

STANDING COMMITTEE ON HOUSE SERVICES



ELEVENTH REPORT OF THE TWENTY-NINTH LEGISLATURE

December 5, 2022

LEGISLATIVE ASSEMBLY OF SASKATCHEWAN

Speaker of the
Legislative Assembly



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SASKATCHEWAN

December 5, 2022

To the Honourable Members of the Legislative Assembly:

I have the pleasure to present the eleventh report of the Standing Committee on House Services. The committee is authorized by the Assembly to examine such matters as it deems advisable with respect to the rules, procedures, practices, and powers of the Legislative Assembly, its operation and organization, and the facilities and service provided to the Assembly, its committees, and members.

This report outlines proposed revisions to rule 12 of the *Rules and Procedures of the Legislative Assembly of Saskatchewan*.

Respectfully submitted on behalf of the committee,

Honourable Randy Weekes, Chair
Speaker of the Legislative Assembly

Introduction

On Tuesday, November 1, 2022, the following motion was adopted by the Standing Committee on House Services:

That a subcommittee of the Standing Committee on House Services consisting of the Speaker, Hon. Jeremy Harrison, and Ms. Nicole Sarauer be appointed to study and make recommendations on revisions to the *Rules and Procedures of the Legislative Assembly of Saskatchewan*.

Revisions to the *Rules and Procedures of the Legislative Assembly of Saskatchewan*

Within the past few years, a practice developed of providing a written response to questions of privilege. In some instances, this led to multiple communications to the Speaker. This created a dilemma because the privilege rules provided no authority nor structure for consideration of such responses to a case. This discrepancy was addressed by the Speaker in a statement to the Assembly on April 4, 2022. In addressing a question of privilege, the Speaker stated, in part, that if members desired to argue the merits of a case through exchange of correspondence, the rules should be changed to accommodate that practice. Accordingly, the Government House Leader and the Opposition House Leader requested that the matter be considered by the Standing Committee on House Services with the intention to codify the practice by incorporating the appropriate authority and structure within the standing orders.

On Wednesday, November 30, 2022, the subcommittee met to consider changes to rule 12 of the *Rules and Procedures of the Legislative Assembly of Saskatchewan* to address this issue. The subcommittee proposed changes which would allow for such a response by the member who is the subject of a question of privilege or by House leaders. Accordingly, the subcommittee also proposed that the deadline for providing notice to raise a question of privilege be extended, and a deadline for the submission of responses be applied.

On Monday, December 5, 2022, the subcommittee presented its proposal to the Standing Committee on House Services. The following table compares the original text of the rule with the proposed changes, and the rationale behind each proposed change. Proposed changes are denoted by strikethroughs in the original rule and underlining in the proposed rule.

The revised rule 12 is then presented in the form of the *Rules and Procedures of the Legislative Assembly of Saskatchewan*, along with the committee's recommendation to the Legislative Assembly.

Proposed Changes to Privilege Rule (Rule 12) — Table of Comparison and Explanation

