

SPECIAL COMMITTEE ON REGULATIONS

June 5, 2001

MINUTE NO. 6

9:30 a.m. - Room 10

1. **PRESENT:** Mr. Toth in the Chair and Members Allchurch, Bakken, Harper, Hart, Higgins, Jones and Yates.

Staff to the Committee

Mr. Ken Ring, Legislative Counsel and Law Clerk

2. The Committee resumed its discussion on streamlining its procedures. It was moved by Mr. Yates:

That the Special Committee on Regulations authorizes the Legislative Counsel and Law Clerk to initiate correspondence on the Committee's behalf with Government departments, agencies and professional associations;

That the correspondence shall identify any concern(s) noted in a regulation or bylaw, and shall request clarification or a response from the departments, agencies and professional associations;

And further that the Legislative Counsel and Law Clerk shall bring both his concern(s) and the response received before the Committee at its next meeting;

And in cases where it is not clear what actions the Committee might want, the Legislative Counsel and Law Clerk shall consult with the Chair and Vice-chair, who may direct that:

- (a) correspondence be initiated on any matter enumerated, or
- (b) the matter be brought to the attention of the whole Committee for consideration before further action is taken.

The question being put and a debate arising, the motion was agreed to.

3. The Committee then discussed establishing time guidelines for responses. It was moved by Mr. Yates:

That the Special Committee on Regulations request Government departments, agencies and professional associations to respond to correspondence sent on behalf of the Committee by the Legislative Counsel and Law Clerk within 60 days whenever possible;

And where a response has not been received within this period, the Legislative Counsel and Law Clerk shall bring this fact to the attention of the Chair and Vice-chair for further direction.

The question being put and a debate arising, the motion was agreed to.

4. In consideration of the motions just adopted, it was agreed that the regulations remaining under the "New Concerns" heading would be dealt with pursuant to the new procedures by the Law Clerk and that they would be brought back before the Committee at a later date.

FOLLOW-UP REPORTS

5. The Crown Oil and Gas Royalty Amendment Regulations, 1999 (No. 2)

Concern #1:

The coming into force clause is oddly drafted.

Concern #2:

The future difficulty in determining the day the regulations come into force.

The Law Clerk summarized the regulation, the concerns arising there from and the correspondence received from the Minister. The Committee accepted the recommendation of counsel that these matters be considered resolved. However it was agreed that the Law Clerk should correspond with the minister responsible to encourage the department to republish the regulations or a notice of the regulations with the actual coming into force date, now that it is known; and further, to encourage the department not to re-enact portions of regulations when retroactive amendments are made, as the retroactive amendments should include only that portion of the provision that is retroactive.

6. The Employment Supplement Regulations (1998)

Concern:

The regulations require the provision of information by means of telephone only.

The Law Clerk summarized the regulation, the concern arising there from and the correspondence received from the Minister. The Committee accepted the recommendation of counsel to consider the matter resolved.

7. The Freehold Oil and Gas Production Tax Amendment Regulations, 1999 (No. 2)

Concern #1:

The coming into force clause is oddly drafted.

Concern #2:

The future difficulty in determining the day the regulations come into force.

The Law Clerk summarized the regulation, the concerns arising there from and the correspondence received from the Minister. The Committee accepted the recommendation of counsel that these matters be considered resolved. However it was agreed that the Law Clerk should correspond with the minister responsible to encourage the department to republish the regulations or a notice of the regulations with the actual coming into force date, now that it is known; and further, to encourage the department not to re-enact portions of regulations when retroactive amendments are made, as the retroactive amendments should include only that portion of the provision that is retroactive.

8. The Open Seasons Game Amendment Regulations, 2000

Concern:

Provisions dealing with the enforcement of wildlife offences contain overlapping sets of dates for 2002 but no reference to the calendar year 2001.

