



*House of Assembly  
Newfoundland & Labrador*

## Standing Orders Committee

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# **50<sup>th</sup> General Assembly – Report 2**

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Report to the House of Assembly

October 24, 2023

*This report is privileged until tabled in the House of Assembly.*



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## Committee Members

Current members of the Standing Orders Committee are:

John Hogan, K.C., Member for Windsor Lake (Chair)  
Helen Conway Ottenheimer, Member for Harbour Main (Vice-chair)  
Steve Crocker, Member for Carbonear - Trinity - Bay de Verde  
Sarah Stoodley, Member for Mount Scio  
Lela Evans, Member for Torngat Mountains (as of April 4, 2022)

Unless otherwise noted, Committee members were appointed by motion on June 1, 2021.



## Transmittal

Speaker, I am pleased to present the second report of the Standing Orders Committee in the 50<sup>th</sup> General Assembly. I thank the Members of the Committee for their diligence and work on these matters and I recommend this report to the House of Assembly.

Respectfully submitted,

A handwritten signature in blue ink, appearing to be 'J. Hogan', written over a horizontal line.

John Hogan, K.C., MHA  
Windsor Lake  
Chair



## Order of Reference

The Standing Orders Committee is a Standing Committees of the House, constituted pursuant to Standing Order 65. By parliamentary tradition, this Committee has a continuous order of reference to review the Standing Orders of the House of Assembly and to recommend amendments to the House, as necessary, for consideration.



## Summary of Work

Over the last several months, the Standing Orders Committee (SOC) has reviewed and considered matters pertaining to the mandate of the Public Accounts Committee (PAC) and the continued relevancy of the Miscellaneous and Private Bills Committee (MPBC).

The SOC's review of the PAC mandate was initiated as a result of a request from that Committee in December 2022, to consider recommending amendments to the Standing Orders that would codify and clarify its mandate. The Standing Orders Committee met four times to consider this matter on the following dates: March 1; April 26; August 9; and September 6, 2023.

During its review of the above-noted and relevant Standing Order provisions pertaining to the Standing Committees of the House, the SOC directed House officials to undertake research and analysis as to the activity level and continued relevancy of the MPBC. The Committee considered this matter at two meetings held on March 1 and August 9, 2023.



## Findings and Decisions

### Clarifying and Codifying the Mandate of the Public Accounts Committee

The House of Assembly first struck a PAC as a Select Committee in 1972, with the following mandate:

*“to consider the Public Accounts and the report of the Auditor General for the fiscal period ending March 31, 1971, and all matters pertaining thereto with power to call for persons, papers and records, to examine witnesses under oath and to report from time to time their observations and opinions thereon and that the said committee have the right to sit during and through the session whether the House is in or out of sitting.”*

This Select Committee on PAC served on an interim basis until the Standing Orders were amended in 1974, and the Standing Committee on Public Accounts was struck on May 21, 1976.

Research undertaken indicates that the PAC’s mandate has not changed since that time. Therefore, by parliamentary convention, the Committee has operated and continues to operate under the 1972 mandate.

In considering the PAC’s request, the Standing Orders Committee reviewed the role that public accounts committees play in the Westminster parliamentary system of governance, particularly the PAC’s important role in oversight of government’s effectiveness in program and service delivery, as well as the important relationship between the PAC and the Auditor General. The Standing Orders Committee also reviewed guidance from the Canadian Audit and Accountability Foundation (CAAF) regarding best practices for public accounts committees, which stresses the importance of PAC’s having legally enshrined powers, and recommends explicit terms of reference/mandates for public accounts committees.

The Committee also considered jurisdictional research on the mandates of public accounts committees across Canada. It noted that the majority of Canadian jurisdictions specifically delineate that the public accounts and any reports of the Auditor General stand referred to the PAC once tabled. A summary of this jurisdictional research is included in **Appendix A**.



Further, the Standing Orders Committee reviewed the recent enactment of the *Auditor General Act, 2021*. This Act confirms the Auditor General's ability to carry out a performance audit of any government department, agency or Crown corporation, and designates the Auditor General as the auditor for all agencies of the Crown and Crown-controlled corporations, unless the Auditor General appoints an auditor in their place.

