish members for disorderly conduct or breach of the rules of the Assembly.

(2) The rules and orders of the Assembly existing on the first day of January, 2021, continue in force until altered, amended or repealed.

(3) All rules of the Assembly not inconsistent with this Bylaw have the force and effect of law until altered, amended or repealed.

32A Workplace harassment policy

(1) The Assembly may establish a policy for the prevention of harassment in the workplace of its members, officers and staff and the resolution of complaints regarding harassment in that workplace.

(2) A person or office retained as an investigator under a policy established pursuant to subsection (1) may, in the manner prescribed in the policy, carry out all inquiries necessary to meet the investigative requirements set out in the policy.

33 Court of record and powers and jurisdiction

(1) The Assembly is a court of record, and has all the rights and privileges of a court of record for the purpose of summarily inquiring into and punishing the acts, matters and things herein declared to be violations of this Bylaw.

(2) For the purposes of this Bylaw, the Assembly is hereby declared to possess all such powers and jurisdiction as is necessary for inquiring into, judging and pronouncing upon the commission or doing of any such acts, matters or things, and awarding and carrying into execution the punishment therefor provided by this Bylaw.

(3) Every warrant of commitment under this Section shall succinctly and clearly state and set forth on its face the nature of the offence in respect of which it is issued.

(4) The Assembly has power to make such rules as are deemed necessary or proper for its procedure as such court as aforesaid.

B - COMMITTEES OF THE ASSEMBLY**33A Power of committee to compel attendance and production**

(1) A committee of the Assembly may at all times command and compel the attendance before the committee of such persons and the production of such papers and things as the committee deems necessary for any of its proceedings or deliberations.

(2) Whenever a committee of the Assembly requires the attendance of any person before the committee, the chair of the committee may issue a warrant, directed to the person named in the order of the committee, requiring the attendance of such person before the committee, and the production of such papers and things as are ordered.

34 Oral examination of witness by committee

Any committee may require that facts, matters and things relating to the subject of inquiry before such committee be verified, or otherwise ascertained by the oral examination of witnesses, and may examine such witnesses, upon oath, and for that purpose the chair or any member of such committee may administer an oath in the form following or to the like effect, to any such witness:

The evidence you shall give to the committee, touching (*stating here the matter then before the committee*), shall be the truth, the whole truth, and nothing but the truth.

35 Taking of affidavit

Where witnesses are not required to be orally examined before such committee, any oath, affirmation, declaration or affidavit in writing, that is required to be made or taken by or according to any rule or order of the Assembly, or by direction of any such committee, and in respect of any matter or thing pending or proceeding before such committee, may be made and taken before any clerk of the Assembly, any commissioner for taking affidavits in the Supreme Court or any notary public.

36 Continuation of committee after Assembly prorogues

(1) The Assembly may declare that a committee is not dissolved by prorogation of the Assembly and may authorize it to continue its inquiries after the Assembly is prorogued.

(2) The committee has and may exercise the same powers after the Assembly is prorogued as it had or could have exercised before the Assembly prorogued.

(3) The Assembly at the next session shall appoint a new committee consisting of the same or other members to inquire into the same matter as the committee that was authorized to continue its inquiries pursuant to subsection (1) and the last mentioned committee is thereupon dissolved and shall deliver to the new committee all material considered, evidence taken by it and its findings thereon, if any.

(4) The new committee may consider all material, evidence and findings delivered to it pursuant to subsection (3) and may continue to inquire into the matter.

