



Fact Sheet

Consensus Government in Nunavut

The Legislative Assembly of Nunavut is one of only two federal, provincial or territorial legislatures in Canada that has a consensus style of government rather than the more common system of party politics.

In Nunavut, all Members of the Legislative Assembly (MLAs) are elected as independent candidates in their constituencies. The consensus style is considered to be more in keeping with the way that Inuit have traditionally made decisions. However, unanimous agreement is not necessary for decisions to be made, motions passed or legislation enacted in the Legislative Assembly. For many matters, a simple majority vote is required. As in other Canadian jurisdictions, the Legislative Assembly governs its own proceedings through the *Rules of the Legislative Assembly*.

Following a general election, MLAs gather together as the “Nunavut Leadership Forum” to select the Speaker, Premier and Ministers in a secret ballot election. This process is open to the public to observe. These choices are formalized through formal motions at the first sitting of the Legislative Assembly. The Commissioner, on the recommendation of the Legislative Assembly, formally appoints the Premier and Ministers.

There is no fixed number of seats on Cabinet. However, in order to ensure the accountability of the executive to the legislature, the Commissioner of Nunavut is not permitted to appoint a majority of the MLAs to the Cabinet. The Premier has the prerogative to assign and remove Ministerial portfolios. However, a motion in the Legislative Assembly is required to remove a member of the Executive Council from office.

The Three Branches of Government

Canada is a constitutional monarchy. As in all Canadian jurisdictions, there are three separate branches of government in Nunavut: the executive branch, the legislative branch and the judicial branch.

Each branch of government has different powers and responsibilities. In general terms:

- The legislative branch of government consists of the Legislative Assembly and the Commissioner. The approval of a majority of MLAs and the Assent of the Commissioner are required for a Bill to become law. Most Bills are introduced by the government and sponsored by a Minister. The executive branch of government is accountable to the legislative branch of government. This is most clearly illustrated by the fact that the Premier and Ministers hold office at the pleasure of the Legislative Assembly.
- The Commissioner of Nunavut is formally designated by the *Nunavut Act* as the Chief Executive for Nunavut, similar to the role of the Governor General with respect to the federal government or a Lieutenant Governor with respect to a provincial government. The executive branch of government is led by the Premier and Cabinet, who are Members of the Legislative Assembly. The Government of Nunavut's departments, boards, Crown agencies and other entities administer Nunavut's laws and deliver programs and services. The executive branch holds the "Crown prerogative" to initiate financial legislation to levy taxes or spend public money.¹
- The judicial branch of government is, in essence, the court system. The judiciary is responsible for interpreting the law. Nunavut is unique in Canada in that it has a "single level" court – the Nunavut Court of Justice.

¹ This is best illustrated by the fact that non-members of Cabinet may not introduce their own appropriation Bills to spend public money or raise taxes. A "money bill" can only be introduced in the Legislative Assembly if it is accompanied by a "money message" (also known as a "royal recommendation"). This is a formal written message from the Commissioner, acting on the advice of the government, which recommends to the Legislative Assembly the passage of the financial legislation.

The Fundamental Principles of Parliamentary Government

Canada's system of parliamentary government is often referred to as "responsible government" or "Westminster-style government."² The most important principles of this system as they apply to Nunavut include:

- The principle of "parliamentary privilege" is respected. The rights, powers and privileges of the Legislative Assembly and its Members are provided for in the *Legislative Assembly and Executive Council Act*. Parliamentary privilege encompasses the rights and powers of elected legislators as individuals to perform their duties of office, and the rights and powers of the institution as a whole;
- The collective privileges of the Legislative Assembly as an institution include the right to establish its own rules and procedures, the right to control its own publications, the power to punish individuals for contempt, the right to discipline its own Members and the power to summon witnesses and documents;
- The government - Premier and Cabinet - holds and retains office by maintaining the "confidence" of the Legislative Assembly as a whole. For example, a motion of non-confidence in a specific Minister would, if passed, result in that Minister's departure from Cabinet. This occurred on one occasion during the First Legislative Assembly of Nunavut (1999-2004);
- Cabinet solidarity is required. Although Ministers are expected to voice their views during the *in camera* deliberations of Cabinet and its committees, once a collective decision has been reached, all Ministers are expected to publicly support it. For example, Ministers are expected to vote in favour of Bills introduced by the government, while Regular MLAs may vote as they deem fit;
- Ministers, both as political heads of specific departments and as members of a unified Cabinet, are accountable to the Legislative Assembly for the policies, decisions and actions of government;
- The government formally outlines its priorities and legislative agenda at the beginning of each new Session of the Legislative Assembly through the Commissioner's Opening Address (also referred to as the "Speech from the Throne" or "Throne Speech");

² Westminster is the name of the district in London where the British Parliament is located. Many of the principles and traditions of British parliamentary government have been inherited by Canada.

