

SPECIAL COMMITTEE ON REGULATIONS

December 1, 1998

MINUTE NO. 5

10:00 a.m. - Room 255

1. **PRESENT:** Mr. Toth in the Chair and Members D'Autremont, Hillson, Murrell, Sonntag, Ward and Whitmore.

Other Member

Mr. Osika

Staff to the Committee

Ms. Margaret Woods, Clerk to the Committee

Mr. Garnet C. Holtzmann, Q.C., Acting Legislative Counsel and Law Clerk

REGULATIONS FOLLOW - UP

2. The Water Power Amendment Regulation, 1988

Issue:

The regulation provided for a calculation of water rental under a formula commencing January 1, 1987, which was retroactive to the creation of the regulations on January 22, 1988. There was no authorization in the Act for retroactive regulations to be made.

The legal advisor reported to the Committee on the Minister's reply and then responded to questions from Members. The Committee accepted the recommendation that the legal advisor monitor the legislative program of SaskWater in respect to this regulation.

3. The Mental Health Services Amendment Regulations, 1995

Issue #1:

Section 3 of the regulations establishes nine mental health regions while the accompanying map details eleven mental health regions.

Issue #2:

The regulations failed to express the connection between the mental health regions established by sections 3(a) to (i) and the numbered areas shown on the map. Additionally, the map was not of sufficient scale or detail to enable a person to know where the boundaries actually fall on the ground.

The legal advisor reported that the issues had been resolved by the passage of Sask. Reg. 103/47. The Committee agreed to consider the matter resolved.

4. The Helium and Associated Gases Amendment Regulations, 1994 and The Petroleum and Natural Gas Amendment Regulations, 1994

Issue:

The Committee had previously directed the legal advisor to monitor the revision and consolidation of both of these regulations as agreed to by the Minister. To date, no such revisions or consolidations have taken place.

The legal advisor reported to the Committee on the Minister's reply and then responded to questions from Members. The Committee directed the legal advisor to continue to monitor the revision and consolidation of both regulations and if anything occurs, to bring it to the committee's attention.

CONSIDERATION OF 1998 REGULATIONS

5. The 1997 School Grant Regulations

Issue:

The Act contemplates the regulations setting out the terms and conditions of school grants i.e. what expenditures to consider. However, the Act does not contemplate that the Minister may determine what additional expenditures may appropriately be considered in making the calculations, as is provided for in section 26 of the regulations. The power granted to the Minister pursuant to section 26 is a delegation of authority in the regulations which is not authorized by the statute.

The legal advisor summarised the purpose of the regulations and the issue arising from them. He then responded to questions from Members. The Committee accepted the recommendation of the legal advisor that he correspond with the department to raise the issues articulated by the Members.

6. Emergency Services Telecommunications Program Regulations

Issue:

The regulations establish an Emergency Services Telecommunications Program to enhance the delivery of emergency response services. This is done by providing grants to municipalities for the preparation of a telecommunication plan and for the purchasing of telecommunications equipment. Section 24 of *The Government Organization Act* is cited as the authority for the regulations. However, it is the opinion of the legal advisor that this section was intended only for the Minister to have grant making powers with respect to matters lawfully within his/her jurisdiction.

The legal advisor provided a summary of the authority under which the regulations are purported to have been made and his concerns arising therefrom. He then responded to questions from Members. During consideration of the legal advisor's recommendation that he contact the department respecting the Committee's concerns, Mr. Hillson moved:

That the additional sentence "This Committee expressed its concern that proper legislative authority for a provincial 911 service may not be in place." be added at the end of the recommendation.

The question being put on the recommendation with the additional sentence, it was agreed to.

7. Condominium Property Regulations, 1997

Issue:

The regulations constitute an assessment apportioning program for units in multi use condominiums. *The Condominium Property Act, 1993* authorizes in section 112(0.1) that regulations may be made to establish a scheme of apportionment of the "assessed value" of condominium property. However, section 30.3(1) of the regulations creates a scheme to apportion the "taxation" of the property. This is in conflict with the taxation of the property being pursuant to the appropriate municipal statute on assessed values of property once this is established.

