

SPECIAL COMMITTEE ON REGULATIONS

May 4, 1999

MINUTE NO. 6

10:00 a.m. - Room 10

1. **PRESENT:** Mr. Toth in the Chair and Members Belanger, D'Autremont, Hillson, Jess, Koenker, Murrell and Ward.

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 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 summarized the response he had received from the Minister and then responded to questions from Members. Mr. Koenker moved:

That the Committee explore with the Minister the option of an amendment to the legislation to allow for the appropriate and required ministerial discretion.

The question being put, the motion was agreed.

3. 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.

The legal advisor summarized the response he had received from the Minister and then responded to questions from Members. A discussion ensued and the Committee agreed to direct the legal advisor to obtain copies of the lease agreements and the criteria on which the lease rental rates are based.

4. 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, after summarizing the Minister's response, indicated that he was not in agreement. A discussion ensued and it was agreed by the Committee to consider the matter resolved.

5. 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 reported that the Minister was correct in her response wherein she identified the existence of other statutory authority, to replace the deficient authority cited in the regulations. The legal advisor noted that these regulations were no longer in force and recommended that the matter be considered resolved. The Committee accepted the recommendation.

6. 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 Committee considered the response from the Minister and the concerns of the legal advisor. It was agreed to accept the legal advisor's recommendation to invite the Minister's officials to appear before the Committee to clarify their position on the issue. The legal advisor was further directed to outline the Committee's reservations in his correspondence with the Minister.

7. 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 summarized the response he had received from the Minister. The Committee accepted his recommendation and agreed to consider the matter resolved.

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 summarized the response he had received from the Minister and then responded to questions from Members. The Committee agreed to consider the matter resolved.

9. 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 summarized the issue and the response provided by the Minister. The legal advisor indicated that he was not in agreement with the explanation given and that it was his recommendation that the new Legislative Counsel and Law Clerk, when appointed, should review the regulation and the correspondence from the Minister. The Committee accepted the recommendation.

10. The Land Bank Temporary Provisions Amendment Regulations, 1995

Issue:

This regulation was last considered in 1996 when the issue concerned the practice of the Department to set rental rates for leases of crown land at times when the term of the lease had ended.

The legal advisor noted that correspondence was exchanged with the Minister’s office but that the matter had not been brought back before the Committee. The legal advisor recommended that the file be concluded due to the age of the regulations and the fact that the issue was still alive and presently before the Committee with the respect to The Provincial Lands Amendment Regulations, 1997. A discussion ensued and the Committee agreed to consider the matter closed.

11. The Committee considered the draft of its First Report to the Assembly. The Chair drew Members' attention to the section entitled "Outstanding Business" and specifically that the 1997 regulations have not been reviewed yet. It was agreed to adopt the report and to present to the Assembly later that day.
12. It was moved by Mr. Ward:

That this Committee do now adjourn.

The question being put, the motion was agreed to.
13. The Committee adjourned at 11:07 a.m. to the call of the Chair.

Margaret A. Woods
Committee Clerk

Don Toth
Committee Chair