



Special Committee on Regulations

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**SPECIAL COMMITTEE ON REGULATIONS
2000**

Don Toth, Chair
Moosomin

Kevin Yates, Vice-Chair
Regina Dewdney

Denis Allchurch
Shellbrook-Spiritwood

Brenda Bakken
Weyburn-Big Muddy

Ron Harper
Regina Northeast

Glen Hart
Last Mountain-Touchwood

Debbie Higgins
Moose Jaw Wakamow

Carolyn Jones
Saskatoon Meewasin

Andrew Thomson
Regina South

The committee met at 9 a.m.

The Chair: — Welcome to the meeting this morning.

And we're going to do a follow-up summary of a number of a regulations going back to 1997. And let's see, were there some beyond that? I forget now. But Ms. Bakken has another commitment at 10. I think we should be moving along fairly well by then unless there's a lot of holdups, hiccups. Dennis said he had a number of concerns when he was going through the review summary. We'll find out.

Anyway I'd like to welcome you and welcome Mr. Ring and Ms. Gartner. And we'll at this time I guess just move right into it and turn it over to Mr. Ring.

The 1997 School Grant Regulations
(Gazetted January 2, 1998)

Mr. Ring: — Thank you. This would be one of the follow-up, typical follow-up summary that we would have.

With respect to the school grant regulations, they're a very long and a very complicated set of regulations that are passed each year, and they determine the amount of money that's going to be given to each school board in the province. And so it's done by how many students do you have enrolled, what was your enrolment last year, what's your projected enrolment for the future year? And there's calculations throughout them.

In those set of regulations, they talk about the minister recognizing certain expenditures. And if the minister recognizes certain expenditures they can be included as part of the school grant. But there's no indication in the regulations what types of things the minister can recognize.

And this has been coming up year . . . the same provision occurs in the regulations each year because instead of amending the regulations each year, what the practice has become is just to repeal and replace the whole set of regulations. So that you have the '98 regulations are essentially the '97 regulations with a few little changes and quotients for the new calculations. Instead of saying, strike out 15 and substitute 20; strike out 12 and put 9, they just repeal and replace the whole set of regulations so that you have the entire school grant regulations in front of you.

And this provision that was of concern to the committee from the '97 regulations has been recurring. And there have been a number of letters as you look through the follow-up report back and forth from the Law Clerk's office to the Minister of Education over time.

And as you notice from the correspondence that was passed out this morning from the present Minister of Education, he does indicate that they were going to be discussing with . . . in the last paragraph on page 2:

discussing the issue with the department's legal counsel in the Department of Justice, in conjunction with the preparation of the new grant regulations.

And that in trying to work with the government's overall regulatory reform program, they're trying to simplify these regulations and make them smaller, deal with them otherwise.

So I think the department is giving an indication that they are moving towards trying to rectify the concern that was raised.

Given that, the recommendation then would be, rather than keeping the '97 grant regulation concern as an open file and keeping the '98 grant regulation concern as an open file and bringing forward the 1999 regulations as an open file to you. I'd like to consolidate the issues all in one because they really essentially deal with the same provision that's used year after year; and that, as has been indicated in previous correspondence, is required to give the minister the flexibility to deal with certain particular situations in each school division that they don't know about until after they need a building or after they need to make a certain expenditure.

So there on that . . . on this one I would just ask that we could consolidate the same issue that occurs from year to year — that would mean we don't have to keep bringing it forward each year as a concern — and monitor the situation to see if there'll be legislative changes either to the regulations or to the Act, or perhaps both. Because in the last session, the Department of Education brought forward a Bill that allowed them to move from a calendar year — from January to December — to the government's fiscal year.

And so they have a transition period now with the January to March money to be rolled into the new fiscal year. So they're dealing with that situation at this time and I think that might have been why they didn't deal with this particular situation here because they were trying to move to the new fiscal year. And now that they're on the same fiscal year as the government's fiscal year, it might be easier for them to deal with the situation that was raised back in the 1997 regulations.

The Chair: — Any further comments from committee members? Is the committee then prepared to accept the recommendation of the . . . oh, just one second. Ms. Bakken?

Ms. Bakken: — It's not clear. So what you're saying is that we're just not going to deal with this, or . . .

Mr. Ring: — Not that we wouldn't deal with it, but we would perhaps leave it. It would come back as a follow-up summary again to the next committee meeting. And we would . . . we could watch to see if there are any changes that are made either to the regulations or to The Education Act, 1995. And then rather than dealing with the '97 regs, the '98 regs, and then the '99 regs, and then report the 2000 regs to you saying that the same issue is there, try to consolidate them all to one report to the committee regarding this provision that recurs in the education regulations.

Ms. Bakken: — Just another question. I guess I don't understand why if the recommendation was made to the minister to outline the actual expenditures within the regulations, why it is not being done. Like why does this keep . . . Why is it an ongoing problem? Why has this issue not been addressed today?