PART V

OFFENCES AND PENALTIES

37 Offences

The following acts, matters and things are prohibited and shall be deemed violations of this Bylaw:

- (a) insults to or assaults or libels upon members of the Assembly during the session of the Regional Legislature;
- (b) obstructing, threatening or attempting to force or intimidate members of the Assembly;
- (c) the refusal or failure of any member or officer of the Assembly, or other person, to obey any rule, order or resolution of the Assembly;
- (d) the offering to or acceptance by any member of the Assembly of a bribe to influence the member in the member's proceedings as such member, or the offering to or acceptance by any such member of any fee, compensation or reward for or in respect of the promotion of any bill, resolution, matter or thing submitted to or intended to be submitted to the Assembly or any committee;
- (e) assaults upon or interference with officers of the Assembly while in the execution of their duty;
- (f) tampering with any witness in regard to evidence to be given by the witness before the Assembly or any committee;
- (g) giving false witness or prevaricating, or otherwise misbehaving in giving or refusing to give evidence or to produce papers before the Assembly or any committee;
- (h) disobedience to a warrant issued under the authority of this Bylaw requiring the attendance of witnesses before the Assembly or any committee;
- (i) presenting to the Assembly or to any committee any forged or falsified document, with intent to deceive the Assembly or committee;
- (j) forging, falsifying or unlawfully altering any of the records of the Assembly or of any committee, or any document or petition presented or filed, or intended to be presented or filed, before the Assembly or committee, or the setting or subscribing by any person of the name of any other person to any such document or petition with intent to deceive;
- (k) the bringing of any civil action or prosecution against, or the causing or effecting of any arrest or imprisonment of any member of the Assembly in any civil proceeding for or by reason of any matter or thing brought by the member by petition, bill, resolution, motion or otherwise, or said by the member before the Assembly;

(l) the causing or effecting the arrest, detention or molestation of a member of the Assembly for any debt or cause whatever of a civil nature, during a session of the Regional Legislature, or during the fifteen days preceding or the fifteen days following such session;

(m) the bringing of any civil action against the Sergeant-at-Arms, the Chief Messenger, official or servant of the Assembly for removing on the direction of the Speaker of the Assembly, chair of a committee of the Assembly, or any member of the Assembly, any person from the Assembly lobbies, corridors, or halls of the building who is creating a disturbance, using violent or insulting language or otherwise disturbing the peace within the said Assembly, committee rooms, corridors or lobbies thereof.

38 Penalty and Determination of Assembly to be final

(1) Every person who is guilty of a violation of this Bylaw shall be liable, in addition to any other penalty or punishment to which that person is by law liable, to imprisonment for such time during the session of the Regional Legislature then being held as is determined by the Assembly.

(2) The determination of the Assembly, upon any proceeding pursuant to this Bylaw, is final and conclusive.

PART VI

INDEMNITY OF MEMBERS

39 Annual indemnity and expenses

(1) Each member of the Assembly shall be paid out of the General Revenue Fund of the Region an annual indemnity in the amount determined pursuant to Section 44.

(2) Notwithstanding subsection (1), no member of the Assembly is entitled to receive a total indemnity exceeding the amount referred to in subsection (1) in any calendar year regardless of the number of sittings or sessions of the Assembly or the number of Assemblies constituted in that calendar year.

(3) Notwithstanding subsection (1), if during a calendar year a person becomes a member or ceases to be a member, then the maximum indemnity to which that member is entitled in the calendar year is the total amount of the indemnity referred to in subsection (1) divided by twelve and multiplied by the number of months in the calendar year that the member is a member.

(4) For the purpose of this Section,

(a) a member is and is deemed to be a member from the ordinary polling day on which the member is elected;

(b) a member is and is deemed to continue to be a member until

(i) the member dies,

(ii) the member resigns, or

(iii) when the Assembly of which the member is a member is dissolved, the day preceding the polling day fixed in the writ issued immediately following the dissolution,

whichever occurs first; and

(c) a person who is a member for any part of a month is and is deemed to be a member for the whole of that month.

