

3.3 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 (See Appendix 3-C).

An R&R is required to effect an Order in Council (OIC, Appendix 3-F). 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. There must be legislative authority cited in the R&R for the action being recommended; only rarely will there be some precedent for the use of a prerogative power or authority.

The final section of the R&R should contain the recommendation for the Governor in Council, leading to the exact Form of Order being requested. For example:

“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 for appointment requested, including name, term, remuneration, and any other relevant information)....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.”

The completed R&R must be approved by the department solicitor as to form and legal authority following corporate approval by the department. Any additional legal schedules and any other legal forms should also be drafted by the solicitor with support of department staff.

The deputy head will initial the R&R next to his or her name on the first page of the document, signifying deputy head confirmation of the accuracy of the facts and approval for the proposal to move forward to the minister responsible.

The minister will sign and date the R&R in the spaces provided on the last page of the R&R. Supporting documentation must be prepared and attached to the R&R. 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 Analyst 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 (Appendix 3-B)

Communications Plan

Communications plans (Appendix 3-B) are intended to provide ministers with information on the communications impact of the request to be considered and must accompany all submissions to Executive Council and/or its committees.

The communications plan is prepared by department communications staff based on discussions with department staff and a review of the draft R&R. The communications plan requires approval by the appropriate Communications Nova Scotia (CNS) managing director, the deputy head, and minister.

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY (FOIPOP)

All government information is subject to the *Freedom of Information and Protection of Privacy (FOIPOP) Act*. There are some limited and specified exemptions to the rights of access. Care must be taken in the way in which information is formatted. Background sections of Executive Council documents should contain factual information only.

They should not contain information that would

- a) reveal the substance of deliberations of Executive Council or any of its committees; and/or
- b) reveal advice and recommendations.

Departments should contact their Information Access and Privacy (IAP) Administrator for assistance.

Report and Recommendations Requesting Regulations

The solicitor, on behalf of the Minister of Justice, will sign the R&R to approve the form and to approve statutory authority being relied upon in requesting the Governor in Council to act.

The Registrar of Regulations will sign the R&R approving the regulations if they are in the form required by the registrar (to ensure consistent drafting form for regulations.) The registrar returns the R&R to the department/solicitor.

The deputy head will initial the R&R next to his or her name on the first page of the document, signifying deputy head confirmation of the accuracy of the facts and approval for the proposal to move forward to the minister responsible.

The minister will sign and date the R&R in the spaces provided on the last page of the R&R. Supporting documentation must be prepared and attached to the R&R. At this point the R&R is ready to leave the submitting department and be forwarded to Executive Council Office. (See Appendix 3-H, How Regulations are Prepared.)

SUPPORTING DOCUMENTS

- Draft regulations
- Regulations Analysis Form (Appendix 3-I)
- Regulations (Red Tape Reduction) Criteria Checklist (Appendix 3-J)
- Communications Plan (Appendix 3-B)

Regulations Analysis Form

A Regulations Analysis Form (Appendix 3-I) 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.

Regulations (Red Tape Reduction) Criteria Checklist

For amendments to regulations or to propose new regulations, the Regulations (Red Tape Reduction) Criteria Checklist (Appendix 3-J) must accompany the draft regulations and be attached to the Regulations Analysis Form. The checklist is designed as a tool to assist departments as they are developing new regulations and for the ongoing review of regulations that impact business. It should cause departments to conduct rigorous policy assessment that includes consideration of the impacts and benefits of the proposal. The criteria checklist is not required for minor changes that do not reflect policy changes, e.g., housekeeping measures.

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

NON-ADJUDICATIVE ABCS

An R&R (Appendix 3-T) or Ministerial Appointment form (Appendix 3-M), requesting an appointment requiring the approval of the House of Assembly Standing Committee on Human Resources, must have attached to it a completed Form “A” (Appendix 3-N) and a Standing Committee on Human Resources Guidelines Form (Appendix 3-O). A communication plan (Appendix 3-B) is also required.

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, etc. It also includes 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” (Appendix 3-N)
- Standing Committee on Human Resources Guidelines (Appendix 3-O)
- Communications Plan (Appendix 3-B)
- Applicant’s cover letter and resume

Form “A”

The Form “A” (Appendix 3-N) 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 question. All applications must include a resume.

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, and applicant’s cover letter 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) a Ministerial Appointment is prepared and forwarded 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.

Enquiries

Director, Executive Council Operations
Executive Council Office
(902) 424-6614

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