The Law Clerk summarized the regulation and the concern arising there from. It was further noted that correspondence had been initiated in regards to this regulation by the Law Clerk pursuant to the authority previously granted to him but that no response had been received from the department. The

Committee directed the Law Clerk to write a second letter reiterating the Committee's concern and requesting the department to respond, particularly in light of the new procedures adopted by the Committee this day.

CONTINUING FOLLOW-UP REPORTS

9. The Justices of the Peace Amendment Regulations, 1999

Concern #1:

The minimum criteria to obtain a benefit are not set out.

Concern #2:

The regulations purport to grant employee type rights and benefits to Justices of the Peace who perform judicial and quasi-judicial duties. The regulations (section 14.71) also require Justices of the Peace to participate in government employee benefit plans.

The Law Clerk summarized the regulation, the concerns arising there from and the correspondence received from the Minister. The Committee accepted the recommendation of counsel to consider the matter resolved. The Law Clerk was further directed to advise the Committee when the compilation and publishing of a list of criteria has been completed so that it may be reviewed by the Committee.

10. The Provincial Court General Regulations

Concern #1:

The absence of objective criteria that the Minister must consider when making his/her decision.

Concern #2:

There is no clear authority in the Act allowing regulations to be made with respect to a deferred salary leave plan.

The Law Clerk summarized the regulation, the concerns arising there from and the correspondence received from the Minister. The Committee considered the recommendation of the Law Clerk. It was agreed to direct the Law Clerk to correspond with the Minister to request that in the future if amendments are made, the concerns of the Committee be taken into consideration when drafting them.

11. The Urban Municipalities Revenue Sharing Amendment Regulations, 1999

Concern #1:

The minister may determine the population.

Concern #2:

Delegation of ministerial authority to lesser officials.

The Law Clerk summarized the regulation, the concerns arising there from and the correspondence received from the Minister. The Committee accepted the recommendation of counsel that he shall monitor the regulation for any changes that may be coming and advise the Committee when changes occur.

FOLLOW-UP & RESOLVED REPORTS

12. The Electronic Meeting Procedures Regulations

Concern:

The procedures for electronic meetings should be in the regulations, not in local authority policies.

The Law Clerk summarized the regulation, the concern arising there from and the correspondence received from the departmental official. The Committee accepted the recommendation of counsel to consider the matter resolved in light of the undertaking by the department to address the concern. The Law Clerk was further directed to advise the Committee when the suggested amendments to the regulations are made.

13. The Swimming Pool Regulations, 1999

Concern:

Lack of authority to delegate enforcement to local authority.

The Law Clerk summarized the regulation, the concern arising there from and the correspondence received from the Minister. The Committee accepted the recommendation of counsel to consider the matter resolved. The Law Clerk was further directed to ask the Minister as to when compliance will be achieved.

RESOLVED REPORTS

14. The Law Clerk advised that a list of regulations previously reviewed by the Committee at its February 6th and 7th, 2001 meetings and awaiting further information, were now considered resolved
15. A discussion ensued regarding in what circumstances officials would be called to appear. It was agreed that the calling of witnesses would be a decision of the whole Committee and that this power would not be delegated to the Chair and Vice-chair in consultation with the Law Clerk.
16. A list identifying all regulations filed between September 4, 1999 and December 31, 1999 that were reviewed by the Law Clerk but not reported to the Special Committee is attached as Appendix A to these Minutes.
17. A list identifying all regulations filed between January 1, 2000 and June 30, 2000 that were reviewed by the Law Clerk but not reported to the Special Committee is attached as Appendix B to these Minutes.
18. The Committee considered its next meeting date. It was agreed that the next meeting would be scheduled at the call of the Chair in late September / early October.

19. It was moved by Ms. Higgins:

That this Committee do now adjourn.

The question being put, the motion was agreed to.

20. The Committee adjourned at 10:21 a.m. to the call of the Chair.

Margaret A. Woods
Committee Clerk

Don Toth
Committee Chair