(5) Each outside member, except a member of the Executive Council holding the recognized

position of Regional Minister or a member of the Executive Council having charge of a department or departments or a member occupying the recognized position of Leader of the Opposition or a member occupying the recognized position of leader of a recognized party, shall be paid out of the General Revenue Fund of the Region an amount to reimburse the member for reasonable travelling expenses incurred for fifty-two trips each year between the place of the Government of Cape Breton Island and the member's constituency and for reasonable expenses incurred for accommodation and other reasonable expenses incurred as a result of being in the place of the Government of Cape Breton Island as a member, as determined by the Regional Legislature Internal Economy Board.

40 Transition allowance

(1) A person who

(a) is a member of the Assembly immediately before the Assembly is dissolved or is ended by the passage of time and does not become a member of the next following Assembly; or

(b) is a member of the Assembly and resigns as a member of the Assembly,

shall be paid a transition allowance equal to the produce of

(c) one twelfth of the person's number of months of service as a member of the Assembly; and

(d) one twelfth of the annual indemnity for a member at the rate in force immediately before the person ceased to be a member,

but in any case not less than twenty-five per cent nor greater than one hundred per cent of the annual indemnity referred to in clause (d).

(1A) Where a person who is a member of the Regional Assembly dies, the transitional allowance shall be paid to the person's estate.

(1B) Notwithstanding subsections (1) and (1A), no transition allowance is payable to a person, or the estate of a person, who is or would have been entitled to receive an immediate retiring allowance pursuant to the *Members' Retiring Allowances Act* other than a reduced allowance pursuant to Section 12A of that Act or an allowance by reason of being totally and permanently disabled.

(2) The transition allowance referred to in subsection (1) shall be paid in twelve equal instalments commencing thirty days after the person ceases to be a member.

(3) Notwithstanding the provisions of the *Members' Retiring Allowances Act*, no Retiring Allowance shall be paid pursuant to that Act to or on behalf of a member until the Transition Allowance paid or to be paid in accordance with subsection (2) has been exhausted or unless the Transition Allowance or the balance remaining thereof is waived.

(4) Notwithstanding subsection (2), the transition allowance may be paid to a member in a lump sum payment within thirty days after ceasing to be a member, if the member so chooses.

(5) Subsection (3) does not apply to a member who ceases to be a member and who prior to ceasing to be a member, is in receipt of a retiring allowance.

(6) Where a member had been previously a member of the Assembly and had received a severance allowance or a transition allowance upon ceasing to be a member, and subsequently is re-elected as a member of an Assembly then the transition allowance shall be calculated by using as a calculator the total number of years the member served in the Assembly in the formula of the transition allowance that is in force at the time that member last ceases to be a member and deducting from the dollar amount so determined the dollar amount that the member previously received as a severance allowance or a transition allowance.

40A Counselling or retraining services

(1) A person who confirms in writing that he or she will not seek re-election at the next general election of the Assembly may apply to the Speaker for approval to obtain retirement counselling, career counselling or career retraining services.

(2) Where

(a) the Speaker is satisfied that the person is able to obtain the counselling or retraining services within twelve months of the commencement of the payment of the person's transition allowance;

(b) the counselling or retraining services are provided by a service provider approved by the Speaker;

(c) the services are obtained within twelve months of the commencement of the payment of the person's transition allowance; and

(d) the Speaker is satisfied with the services provided,

the Speaker shall authorize payment for the counselling or retraining services to a maximum of seven thousand five hundred dollars.

(3) A member of the Assembly re-elected after having received payment pursuant to subsection (2) shall immediately reimburse any such payment.

41 Speaker, Deputy Speaker and opposition leaders

(1) In addition to the amounts payable pursuant to Section 39, there shall be paid out of the General Revenue Fund of the Region an annual salary, in the amount determined pursuant to Section 44, to

(a) the Speaker; and

(b) the Deputy Speaker.

(2) The Speaker and the Deputy Speaker shall be paid from the General Revenue Fund of the Region such sums of money as are necessary to indemnify them for reasonable expenses of travel, accommodation or otherwise incurred while absent from their ordinary place of residence in connection with the business of the Assembly, or as a representative of the Assembly or of the Region, whether the Assembly is in session or not.