Given the passage of time since the last formal order of reference to the PAC, and the recent revision and update to the Auditor General's legislative authorities, the Standing Orders Committee agrees that the PAC should have a clear, current and codified mandate in order to complete its work on behalf of the people of Newfoundland and Labrador.

### **Miscellaneous & Private Bills Committee**

Research and analysis undertaken on the Miscellaneous and Private Bills Committee focused on two areas of the Standing Orders:

1. Standing Order 65(1)(g), which directs the striking of a MPBC at the outset of every General Assembly; and
2. Standing Orders 98-111, which outline the process by which the House of Assembly considers private bills.

In the context of this legislature, private bills are those bills that are initiated by individuals petitioning the House for an action related to private interests, in contrast to bills initiated by Government. Standing Orders 98-111 include the procedures for private bills considered by the House.

The main findings of the research were:

- The original name of the committee was the Standing Committee on Miscellaneous Private Bills. There is no record as to why the name changed to Miscellaneous and Private Bills, nor were there any examples found of a "miscellaneous bill".
- Private bills were fairly common up to the earliest years of confederation, but the last identified occurrence of a private bill being brought to the House by petition was in 1966.





- Prior to confederation, all committees of the House were select committees – that is, they were struck as needed and expired once they had reported on their terms of reference.
- Standing committees, including one for miscellaneous private bills, first appeared in the Standing Orders in 1951. However, Standing Orders 98-111 continued to reference referral of private bills to a select committee.
- While the MPBC is itemized as a standing committee in current Standing Order 65(1)(g), Standing Order 101 continues to read:

*“Every **Private Bill** when read a second time shall be referred to a **select committee** and all petitions for and against shall also be referred to such committee (emphasis added).*

A comprehensive summary of the research conducted on this matter is included in **Appendix B**.

There has not been an instance of a private bill, as defined above, being considered by the House of Assembly since 1966. Consequently, the Standing Orders Committee concluded that the requirement for a Standing Committee on Miscellaneous and Private Bills to be struck per Standing Order 65(1)(g) in every general assembly is no longer necessary. Should a private bill be brought to the House by petition in the future, Standing Orders 98-111, as they are currently written, provide for a select committee to be struck for that purpose.



## Recommendations

1. In consideration of the referral from the Public Accounts Committee, the Standing Orders Committee recommends:

**That Standing Order 65 be amended by adding immediately after Standing Order 65(5) the following:**

(6) In addition to any matter referred to the Public Accounts Committee by the House under Standing Order 65(5), the Public Accounts of the Province and all reports of the Auditor General, shall, upon tabling, stand referred to the Public Accounts Committee.

2. In consideration of the matter of the continued relevance of the Miscellaneous and Private Bills Committee, the Standing Orders Committee recommends:

**That Standing Order 65(1)(g) be repealed.**



## Appendix A

Jurisdiction	Public Accounts Committee designated to receive AG reports?	Text of relevant Standing Orders
Federal	Yes – all	<a href="#">SO 108(3)(g)</a> : “The mandate of the Standing Committee on ... Public Accounts shall include, among other matters, review of and report on the Public Accounts of Canada and all reports of the Auditor General of Canada, which shall be severally deemed permanently referred to the committee immediately after they are laid upon the table ....”
Nova Scotia	Yes – all	<a href="#">SO 60(2)(b)</a> : “For greater certainty ... the Public Accounts Committee is established for the purpose of reviewing the public accounts, the annual report or other report of the Auditor General and any other financial matters respecting the public funds of the Province ....”
New Brunswick	Yes – all	<a href="#">SO 93</a> : “All reports to the House of the Auditor General, all Public Accounts, and all annual reports of government departments, provincial agencies, boards and commissions stand permanently referred to the Public Accounts Committee.