The legal advisor summarised the purpose of the regulations and the issue arising from them. He then responded to questions from Members. The Committee accepted the recommendation of the legal advisor that he correspond with the Minister to secure his or her views.

8. Enforcement of Maintenance Orders Regulations, 1998

Issue:

The regulations prescribe the procedure for enforcing the payments set out in court orders for maintenance and support. Further provisions require the applicant to submit a certified copy of the order, any additional forms or documents that the official may request and an affidavit of arrears. These requirements may prove to be very onerous to applicants with limited financial and other resources.

The legal advisor summarised the purpose of the regulations and the issue arising from them. He then responded to questions from Members. The Committee considered the recommendation of the legal advisor and then agreed to direct him to correspond with the appropriate department to raise the following recommendation with them:

That in each case where a court makes a maintenance order, the clerk of the court should be directed to forward a copy of the order to the maintenance enforcement office. Where a form opting out from the services of the maintenance enforcement programme has been filed, a copy of this form should be attached to the court order being sent to the maintenance enforcement office.

9. The Public Libraries Amendment Regulations, 1998

Issue:

These regulations deal with grants to libraries and purport to be passed pursuant to section 83 of *The Public Libraries Act, 1996*. However, in the opinion of the legislative counsel, section 83 does not contain such a grant authorizing provision.

Section 64 of the Act could be cited as the authority for the making of grants but the power granted to the Minister is discretionary. Sections 21.1 to 21.9 prescribe both the terms and conditions for the awarding of grants and secondly, obligate the Minister to make a grant, effectively removing any discretion on his part.

The legal advisor summarised the purpose of the regulations and the issue arising from them. He then responded to questions from Members. The Committee accepted the recommendation of the legal advisor that he correspond with the department administering these regulations to secure an explanation for this particular approach to providing library grants.

10. The Department of Intergovernmental and Aboriginal Affairs Regulations, 1997 (No. 2)

Issue:

Sub-clause (f) of the amending regulations adds certain duties relating to local government elections to the Department of Intergovernmental and Aboriginal Affairs. However the purpose of sub-clause (f) is unclear in that it is not readily apparent what is meant or contemplated by the terms “local government” and “programs and policies” as contained in the sub-clause. The uncertainty is in contrast to other statutes which contain very detailed provisions regarding all aspects of elections in urban and rural municipalities.

The legal advisor summarised the purpose of the regulations and the issue arising from them. He then responded to questions from Members. The Committee accepted the recommendation of the legal advisor that he correspond with the department to ascertain what activities the department contemplates under this clause.

11. The Provincial Court Amendment Regulations, 1998

Issue:

The amending regulations were passed in 1998 but provides for the retroactive payment of judges from November 1, 1997. The retrospective nature of the regulations is within the Committee's jurisdiction to consider.

The legal advisor summarised the purpose of the regulations and the issue arising from them. He then responded to questions from Members. The Committee accepted the recommendation of the legal advisor that he correspond with the department to suggest a new drafting approach to such provisions.

CONSIDERATION OF SUPPLEMENTAL REPORT

12. The Provincial Lands Regulations

Issue:

The regulations provide a rental calculation for leases and states that the rental is to commence on January 1, 1997 for leases pursuant to these regulations, regardless whether the lease was entered into before or after this provision came into force. The regulations are retroactive but the parent statute does not authorize the passage of retroactive regulations.

Mr. Whitmore declared that he had a personal interest in this issue as a holder of a land lease and that therefore, he would not be participating in the Committee's deliberation on this regulation.

The legal advisor summarised the purpose of the regulations and the issue arising from them. The Committee accepted the recommendation and directed the legal advisor to obtain an explanation for the approach taken by the department.

13. It was moved by Mr. Whitmore:

That this Committee do now adjourn.

The question being put, the motion was agreed to.

14. The Committee adjourned at 12:08 p.m. to the call of the Chair.

Margaret A. Woods
Committee Clerk

Don Toth
Committee Chair