(3) In addition to the amounts payable pursuant to Section 39, there shall be paid out of the General Revenue Fund of the Region to the member occupying the recognized position of Leader of the Opposition an annual salary, in the amount determined pursuant to Section 44, payable in monthly instalments, and the salary shall commence as of the month in which the member commences to hold the position and shall be discontinued as of the last day of the month in which the member ceases to hold the position.

(4) In addition to the amounts payable to Section 39, there shall be paid out of the General Revenue Fund of the Region to the member occupying the recognized position of leader of a recognized party other than the Regional Minister and the Leader of the Opposition, an annual salary, in the amount determined pursuant to Section 44, payable in monthly instalments, and the salary shall commence as of the month in which the member commences to hold the position and shall be discontinued as of the last day of the month in which the member ceases to hold the position.

(5) Every leader of a party, except the Regional Minister, who is an outside member as defined by this Bylaw shall be paid out of the General Revenue Fund of the Region in addition to the amounts

to which the leader is entitled pursuant to this Bylaw an amount to reimburse the leader for travelling expenses for fifty-two trips each year between the place of the Government of Cape Breton Island and the leader's constituency and for actual expenses for accommodation and other reasonable expenses incurred as a result of being in the place of the Government of Cape Breton Island while the Assembly is in session and such other expenses as are authorized by regulation of the Regional Assembly Management Commission for an assistant travelling with the leader.

42 Offices for opposition leaders

(1) The Leader of the Opposition shall be provided with office facilities consisting of a private office for the Leader, a private office for a senior assistant or senior secretary, a private office for a director of research and a research assistant, a reception area for the Leader's secretary and a working area for a secretary for the director of research and the research assistant and necessary equipment for the office and the cost of the office facilities and the necessary equipment shall be paid out of the General Revenue Fund of the Region.

(2) The salaries, as determined pursuant to subsection (5), of

- (a) two secretaries;
- (b) a director of research;
- (c) a research assistant; and
- (d) a senior assistant or senior secretary,

employed by the Leader of the Opposition shall be paid out of the General Revenue Fund of the Region.

(3) The leader of a recognized party, other than the Regional Minister and the Leader of the Opposition, shall be provided with the office facilities consisting of a private office for the leader, a senior assistant or senior secretary, and a private office for the leader's research assistant and a reception area for the leader's secretary and necessary equipment for the office and the cost of the office facilities and the necessary equipment shall be paid out of the General Revenue Fund of the Region.

(4) The salaries, as determined pursuant to subsection (5), of

- (a) a secretary;
- (b) a research assistant; and
- (c) a senior assistant or senior secretary,

employed by the leader of a recognized party pursuant to subsection (3) shall be paid out of the General Revenue Fund of the Region.

(5) The Civil Service Commission from time to time shall fix and determine schedules of compensation for the senior assistant or senior secretary, for the director of research, the secretaries and the research assistants in the same manner as it fixes and determines schedules of compensation for civil servants, provided that the initial salary of the research assistants shall not exceed fifteen thousand dollars *per annum*.

(6) The senior assistant or senior secretary, director of research, the secretaries and the research assistants are deemed to be employees of the Province for the purposes of the *Public Service Superannuation Act*, vacation and sick leave pursuant to the *Civil Service Act*, group life insurance and other forms of insurance or benefits to which civil servants are entitled from time to time.

(7) The Leader of the Opposition and the leader of a recognized party, other than the Regional Minister, shall be paid from the General Revenue Fund of the Region such sum as is determined by the

Regional Assembly Management Commission to indemnify them for reasonable expenses incurred for travelling or otherwise in the discharge of their official duties.

43 Regulations

(1) The Assembly may by resolution adopt regulations fixing penalties for non-attendance of members and any monetary penalty so fixed and assessed is a charge against any money that the member is entitled to under this Bylaw.