Jurisdiction	Public Accounts Committee designated to receive AG reports?	Text of relevant Standing Orders
PEI	Yes – some	<a href="#">SO 95(5)</a> : “The standing committees shall be the ... Standing Committee on Public Accounts with said committee charged with matters concerning the public accounts of the province, the annual report of the Auditor General, and fiscal management.”
Quebec	Yes – all	<a href="#">SO 117.6(3)</a> : “This committee shall ... hear, as provided in the <i>Public Administration Act</i> , each minister who deems it expedient to be so heard and each deputy minister or chief executive officer of a public body, as the case may be, in order to discuss their administrative management when it has been the subject of any report from the Auditor General or the Public Protector ....”
Ontario	Yes – some	<a href="#">SO 110(h)</a> : “... Standing Committee on Public Accounts which is empowered to review and report to the House its observations, opinions and recommendations on the Report of the Auditor General and the Public Accounts, which documents shall be deemed to have been permanently referred to the Committee as they become available.”
Manitoba	Yes – all	<a href="#">SO 98(c)</a> : “To fulfill its mandate the PAC is entitled to examine ... reports issued by the Auditor General of Manitoba.”
Saskatchewan	Yes – some	<a href="#">SO 142(2)</a> : “The Standing Committee on Public Accounts shall review and report to the Assembly its observations, opinions and recommendations on the Reports of the



Jurisdiction	Public Accounts Committee designated to receive AG reports?	Text of relevant Standing Orders
		Provincial Auditor which are designated for referral to the Standing Committee on Public Accounts by <i>The Provincial Auditor Act</i> , and on the Public Accounts, which shall be deemed to have been permanently referred to the committee as they become available.”
Alberta	Yes – all	<a href="#">SO 53(1)</a> : “Public accounts and all reports of the Auditor General shall stand permanently referred to the Public Accounts Committee as they become available”
British Columbia	Yes – all	<a href="#">Sessional terms of reference</a> : “On February 13, 2023, the Legislative Assembly agreed that all reports of the Auditor General of British Columbia transmitted to the Speaker of the Legislative Assembly be deemed referred to the Select Standing Committee on Public Accounts.”
Nunavut	No	N/A



Jurisdiction	Public Accounts Committee designated to receive AG reports?	Text of relevant Standing Orders
Northwest Territories	Yes – some	<a href="#">SO C.1(3)(d)</a> : “The Standing Committee on Government Operations shall consider the following matters with respect to the Departments of Executive and Indigenous Affairs; Finance; Municipal and Community Affairs; the Workers Safety and Compensation Commission of the Northwest Territories and Nunavut; and the Northwest Territories Power Corporation:... examine the reports of the annual financial statements and public accounts of the Government of the Northwest Territories and the Report of the Auditor General ...”
Yukon	Yes – all	<a href="#">SO 45(3)</a> : “At the commencement of the first Session of each Legislature a Standing Committee on Public Accounts shall be appointed and the Public Accounts and all Reports of the Auditor General shall stand referred automatically and permanently to the said Committee as they become available.”



## Appendix B

### Historical review of the Standing Committee on Miscellaneous and Private Bills and related rules and Standing Orders

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#### Pre-Confederation

Prior to confederation, all committees of the House were **Select Committees** – that is, they were struck as needed and expired once they had reported on their terms of reference.

Private bills were understood to be those bills that were initiated by individuals petitioning the House for an action related to private interests, in contrast to bills initiated by government. The 1890 and 1920 versions of the Rules and Orders for the Proceedings of the House of Assembly of Newfoundland list, in rule 290, several examples of the interests that might be covered by a private bill:

*(P)ivate bills... for the erection of a bridge, the making of a railroad, turnpike road, or telegraph line; the construction or improvement of a harbor, canal, lock, dam or slide, or other like work; the granting of a right of ferry; the incorporation of any particular trade or calling, or of any banking or other joint-stock company, or otherwise for granting to any individual or individuals any exclusive or peculiar rights or privileges whatever, or for doing any matter or thing in its operation would affect the rights of other parties or relate to any particular class of the community; or for making any amend of like nature to any former Act....*

In the 1890 and 1920 rules, private bills progressed through the House and Council following rules 290-319. In particular, note rule 303:

*Every private bill, when read a second time, shall be referred to a **select committee** and all petitions for or against such bill shall also be referred to such committee (emphasis added).*

A spot-check of pre-confederation Journals indicates committees to review private bills were frequently required, and struck as necessary.



