



STANDING COMMITTEE ON THE ECONOMY

Hansard Verbatim Report

No. 33 – November 28, 2006



Legislative Assembly of Saskatchewan

Twenty-fifth Legislature

**STANDING COMMITTEE ON THE ECONOMY
2006**

Mr. Kevin Yates, Chair
Regina Dewdney

Mr. Randy Weekes, Deputy Chair
Biggar

Ms. Doreen Hamilton
Regina Wascana Plains

Hon. Deb Higgins
Moose Jaw Wakamow

Mr. Delbert Kirsch
Batoche

Mr. Eldon Lautermilch
Prince Albert Northcote

Mr. Lyle Stewart
Thunder Creek

[The committee met at 15:00.]

The Chair: — Thank you very much, members of the committee. I'd like to call the meeting to order. The business before us today is review of a number of regulations that are before us. We have no substitutions on the committee today, so I would ask Mr. Ring to make his presentation.

Mr. Ring: — Thank you, Mr. Chair. The package was distributed yesterday to members in the House with respect to the regulations that we'll be looking at today. The one item no. 5 is a new item that I have included just for members' information and we can end with that.

The Wildlife Amendment Regulations, 2002
SR 19/2002
The Wildlife Act, 1998
Saskatchewan Gazette March 8, 2002

Mr. Ring: — First regulation that I have is from 2002. It's The Wildlife Amendment Regulations, 2002. In the package you will note that I wrote to the minister with respect to whether . . . There appears to be two ministers in charge. The Minister of the Environment wrote back indicating that it was clearly within the Minister of the Environment's purview and that he felt that there was no reason to amend the regulations.

My recommendation with respect to that file is to . . . I'm sorry, I've started on the wrong set of regulations. The Wildlife Regulations, there was a difficulty in those regulations that may lead to a . . . a lack of precision may lead to a difficulty in prosecution. At that time the minister indicated that the departmental officials would make the change as indicated. To date those amendments have not been made. I wrote the minister to remind the minister of the commitment that was made to amend the regulations. The minister wrote back and indicated that the regulations will be amended at the next time those regulations are amended.

So my recommendation for this file would be to continue to monitor the file for regulations for the amendments that were committed to.

The Chair: — Any questions? Thank you. I'll recognize the member from Last Mountain-Touchwood.

Mr. Hart: — Thank you, Mr. Chair. Mr. Ring, in your concerns you state that the lack of precision in the regulations could lead to difficulty of prosecution. Are you aware of any instances where this was in fact the case due to the ambiguity of the regulations leading to a, you know, a prosecution that wasn't successful, or there were perhaps some situations where prosecutions perhaps should have taken place but didn't because of a deficiency in the regulations?

Mr. Ring: — To the member, no I'm not. And the assessment that I make on the regulations is reading through them. As I look at them I feel, oh, this looks like there could be a little bit too much room to manoeuvre if you're trying to properly set out a charge, an information in order to commence a prosecution.

And at that point I wrote the minister indicating I felt there may

be an issue here, and indeed they felt there was. But I'm not aware of any prosecutions that were undertaken or any prosecutions that did not occur as a result of the regulation.

Mr. Hart: — I suppose, upon reflection, probably that question be better posed to the Minister of the Environment. And I noticed, Mr. Ring, that your recommendation is to continue to monitor the amendments to see if and when the improvements to the regulations do take place. Perhaps I would suggest that perhaps you . . . I would recommend that you perhaps write the minister and pose the question as to . . . Well I suppose, maybe on reflection maybe it's better if I do that in another committee or in estimates, Mr. Ring.

But no. Perhaps I would suggest that we press this issue a little bit more forcefully, that we perhaps get a firm date as to when, you know, when he's going to deal with it because if it is a situation we do have problems with in this whole area of perpetrators, you know, not being dealt with properly, and taking advantage of, you know, of some holes in our regulations and that sort of thing.

And we see the Department of Environment's tips program and so on. People are making calls when they see something happening. And then if we do have a situation where due to lack of proper regulations action can't be taken because of a deficiency.

I think perhaps maybe we should just agree, monitor the situation, but perhaps write the minister again and try and get a firmer date as to when these changes will take place.

Mr. Ring: — To the member. Members can raise issues in a variety of forums, as you've indicated. However I think with respect to the regulation I could write the minister again, indicate that the committees will be vigilant in this area, and inquire as to whether or not there is a set time for addressing the issue. But I think that that would probably be as far as the Office of the Law Clerk and Parliamentary Counsel could go.

Mr. Hart: — No, Mr. Ring, that would be entirely satisfactory and I will use the other means at my disposal to also raise this issue with the minister. Mr. Chair, I don't have any more questions on this particular matter and I don't know if any other committee members have, but I've concluded my questioning. Thanks.