(2) Notwithstanding Sections 47, 49 and 52, the Regional Assembly Management Commission may determine the salary of the Chief Clerk, the Assistant Clerk and the Sergeant-at-Arms after review by that Commission.

44 Salaries and allowances for 2021 and subsequent years

(1) Within sixty days after ordinary polling day in each general election, the Speaker shall appoint three persons to make an inquiry and a report respecting the annual indemnity to be paid to members of the Assembly pursuant to this Bylaw, the salaries to be paid to the Speaker, the Deputy Speaker, the Leader of the Opposition and the leader of any other recognized opposition party pursuant to this Bylaw and the salaries to be paid to members of the Executive Council pursuant to the *Executive Council Bylaw*.

(2) Where no Speaker is elected by the Assembly within sixty days after ordinary polling day, the Chief Clerk shall appoint the three persons to make the inquiry and report.

(3) The persons appointed pursuant to subsection (1) or (2) have all the powers, privileges and immunities of a commissioner pursuant to the *Public Inquiries Act* and shall complete their inquiry and deliver their report containing recommendations to the Speaker or, where no Speaker has been elected, the Chief Clerk within ninety days after ordinary polling day.

(4) The Speaker or Chief Clerk, as the case may be, upon receipt of the report containing the recommendations of the persons appointed pursuant to subsection (1) or (2), shall cause their recommendations respecting the annual indemnity to be paid to members of the Assembly pursuant to this Bylaw, the salaries to be paid to the Speaker, the Deputy Speaker, the Leader of the Opposition and the leader of any other recognized opposition party pursuant to this Bylaw and the salaries to be paid to members of the Executive Council pursuant to the *Executive Council Bylaw* to be implemented and those recommendations have the same force and effect as if enacted by the Regional Legislature and are in substitution for provisions of this Bylaw and the *Executive Council Bylaw*, as the case may be.

(5) The recommendations are effective the first day of the month immediately following the month in which ordinary polling day occurred.

(6) In each subsequent year on January 1st, the annual indemnity and salaries shall be increased by the percentage increase in salary provided to civil servants for the current fiscal year.

(6A) Notwithstanding subsection (6), no increase in the annual indemnity and salaries shall occur from January 1, 2021, to December 31st in the year in which increases are next effective pursuant to subsection (5), inclusive.

PART VII

OFFICERS

A - CLERK OF THE ASSEMBLY

45 Chief Clerk

The Commissioner in Council may appoint a suitable person to be Chief Clerk of the Assembly, who shall perform all the duties as are from time to time prescribed by the Commissioner in Council, in addition to the duties prescribed to the Chief Clerk under Section 46.

46 Duties of Chief Clerk

(1) The Chief Clerk has the care and custody of all bills, journals, records, parchments and documents of every kind relating to or connected with the Assembly.

(2) The Chief Clerk shall on the first day of the opening of a new Assembly for the despatch of business attend the Assembly until a Speaker has been elected, and shall, previous to the meeting of the Assembly, attend and swear in the members elect.

47 Salary and term of office of Chief Clerk

The Chief Clerk shall be paid such salary as the Commissioner in Council from time to time determines and holds office during good behaviour.

B - ASSISTANT CLERK OF THE REGIONAL ASSEMBLY

48 Assistant Clerk

The Commissioner in Council may appoint a suitable person to be Assistant Clerk of the Assembly, who shall perform all the duties as are from time to time prescribed by the Commissioner in Council.

49 Salary and term of office

The Assistant Clerk shall be paid such salary as the Commissioner in Council from time to time determines and holds office during good behaviour.

50 Duties

The Assistant Clerk shall, in the absence of the Chief Clerk, perform all the duties and exercise all the authority of the Chief Clerk.