## 1951 Standing Orders

The first Standing Orders for the provincial House of Assembly were finalized in 1951.

The procedures related to private bills were covered by Standing Orders 63-70. In addition to the Standing Orders themselves, the 1951 version also provided annotations on procedure and noted:

*Private Bills are Bills designed for the particular interest or benefit of any person or persons, public company or corporation, or local authority.*

*The Object of a private bill is to obtain “a privilegium”, that is an exception from or modification of the general law, or provision for something which cannot be obtained by means of the general law. ...*

*On its second reading it will forthwith be referred to a Select Committee and it is in this committee that the real consideration of the Bill takes place. (p.52)*

These first post-confederation Standing Orders were considered by the Committee of the Whole in March-May 1951. During the [debate](#), Premier Smallwood provided his understanding of what private bills were:

*The definition of a private Bill is that it is a Bill brought in by a private member, not by Government. A private member may bring in a Bill about a number of things affecting a private party, a company, an organization; a Government may bring in a Bill affecting a private party or a company but it is not a private Bill. ... it is private only if brought in by a private member. The Government brings in Bills every day affecting private corporations. Does that make them private Bills, because they affect a private corporation? If the Government brings in a Bill it is not private though it may affect a private individual. (pp. 412-413)*

He goes on to provide further detail:

*...the initiative of the Government of the day as the legislation comes into this House in every case, virtually, is brought in by the Government. The exception to that, of course is the privilege of private members to bring in any private Bill but*





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*no Bill may be brought in by a private member involving an expenditure of public money... (p. 423)*

The 1951 Standing Orders also introduce the concept of Standing Committees. In the section titled “Select Committees” (Standing Orders 84-89) order 88 reads:

*A committee of five ... whole duty it shall be to prepare a list of members to compose the following **standing committees** of the House:*

- (a) On Privileges and Elections.*
- (b) On Standing Orders and the Library.*
- (c) On Miscellaneous Private Bills.*
- (d) On Municipal Affairs.*

This is the first time any specific Committees were defined and, given that the need for Select Committees on private bills were frequently required up to that point – three were struck on [April 9, 1951](#) alone – it is understandable that creating a Standing Committee for that purpose made sense. However, referring a private bill to a “Select Committee” continues to be the language used throughout Standing Orders 63-70 and note particularly Standing Order 66:

*Every **private Bill** when read a second time shall be referred to a **select committee** and all petitions for and against shall also be referred to such committee (emphasis added).*

Consequently, while one can conclude the intent was to have private bills referred to the new Standing Committee, the language in Standing Orders 63-70 referring to a Select Committee was not updated to reflect this change.

### **1975 Revision of the Standing Orders**

The Standing Orders were revised and reissued again in 1975. Standing Orders 84-89 related to Committees were substantially revised and the difference between a Standing Committee versus a Select Committee – according to current day interpretation – appears for the most part to be understood by Members in debate.

Standing Order 84(g) names the committee in question as “Miscellaneous **and** Private Bills Committee”. No indication as to why “and” was added to the name, or the



significance of it, *i.e.*, what are Miscellaneous Bills as opposed to Private Bills, has been found.

In the 1975 edition of the Standing Orders, those related to the private bills procedures were not changed and the reference to them being referred to a Select Committee remains the same as above, Standing Order 66:

*Every **private Bill** when read a second time shall be referred to a **select committee** and all petitions for and against shall also be referred to such committee (emphasis added).*

The 1974 [debate](#) on the revision of the Standing Orders was quite lengthy. The only comment made relating to the Miscellaneous and Private Bills Committee were made by the chair of the Select Committee on revising the rules, M.H.A. Marshall:

*... Standing Order 84 has been amended to provide the machinery for a much larger committee system than we presently have. The committees that we have presently under Standing Order 84 are both inadequate and archaic. They are the committees on privileges and elections which must be there, on Standing Orders and the library, (There is no real necessity for the library to be there.) on miscellaneous private bills and on municipal affairs. (p. 3055)*

### Current Standing Orders

While the Miscellaneous and Private Bills Committee is itemized as a Standing Committee in Standing Order 65(1)(g), Standing Order 101 continues to read (*i.e.*, has not been amended since 1951):

*Every **Private Bill** when read a second time shall be referred to a **select committee** and all petitions for and against shall also be referred to such committee (emphasis added).*

Using the modern understanding of the nature of a Select Committee, a conflict exists between Standing Order 65(1)(g) and Standing Orders 98-111.



## Private Bills in Practice in the House of Assembly

The most recent example of a petition for a private bill, introduced by a private Member, and which followed the procedure as outlined by 1951 Standing Orders 63-70 was found in 1966:

### [An Act To Incorporate the Newfoundland Hairdressers' Association \(Bill 50\)](#)

#### [House of Assembly Journal - 33rd General Assembly, 4th Session: January 12, 1966 - August 17, 1966](#)

- Wednesday, February 9, 1966 (p.62) – Petition presented from the hairdressers of the Province asking for incorporation by Act of the Legislature. Petition was referred to “the Committee on Standing Orders”.
- Friday, February 18, 1966 (p. 89) – The “Select Committee on Standing Orders” had considered the petition of the hairdressers of the Province, and had found that the Rules of the House with respect to private bills was followed.
- Wednesday, February 23, 1966 (p. 95) – Introduced and First Reading.
- Wednesday, March 2, 1966 (p.104) – Second Reading; referred to “Select Committee on Private Bills”.
- Wednesday, March 23, 1966 (pp. 156-157) – Report of the “Select Committee” presented: Committee provides Bill 50 and amendments to ensure compliance with existing legislation.
- Thursday, March 24, 1966 (pp. 165-166) – Committee of the Whole - Bill passed with some amendments; Third Reading.
- Friday, March 25, 1966 (p. 175) – Assent.

In 1966, the Miscellaneous Private Bills Committee existed under Standing Order 88(d) as a **Standing Committee** of the House. The term used when referring this private bill to a committee at second reading, however, is **Select Committee**. Upon further evaluation, it appears that the bill was indeed referred to the Standing Committee constituted on February 10, 1966 under Standing Order 88(d) (Journal, p. 65). Additionally, the reference of the petition was to the “Select Committee on Standing Orders” not the Standing Committee on Standing Orders. Consequently, the use of the term “Select Committee” in both the Journal and Hansard is imprecise in the context. It is again noted that the section heading for Standing Orders 86-89 remains at this point in time “Select Committees”. The conclusion is the term “Select Committee” continued



to be used as an umbrella term for all committees rather than a specific type of committee as is the norm today.

A review of the [Table of Local, Personal, and Private Statutes 1834-Current](#), Journals from 1966-1970, and Hansard indexes from 1970-current, did not uncover any other public bills following current Standing Orders 98-111. The most recent bills related to private interests found were introduced as government bills and followed the familiar process:

**Bank of Nova Scotia Trust Company Act, 1997 (Bill 24)**

Notice of Motion – [November 17, 1997](#) p. 1095  
First Reading – [November 18, 1997](#) p. 1129  
Second Reading – [December 2, 1997](#) pp. 1525-1527  
Committee – [December 18, 1997](#) p. 2202  
Third Reading – [December 18, 1997](#) p. 2222  
Royal Assent – [December 18, 1997](#) p. 2234

**TD Trust Company Act, 1995 (Bill 30)**

Notice of Motion – [October 16, 1995](#) p. 1261  
First Reading – [October 19, 1995](#) p. 1366  
Second Reading – [October 31, 1995](#) pp. 1620-1624  
Committee – [December 4, 1995](#) pp. 2388-2391  
Third Reading – [December 21, 1995](#) p. 2845  
Royal Assent – [December 21, 1995](#) p. 2855

June 2023