| Marginal Note | Original Rule | Proposed Rule | Explanation |
|--------------------------------|---|--|---|
| Privilege | <p>12(1) Any Member may raise a matter of privilege by providing notice to the Speaker at least two hours prior to the regular daily opening of the Assembly. The Member shall provide to the Speaker in writing the following:</p> <ul style="list-style-type: none"> (a) a letter signed by the Member, which outlines the case for a breach of privilege or contempt; (b) details of the case, which includes any evidence that is available to support the case; (c) a question of privilege motion, which the Member must be ready to propose: <ul style="list-style-type: none"> i. declaring that a contempt or breach of privilege has been committed, which includes a remedy for the problem; or ii. referring the matter to the Standing Committee on Privileges; <p>a sufficient number of copies of the case for distribution in accordance with Rule 12(3).</p> | <p>12(1) Any Member may raise a matter of privilege by providing notice to the Speaker <u>by at least 10:30 a.m. on sitting days that commence at 1:30 p.m.</u> The Member shall provide to the Speaker in writing the following:</p> <ul style="list-style-type: none"> (a) a letter signed by the Member, which outlines the case for a breach of privilege or contempt; (b) details of the case, which includes any evidence that is available to support the case; (c) a question of privilege motion, which the Member must be ready to propose: <ul style="list-style-type: none"> i. declaring that a contempt or breach of privilege has been committed, which includes a remedy for the problem; or ii. referring the matter to the Standing Committee on Privileges; (d) sufficient number of copies of the case for distribution in accordance with Rule 12(3). | <p>The notice period is extended by one hour to facilitate time to prepare a written response to the matter of privilege. The additional hour also provides the Speaker time to consider the response before making a ruling.</p> <p>The three-hour notice is not workable for sitting days that commence at 10:00 a.m. In instances of an alleged incidence occurring the day before a 10:00 a.m. sitting day, the submission shall be submitted the next sitting day that commences at 1:30 p.m.</p> <p>This change would also restrict the submission of questions of privilege to sitting days, thereby precluding their submission during periods of adjournment. A loophole provided by rule 12 specifying that questions of privilege must be raised “at the earliest opportunity” and “at least two hours prior to the daily opening of the Assembly” provided an opening for such to occur as an unintended consequence of these statements.</p> <p>Matters of privilege can only be addressed through proceedings, so the earliest opportunity to do so should be the regular sitting day after the breach is thought to have occurred.</p> |
| Notice at earliest opportunity | <p>12(2) Notice of a question of privilege is required to be submitted at the earliest opportunity after the contempt or breach of privilege is thought to have occurred.</p> | <p>12(2) Notice of a question of privilege is required to be submitted <u>on the earliest sitting day</u> after the contempt or breach of privilege is thought to have occurred.</p> | Earliest sitting day is governed by part 1 of this rule (see above). |

| Marginal Note | Original Rule | Proposed Rule | Explanation |
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| <u>Notice may be waived</u> <u>Distribution of case details</u> | 12(3) Immediately upon receipt of such notice, the Speaker shall advise the government and opposition House Leaders, and any independent Members, of the case, and provide each with the written details and the proposed question of privilege motion. | 12(3) Immediately upon receipt of such notice, the Speaker shall advise the House Leaders, <u>any Member who is the subject of a question of privilege</u> , and any independent Members, of the case, and provide each with the written details and the proposed question of privilege motion. | This change ensures that any member who is the subject of a question of privilege is directly notified as a matter of natural justice. It also ensures that an independent member has opportunity to respond. |
| <u>Written reply to privilege case permitted</u> | | <u>12(4) A reply to the case may be made to the Speaker by a Member who is the subject of a question of privilege or by the House Leaders on behalf of a caucus. Only one reply from a caucus shall be permitted and the reply by the respondent member shall take precedence. The reply shall be:</u> (a) <u>in writing and signed</u> ; (b) <u>strictly relevant to the case</u> ; (c) <u>received by the Speaker no later than 11:30 a.m.</u> (d) <u>received with sufficient number of copies of the reply for distribution in accordance with Rule 12(3)</u> . | Deadline for the response is the original deadline prescribed by rule 12(1) for submission of the question of privilege. |
| Determination of <i>prima facie</i> case | 12(4) The Speaker shall determine if a <i>prima facie</i> case of privilege has been established but, without unreasonable delay, may defer the decision to another sitting day. The Speaker shall advise the Assembly thereof by making a statement at the conclusion of Routine Proceedings and before Orders of the Day. | <u>12(5)</u> The Speaker shall determine if a <i>prima facie</i> case of privilege has been established but, without unreasonable delay, may defer the decision to another sitting day. The Speaker shall advise the Assembly thereof by making a statement at the conclusion of Routine Proceedings and before Orders of the Day. | Renumbering after insertion of rule 12(4). |
| <i>Prima facie</i> case to be considered immediately | 12(5) When a <i>prima facie</i> case of privilege has been established, the Member who raised the case shall move the question of privilege motion, and it shall be taken into consideration immediately. | <u>12(6)</u> When a <i>prima facie</i> case of privilege has been established, the Member who raised the case shall move the question of privilege motion, and it shall be taken into consideration immediately. | Renumbering after insertion of rule 12(4). |
| Time limit on speeches | 12(6) Debate on a motion of privilege shall be subject to the following time limits for speeches: (a) the mover of the motion shall speak for not more than one hour, and is permitted 15 minutes to close debate; (b) no other member shall speak for more than 45 minutes. | <u>12(7)</u> Debate on a motion of privilege shall be subject to the following time limits for speeches: (a) the mover of the motion shall speak for not more than one hour, and is permitted 15 minutes to close debate; (b) no other member shall speak for more than 45 minutes. | Renumbering after insertion of rule 12(4). |