C - LEGISLATIVE COUNSEL

51 Legislative Counsel

(1) The Commissioner in Council may appoint a person to be Legislative Counsel who shall

(a) prepare such legislation as may be from time to time entrusted to the Legislative Counsel;

(b) prepare such consolidation and revision of, and other matters relating to, the statutes or any statute as is from time to time directed by the Attorney General or the Commissioner in Council;

(c) perform such other duties as are from time to time prescribed by the Attorney General or the Commissioner in Council.

(2) The Legislative Counsel shall be paid such salary as the Commissioner in Council from time to time determines and holds office during good behaviour.

D - SERGEANT-AT-ARMS

52 Appointment and salary of Sergeant-at-Arms

(1) The Speaker may appoint a person to be Sergeant-at-Arms who shall perform such duties as the Assembly or the Speaker determines.

(2) The Sergeant-at-Arms shall be paid such salary as the Commissioner-in-Council from time to time determines.

52A Powers of Sergeant-at-Arms

(1) In this Section,

(a) “firearm” means a firearm or other weapon, including a prohibited firearm, a restricted firearm, a prohibited weapon or a restricted weapon within the meaning of the *Criminal Code* (Canada), that is currently approved for use in the Region by police officers;

(b) “precincts of the Assembly” means Region House and its environs as defined by the public streets immediately adjacent to it and includes any other premises or areas used for meetings of committees of the Assembly or, where so designated by the Speaker, used for another purpose of the Assembly.

(2) The Sergeant-at-Arms is a peace officer within the precincts of the Assembly or while in fresh pursuit of a person leaving the precincts of the Assembly.

(3) As a peace officer under this Section, the Sergeant-at-Arms

(a) has all the powers, authority, privileges, rights and immunities of a peace officer and constable under the common law, the *Criminal Code* (Canada) and any other federal or Regional enactment; and

(b) with the approval of the Assembly or the Speaker and subject to subsection (4), may possess and use firearms, subject to such conditions or restrictions as the Assembly or the Speaker may determine and except as otherwise provided by law.

(4) The Sergeant-at-Arms must meet the same requirements, including training and certification, that police officers are required to have in order to be permitted to possess and use a firearm in the Region.

53 Expenses of officers and staff

There shall be paid out of the General Revenue Fund of the Region to the officers and staff of the Assembly such sums of money as are authorized from time to time by the Speaker or other member of the Regional Assembly Management Commission to indemnify them for reasonable expenses of travel, accommodation or otherwise incurred while absent from their ordinary place of residence in connection with the business of the Assembly, or as a representative of the Assembly or of the Region, whether the Assembly is in session or not.

PART VIII

GENERAL

54 Copy of journal prima facie evidence

Upon any inquiry touching the privileges, immunities or powers of the Assembly, or of any committee or member thereof, any copy of the journals of the Assembly printed or purporting to be printed by the order of the Assembly, shall be admitted as *prima facie* evidence of such journals by all courts, justices and others, without further proof that such copy was so printed.

55 No action on correct publication of proceedings

In any civil proceeding against any person for or on account or in respect of the publication of any copy of any report, paper, vote or proceedings of the Assembly, the defendant at any stage of the proceedings may lay before the court or judge such report, paper, vote or proceedings, and such copy, with an affidavit verifying such report, paper, vote or proceedings, and the correctness of such copy, and the court or judge shall immediately stay such civil proceeding, and the same, and every originating notice or process issued therein, shall be finally put an end to, determined and supersede.

56 Bona fide publication is defence

It is lawful in any civil proceeding against any person for printing any extract from or abstract of any such report, paper, vote or proceedings, to give in evidence such report, paper, vote or proceedings, and to show that such extract or abstract was published *bona fide*, and without malice, and if in the opinion of the court, or if in the opinion of the jury, if there if a jury, such publication was *bona fide* and without malice, judgment shall be rendered or a verdict shall be entered for the defendant.

57 Copy of journal prima facie evidence

A copy of the journals of the Assembly, printed or purporting to be printed by order of the Assembly, shall be admitted as *prima facie* evidence of such journals by all courts and justices without further proof that such copies were so printed.