Mr. Ring: — That would be a question the department could perhaps . . . I can't answer that question for you. Although looking back over the correspondence that came from previous ministers, they have indicated that it's something that is very difficult to set out as criteria because the . . . (inaudible interjection). . Yes, sir. What they recognize each year varies, varies from year to year. Although after a certain point in time when you get a certain variance, you could perhaps start making a list and then have the catch-all anything else. But that would require the Act to say that the minister could recognize the ones that were set out in the regulations and any other unusual or exceptional expenditures that are required. And it's really that last part that isn't included in the parent Act right now.

Ms. Bakken: — Well just another question then. When these recommendations are made from this committee then, they're really irrelevant then is what you're saying. They don't have to be carried through. Is that correct?

The Chair: — Well let's put it this way. We make recommendations and we hope that the government eventually responds to them and acknowledges the problem.

But in the past we have had . . . departments eventually get around to recognizing the fact that they have to do things a little differently so that they don't always have these letters coming back and forth from the regulations review committee. And generally speaking most departments respond fairly quickly. Sometimes the process is a little more convoluted and it takes a while to respond to that.

Just from what from Mr. Ring has indicated, for the sake of the committee by doing some follow-up and actually bringing all three at the same time, kind of amalgamating them together, it will save us the process of having to go through '97 individually, '98, and '99.

Because I think what Mr. Ring is saying is indicating the next time it comes after . . . Based on the letter from the minister . . . or from the department indicating that they're going to give a . . . make a real effort to address some of these concerns the next time around, when we meet next time, as I gather, Mr. Ring will have '97, '98, and '99 all in one and simplify the process for us. And hopefully by the year 2000-2001 I believe, then the department will be making a concerted effort to address the concern we've been raising.

And with that in mind, we're going to have to rely a little bit on the fact that based on the letter in front of us; they're indeed going to find a mechanism that addresses these concerns, realizing how difficult it is to amalgamate that.

So I guess all I can say is that it doesn't necessarily mean that we don't always get a response. Sometimes the questions we ask just take a little more time and effort than other regulations where it's a very simple change to either legislation or the regulation.

Mr. Allchurch: — Are the concerns of '97-98-99 all the same?

Mr. Ring: — It's the same concern, the same issue. And I think if they were consolidated and we dealt with them as one as opposed to three separate ones, then when the rest of the

committee would instruct a letter to go forward to the minister, then we can say this is a concern that has been in the following regulations instead of sending one letter for the '97 regulations and one letter for the '98 regulations and one letter for the '99 regulations.

Mr. Allchurch: — You were saying that the school year now is on the same process now as the government year?

Mr. Ring: — The funding for school grants used to be the calendar year from January to December, and in this past session the government passed The Education Amendment Act, 2000 that made the school grants will now be paid on the government's fiscal year. And that was . . . although it doesn't seem like a big change, it was very significant because the government's fiscal year is not the same as the school year, and all of the school divisions function and need their money on the basis of the school year because that's how they run their operations. So trying to work out when you . . . to coordinate those two differences, the way the two groups, the government and the local authorities operate, required significant effort.

Mr. Allchurch: — So by doing that, this will help solve this problem here that we have of the three years?

Mr. Ring: — I think this may have been one of the steps in helping to resolve that problem, but I don't know that for a fact.

The Chair: — One other point as well in . . . Remember from our orientation yesterday, as a committee, when we report to the Assembly, we can also report that there are some areas that we have some concern with, right to the Assembly. So it becomes more of a public concern versus just a committee concern.

Mr. Yates: — Yes. I'd just like to point out, having sat on the leg. instruments committee, it's very difficult for departments to bring forward all the legislation that they may want to make in minor changes in any given year, or regulations as well, because just the amount and volume of work is very complex.

So if they are looking to rewrite the regulations as a whole, they may well put it off to when they rewrite those regulations in order to, you know, not have to go through the process one year and then the very next year go through the same process, and do it in one step. And in a lot of areas, that is what is going on, several sets of regulations. And, in fact, legislation is being amalgamated that are similar issues so that we're not repeating ourselves.

So in that process, it may take some time to actually bring forward a new regulation.

The Chair: — Having had this discussion, what's the committee's wish? Accept the recommendations of our legal counsel?

Mr. Harper: — Yes. And then to make some recommendations as well.

The Chair: — Is the committee agreed to that?

A Member: — Agreed.

The Chair: — It's agreed and that's carried. Thank you, Mr. Ring.

**The Provincial Lands Amendment Regulations, 1999
(Gazetted June 4, 1999)**

The Chair: — Let's move on then to the next, Provincial Lands Amendment Regulations, 1999.

Mr. Ring: — Now, these were brought forward to the last committee and I included the verbatim with respect to The Provincial Lands Amendment Regulations so that the new committee and the new members would have a sense as to what the concern was and the discussion that took place at the previous meeting.

I agree with Mr. Holtzmann that the minister is on firm legal ground and that I don't think there's anything wrong legally with the way the scheme is set up now and operates.