The Chair: — Thank you very much, Mr. Hart. Do any other members have questions on this particular regulation? Seeing none, thank you very much on this issue. Mr. Ring.

The Energy-Efficient Household Appliances (Provincial Sales Tax) Remission Regulations
F-13.4 Reg 30
The Financial Administration Act, 1993
Saskatchewan Gazette December 19, 2003

Mr. Ring: — The next set of regulations are The Energy-Efficient Household Appliances (Provincial Sales Tax) Remission Regulations from 2003. This is another situation where I had written to the minister regarding the particular wording in the regulation that referred to a particular program

of the Government of Canada.

And in indicating to the minister, I indicated that perhaps they should, instead of using a particular program, refer to a more general sense as opposed . . . If the federal government changes the requirements or the name of the program, then there's a difficulty with the regulation.

And so here the minister indicated that he'd committed to amend the regulations with respect to the question of authority having to cite both sections 24 and 71 of The Financial Administration Act. That is a technical issue really. I have noticed that since this date, the regulations being made similar to this are both . . . are citing now both section 24 and 71. So that one issue is taken care of.

The other issue with respect to subdelegation, the minister has committed to make the change and so the follow-up would be to monitor the regulations for amendment.

The Chair: — Thank you very much, Mr. Ring. Do any of the members of the committee have any questions as to this particular regulation and its follow-up? Thank you, Mr. Hart.

Mr. Hart: — Thank you, Mr. Chair. Mr. Chair, I guess the only comments that I would have is that we certainly do agree with Mr. Ring's recommendation. We think that they are very reasonable recommendations dealing with this particular issue. And Mr. Ring indicates that the minister has committed to amending the regulations and suggests that we monitor the amendments and I would certainly concur with that. Once again I suppose it would be helpful if the minister had indicated, and perhaps he has, a time frame for these actions to be taken place. I would suggest that we allow a reasonable period of time, something that is reasonable in dealing with these types of issues to transpire and that if after a reasonable period of time — and I'm sure Mr. Ring is more . . . could define a reasonable amount of time — that if no action has been taken that then the minister, this issue be drawn to the minister's attention once again. So that would conclude my remarks, Mr. Chair.

The Chair: — Thanks, Mr. Hart. Are there any other members who would like make comment on this particular regulation? Seeing none, thank you very much, Mr. Ring. We'll go on to the next item for the committee.

The Crown Minerals Transfer Regulations 2005
C-50.2 Reg 25
The Crown Minerals Act
Saskatchewan Gazette January 21, 2005

Mr. Ring: — Thank you. The next set of regulations are The Crown Minerals Transfer Regulations, 2005. With respect to this issue that was raised with the committee when we first presented regulations to the policy field committees, this was a wording issue. Generally speaking when they talk about appendixes or parts or schedules, they always say to this Act or to these regulations. And in this case the words "to these regulations" were omitted and so I wrote to the minister to raise the concern and ask for a response, and that was the direction I received from the committee at that time. That's the part that's in the shaded area on the report that committee members have.

The minister wrote back — and you have the minister's letter in front of you — and the minister indicated that the Department of Industry didn't feel there would be a difficulty with these regulations given that they were already passed and there is no . . . The regulations have already been registered with the Saskatchewan land titles registry.

And I think the minister's probably correct there. One of my concerns is more with a consistency of expression in Acts and regulations. The minister has indicated as well that he does appreciate the comment that was made and that they would consider making that amendment if future amendments to these regulations are made. But I think at this point the issue has been raised and my recommendation to the committee would be to close the file.

The Chair: — Thank you very much, Mr. Ring, for your presentation. Do any members . . . someone have any questions of . . . Yes thank you, Mr. Weekes.

Mr. Weekes: — Thank you, Mr. Chair. Yes, I believe that we should follow the recommendation of the Law Clerk and proceed with his advice.

The Chair: — Do any of the other members have any questions or concerns? Seeing none, thank you very much to Mr. Ring on this issue. We'll move forward to The Wild Rice Regulations.

The Wild Rice Regulations, 2005
F-19.1 Reg 6
The Provincial Lands Act
The Forest Resources Management Act
Saskatchewan Gazette February 11, 2005

Mr. Ring: — Yes. The Wildlife Regulations from 2005, these were the regulations that I tried to start with when I made my first presentation and now I'm finally there at number 5. So I'll give you the shorthand version of what I started with. The Wildlife Regulations are made pursuant to two Acts, one for which the Minister of Agriculture and Food is responsible. The other Act, the Minister of the Environment is responsible for that Act. When you read the regulations, it just talks about minister, means the minister responsible for these regulations.