- The public service (the “bureaucracy”) is expected to remain politically neutral. Public servants are expected to provide professional, impartial advice to their Ministers, and implement the decisions taken by the government of the day. Public servants are accountable to the Legislative Assembly through the Ministers to whom they report;
- Bills to allow the spending of public money (through the estimates process) and the raising of public money through taxation measures may only be initiated by the government (see Footnote #1 on “money bills”);
- Members of the Legislative Assembly have a variety of tools with which to hold the government accountable for its actions. These include the asking of oral and written questions, the moving of motions and the requirement that the government publicly provide written responses to petitions and reports of Standing and Special Committees of the Legislative Assembly;
- The government is also required by law to table a number of reports and other documents on an annual basis. These reports account for the government’s activities in a number of different areas; and
- The Independent Officers of the Legislative Assembly and the Auditor General of Canada report annually to the Legislative Assembly as a whole.

The Consensus Style of Government in Nunavut

There is no single definition of what constitutes “consensus government” in Nunavut. Indeed, many of the elements that differentiate Nunavut from other Canadian jurisdictions are intangible and relate more to the manner in which politics is conducted and decisions are made, rather than what is written in law or formal policy.

Some of the features which clearly illustrate Nunavut’s consensus approach to government are:

- MLAs are elected as independents, rather than as members of a political party with a formal platform;
- Although Ministers are expected to vote together on matters before the House, Regular MLAs may vote according to their individual wishes without fear of formal sanction or punishment. However, informal discipline on the part of Regular MLAs as a group could be exerted through the Regular Members’ Caucus (RMC);

- Regular MLAs hold a majority of seats in the Legislative Assembly. Unlike in partisan Canadian legislatures, there are no “government backbenchers” who are expected to vote on matters according to the preferences of the Cabinet;
- Unlike every other Canadian legislature except that of the NWT, the Premier and Cabinet Ministers are chosen by the Members of the Legislative Assembly as a whole. The Premier has the authority to assign specific portfolios to his or her Ministers, and to designate his or her Deputy Premier. The Premier and Ministers hold office at the pleasure of the Legislative Assembly;
- The practice of holding a Mid-Term Leadership Review of the Cabinet has been undertaken in the First, Second and Third Legislative Assemblies;
- The forum of Full Caucus serves as an important body in which all 19 MLAs can discuss - in confidence and as equals - matters of their choosing. Although Nunavut’s proposed laws and budgets must be debated publicly on the floor of the Legislative Assembly, Full Caucus is often the forum in which differences are reconciled and compromises achieved. Full Caucus also serves as a practical forum for the discussion of such matters as the scheduling of House business, the review of internal matters and the timing of elections. Although the Cabinet has the legal authority to call a general election at a time of its choosing, the experience in Nunavut has been that this issue is first discussed in Full Caucus in order to achieve consensus;
- Although unanimity is not required for the passage of Bills or other items before the House, it is frequently achieved. Regular MLAs do not vote against government measures simply for the sake of opposing them. Unanimous consent is very often granted to Members asking for permission to conclude their statements, refer Ministers’ Statements to Committee of the Whole for consideration, advance a government Bill through the stages of the legislative process more quickly than usual or take other actions;
- Although Regular MLAs hold Ministers accountable through such mechanisms as Oral Questions, the tone of deliberations in the Legislative Assembly is marked by greater civility than that which is often evident in partisan legislatures. Heckling is very rare, for example. It is noteworthy that although the Legislative Assembly has held over 400 sitting days since the creation of the territory on April 1, 1999, no Speaker of the Legislative Assembly has had to name a Member and eject him or her from the Chamber because of disorder or repeated breaches of the Legislative Assembly’s rules;
- The Independent Officers of the Legislative Assembly are recommended for appointment by the Legislative Assembly as a whole, rather than being chosen solely by the Cabinet or the head of government alone; and

- Standing Committees of the Legislative Assembly have the ability to exert more influence on government than in most Canadian legislatures. For example, Standing Committees review the government's annual business plans, main estimates and capital estimates in draft form prior to formal introduction in the House. This provides Regular MLAs with the opportunity to recommend changes to spending plans and program initiatives before they are finalized. Standing Committees also have the opportunity to review legislative proposals for new laws before they are introduced in the House in the form of a Bill.