Proposed Revisions to Rule 12 of the *Rules and Procedures of the Legislative Assembly of Saskatchewan*

PRIVILEGE

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| Privilege | <p>12(1) Any Member may raise a matter of privilege by providing notice to the Speaker by at least 10:30 a.m. on sitting days that commence at 1:30 p.m. The Member shall provide to the Speaker in writing the following:</p> <ul style="list-style-type: none">(a) a letter signed by the Member, which outlines the case for a breach of privilege or contempt;(b) details of the case, which includes any evidence that is available to support the case;(c) a question of privilege motion, which the Member must be ready to propose:<ul style="list-style-type: none">i. declaring that a contempt or breach of privilege has been committed, which includes a remedy for the problem; orii. referring the matter to the Standing Committee on Privileges;(d) a sufficient number of copies of the case for distribution pursuant to Rule 12(3). |
| Notice at earliest opportunity | <p>12(2) Notice of a question of privilege is required to be submitted on the earliest sitting day after the contempt or breach of privilege is thought to have occurred.</p> |
| Distribution of case details | <p>12(3) Immediately upon receipt of such notice, the Speaker shall advise the House Leaders, any Member who is the subject of a question of privilege, and any independent Members, of the case, and provide each with the written details and the proposed question of privilege motion.</p> |
| Written reply to privilege case permitted | <p>12(4) A reply to the case may be made to the Speaker by a Member who is the subject of a question of privilege or by the House leaders on behalf of a caucus. Only one reply from a caucus shall be permitted and the reply by the respondent member shall take precedence. The reply shall be:</p> <ul style="list-style-type: none">(a) in writing and signed;(b) strictly relevant to the case;(c) received by the Speaker no later than 11:30 a.m.(d) received with sufficient number of copies of the reply for distribution in accordance with Rule 12(3). |
| Determination of <i>prima facie</i> case | <p>12(5) The Speaker shall determine if a <i>prima facie</i> case of privilege has been established but, without unreasonable delay, may defer the decision to another sitting day. The Speaker shall advise the Assembly thereof by making a statement at the conclusion of Routine Proceedings and before Orders of the Day.</p> |
| <i>Prima facie</i> case to be considered immediately | <p>12(6) When a <i>prima facie</i> case of privilege has been established, the Member who raised the case shall move the question of privilege motion, and it shall be taken into consideration immediately.</p> |
| Time limit on speeches | <p>12(7) Debate on a motion of privilege shall be subject to the following time limits for speeches:</p> <ul style="list-style-type: none">(a) The mover of the motion shall speak for not more than one hour, and is permitted 15 minutes to close debate; and(b) No other Member shall speak for more than 45 minutes. |
| Questions of privilege shall not be adjourned | <p>12(8) No question of privilege shall be adjourned. Unless sooner concluded, debate shall end at ten minutes before the ordinary time of daily adjournment when the Speaker shall interrupt the proceedings and put every question necessary to dispose of the main motion.</p> |

Recommendation

The committee recommends:

That the proposed revisions to Rule 12 of the *Rules and Procedures of the Legislative Assembly of Saskatchewan*, as presented by this report, be adopted and brought into force effective December 5, 2022; and further,

That upon adoption of this motion, the Clerk of the Legislative Assembly shall ensure the *Rules and Procedures of the Legislative Assembly of Saskatchewan* as revised are printed and republished in English and French.