My concern and issue that I brought forward to the committee was that you may not be sure which minister is actually responsible when you read the regulations on the face of just reading the regulations.

I wrote to the minister and the minister responded that in his view he didn't feel there was a need to amend the regulations because wild rice . . . wildlife cultivation occurs on Crown lands in the North — mostly forest lands — and the Minister of the Environment is responsible for those regulations, and so there's no need to amend them.

My issue I suppose is for the purposes of readability, it might not be a bad idea to indicate that, so that a common . . . someone using the regulations or looking them up on the Internet would be able to see that the minister responsible is actually the Minister of the Environment and not the Minister of Agriculture, because you see provincial lands listed as part of the authority. But certainly the minister is on firm legal ground

in that a sophisticated reader of the regulation and user would be able to decide and know which minister is responsible for them.

So my recommendation in this situation would be to close the file.

The Chair: — Thank you very much, Mr. Ring. Do any members have any questions or concerns? Thank you, Mr. Hart.

Mr. Hart: — Thank you, Mr. Chair. Mr. Ring, I think I share some of your concerns in the area. I mean the minister certainly makes a valid argument that most . . . The wild rice industry is in the North and it takes place on Crown land which is regulated by his department.

However the industry itself, I believe as you'd said the Department of Agriculture has an involvement in that industry and I think there could be some ambiguity. However I guess if you feel that it's not going to cause any problems as far as administration of various . . . of the programming of the Act, I would be prepared to accept your recommendation with just the note that perhaps sometime in the future . . . I believe that we should monitor at least the situation in case that there are some problems do arise in the future that we may want to have another look at it.

Perhaps we could close the file for now and if we close it I believe there is provision if there are some future changes to regulations that we could have another look at it. So I guess I would just make those comments, Mr. Chair.

The Chair: — Thank you very much. Mr. Ring, do you have any response?

Mr. Ring: — Yes, to the member. I'd indicate that the issue's been raised with the minister. They're aware of it and instead of committing to changing the regulations that are now in place for I think what is a fairly small or known industry and user of the regulations, that there's probably less risk of people not knowing which ministry is in charge because it's, I believe, a fairly defined group of people they're dealing with, a clientele.

However although the minister didn't commit to making a change to the regulations, it has been brought to their attention and perhaps next time The Wildlife Regulations are made or changed they may make that change.

The Chair: — Thank you very much, Mr. Ring. Mr. Hart.

Mr. Hart: — Yes, very briefly, Mr. Chair. Yes, I certainly concur. And I think by Mr. Ring raising this concern with the minister, I would hope that they would be cognizant of that. And as Mr. Ring had indicated, any future changes perhaps they could just tidy up this issue at the next regulation change. Thank you, Mr. Chair.

The Chair: — Thank you very much, Mr. Hart. With that that concludes item 3 on the agenda. We would move to item 4. Mr. Ring, could you just bring the committee up to date with your work over the last several months here.

2006 Regulations -- No Legal Issues (January 1, 2006 to September 30, 2006)

Mr. Ring: — Thank you, Mr. Chair. This item 4 is the list that you will find that's . . . it's a two-page list on a grid and it really . . . the top of it says, 2006 Regulations — No Legal Issues. And these are regulations that have been filed with the registrar of regulations and the Clerk of the Legislative Assembly.

I have reviewed those regulations from January 1, 2006 up to and including September 30, 2006. The list of regulations that you see on those two pages, there were no issues from a legal point of view for the seven items that I'm required to review the regulations for. However members may want to consult this list to see whether or not there are any issues with respect to policy that they would like to raise. But that's not an area that's within the purview of the Law Clerk's authority and is something new that comes in under the policy field, a new aspect of the policy field committees.

It essentially gives the members an idea of what has been reviewed by the Law Clerk, and then a quick list of what regulations are referred to this, particular to this committee.

The Chair: — Thank you very much, Mr. Ring. Members of the committee, we have before us a list of those regulations which have been reviewed by the Law Clerk, but as he has indicated we also have the purview to review regulations for policy issues. Without members having had the opportunity to in detail look at the regulations, I would suggest that we accept this list, and that at a later date if any members have concerns about any of the regulations before us on a policy issue that we leave an opportunity for them to be raised at our next meeting. Yes, Mr. Weekes.

Mr. Weekes: — Thanks, Mr. Chair. Well that was my point. There's no one to answer any questions about policy here today. I just wonder in the future is this how it's going to be conducted that Mr. Ring, or the Law Clerk, would come and there would be another opportunity, or government officials would be here to answer policy questions at a later date?

The Chair: — Absolutely, Mr. Weekes. The process would be that you would identify to the Clerk the issues in which you would have some questions and we would put that on the agenda and then have the appropriate people to be able to answer those questions at that time. Without those people here and without you having had adequate time to review the list, today is more or less a tabling of the list to give us all an update where we're at. And we will — if you have issues — put them on a future meeting.

Mr. Weekes: — Thank you for the clarification.

Bill No. 1 — An Act to amend The Labour Standards Act and to make consequential amendments to other Acts and Regulations

The Chair: — Thank you. With that, Mr. Ring, I think we will be able to move on to the final item on your agenda today which is Bill No. 1, An Act to amend The Labour Standards Act.

Mr. Ring: — Thank you, Mr. Chair. This is more of an informational item for members than anything else but I do want to note for members that regulations that are made by Lieutenant Governor in Council, by cabinet, or by minister's order appear on the list.

However, Bill No. 1 is an indication — The Labour Standards Amendment Act — is another way for delegated legislation to be changed and that is with the delegated legislation being included in an Act of the Legislative Assembly. And at the end of these . . . section 8, 9, 10, and 11 of Bill No. 1, those are actually amendments that are being made to regulations. And so I just wanted to bring this matter forward to members so that members were aware that changes to regulations can be made by an Act of the Legislative Assembly as opposed to having to do it through the normal course — either cabinet, minister's order, or board order.

The Chair: — Thank you very much, Mr. Ring. Do we have any questions? I recognize Mr. Weekes.

Mr. Weekes: — Thank you, Mr. Ring, just a clarification on that. What circumstances would there be to bring it through legislation rather than through cabinet or vice versa? There's basically two options so why is it done one way one time and another, another time?

Mr. Ring: — To the member, I think with respect to Bill No. 1, in establishing Family Day this way, that change is made at the same time to both primary legislation and all delegated legislation instead of making the change in Bill 1 and then once Bill 1 is adopted then going and having to go through and change the regulations that are made . . . to make the same change in the regulations. And so it's not really a choice that's being made. I think it's really an efficient way of making the change that needs to be made in both the primary and the delegated legislation.

Mr. Weekes: — Since I've been a member, the government has very often done changes through regulation rather than bring it to the Assembly and changing and bringing an Act in. And I guess maybe this is, maybe you're not the right person to ask this of, but it's interesting to note that with this Bill that they're doing it through an Act rather than through regulation. Is there any provision or possibility of, or should I say, making it incumbent on the government to bring it to the legislation and through an Act rather just changing the regulation through cabinet or order in council?

Mr. Ring: — To the member. I can answer that question in general. I guess the general question would be no. But with respect to the change that's being made here, it is a more efficient way of making the change. If it was done by regulation, the regulation, it still stands referred to the Legislative Assembly and would be reviewed in due course by the Assembly as we're doing at this meeting here.

So by doing it in an Act as opposed to doing it through an order in council, they're actually going through the same process as they would be going through to make a change to the delegated legislation. So there's really no advantage or disadvantage. It's just a more efficient way of making the change in the law.

Mr. Weekes: — Just one more item. How often are the regulations changed by an Act versus through order in council? Is it, I mean, a rough guesstimate of a percentage of . . . is it done more often through order in council rather through legislation? Do you have an idea of the numbers?

Mr. Ring: — To the member. Yes, it's a rare occurrence. The last couple of years there have been one or two examples of it and those examples really have been a question of making the change to the Act. And the change that's made in the Act is also made to the regulations so that the law is updated more quickly as opposed to taking longer to update all the necessary portions of the law.

The Chair: — Mr. Hart.

Mr. Hart: — Mr. Ring, when regulations are changed in this manner through legislation, how are future changes to those particular regulations handled? Do they then need to be changed by legislation or can they be also changed in future by orders in council?

Mr. Ring: — To the member. Doing it this way on occasion does not change the requirement to make regulations in the normal course when there's a change in policy or larger amendments being made. So this wouldn't affect the way, or wouldn't set the standard for changing delegated legislation normally. So the regulations that are listed there — the corrections services administration security regs and The Land Surveys Regulations, The Public Service Regulations, would still be amended and changed in the normal course.

The Chair: — Seeing no other concerns from any members, we have concluded the items on our agenda for today. Mr. Ring, I'd like to thank you on behalf of the committee for coming today and making a presentation. And with that I would entertain a motion to adjourn.

Hon. Ms. Higgins: — I so move.

The Chair: — Ms. Higgins moves we adjourn. All those in favour?

Some Hon. Members: — Agreed.

The Chair: — That's carried.

[The committee adjourned at 15:31.]