However the committee at the time was concerned with the fact that although you have a lease that's signed with the department, the amount of the lease can be changed through the regulations. But clearly the regulations say that they would ... the regulations form a part of the lease.

And when you look at the three leases that were provided to us from the Department of Agriculture, the provision that ... there's a provision in the lease that also indicates that this lease is subject to any regulations that are passed with respect to it and that their rent may go up or their rent may go down depending on the circumstances. And that will be dealt with ... that may be dealt with in the regulations.

And over the years, starting with the first lease in '85 and ending with the last lease that was the last lease provided to us that was in '96, committee members will note that the indication that the regulations form part of the lease and that they may occur as a result of that, the change in what the rent may be is set out in each of them.

And in fact in the last one in '96, that provision with respect to the regulations is now the very first item on the lease at the top of the schedule, acts and regulations, saying this lease is subject to The Provincial Lands Act, etc., and the following regulations, and that those regulations are incorporated into and form a part of the lease. So it's very clear to the people entering into the lease that there are other ... that the regulations are ... you have the leases in front of you but you also have to check the regulations to make sure you know what the rules of the game are.

The Chair: — Any questions from committee members?

Mr. Allchurch: — In regarding the leases I noticed that — by reading this last night — that it says in the lease that the leases may go up and they have a chance to go down. The chance of it going down is one in a million and it's never, ever happened.

I have a meeting this weekend regarding some landowners in direct respect to what this is going on with as far as the leases. And they're very upset that in good years the leases keep going up, and then in bad years they're supposed to drop and it never

comes down.

Also, these leases are a farmer's nightmare. I don't understand why something so difficult can't be made a whole lot simpler. And I have a lot of problems with this whole process in regarding this amendment regulations.

Mr. Ring: — That's really a policy question, so I wouldn't have a response.

Mr. Allchurch: — The thing is I'm just speaking out from people that have contacted me regarding this because in my area I have a ton of leases.

Mr. Yates: — Well I can appreciate the complexity of the lease but, having gone through business leases and land leases before, this is no more complex than a lease that you would see in any type of business arrangement.

And if you look at the length of duration of some of these leases ... the last one we have is for 33 years. To not have a provision that would allow for an increase in the lease rate over 33 years would ... you wouldn't see leases of this nature where landowners or the individuals could lock in the farming program, or the government wouldn't, or any other individual would not sign into a long-term lease like this without some provisions for being able to go up. You just wouldn't.

So what you'd have is people not being able to plan for their long-term needs. And we'd have much shorter leases and, you know, all the technical problems that go with that as well. That you open them up and you may not get your land back, you know, somebody else may want to lease it, all the particular problems. This way somebody can actually enter into a business agreement for an extended period of time to facilitate what their needs are in their farm.

Mr. Allchurch: — But are ... I agree with you, Mr. Yates, but are the leases, even in a 33-year basis, is it not on a year-to-year basis? In other words when the farmer enters into a 33-year lease, it's changed year to year. The changes are made every year.

Mr. Yates: — Only as it pertains to the regulations.

Ms. Bakken: — Well that is the problem though according to the regulations. In most leases ... any lease that I've ever been involved with, the ramifications are outlined and are reviewed in a certain period of time but you know what that could be and what the limitations are of it.

Most leases say well in five years ... The lease is for 20 years say but at the end of five years there is a clause saying that you review it and that it could go to this amount agreeable by both ... if both partners agree. It's not open-ended where the person ... the lessor has the ability to ask for anything they want. There's some kind of figure put in there or some kind of calculation that is used to determine what that lease could become.

This is open-ended. There is no qualification on what it could be or what the ramifications are. So I think that's the problem — is that the regulations do not address it.

Mr. Hart: — The main problem I see with the regulations here, I think it's all centred on the calculation of the annual rent in the complex formula that is used to determine the annual rent.

I wonder if it wouldn't be in the best interests of the committee to have department officials come forward and be present to explain first of all the reasoning behind such a complex formula, you know, and those sorts of things and how the regulations actually apply in the real life situation. And then perhaps from that explanation we could perhaps be in a better position to put forward recommendations that may help with this situation.

The Chair: — Thank you, Mr. Hart. Any other comments? I guess that's the thought that's going through my mind as well, because as MLAs (Member of the Legislative Assembly) we're sitting here . . . we're opposition and government but we're not necessarily setting policy direction. This committee isn't to set policy direction and we, as Mr. Ring indicated, maybe need a bit of a clarification, a better understanding of the process of these lease involvements.

Any comments or suggestions, Mr. Ring, in your regards?

Mr. Ring: — Having department officials come to discuss the program I think in this situation might be beneficial. I noted from the transcript from the last committee meeting that they talked about the fact that agricultural leases of this nature with the department are of a long-standing practice and that, although some people may not be particularly happy with them in each particular year, to make a change to them might be more than . . . they may be getting more of a reaction than they feel they wanted.

So it might be I think beneficial for the committee to get the background information and discuss with the departmental officials the advantages and the disadvantages of one type of regulation scheme as opposed to another, as opposed to another, as opposed to another. And then the committee would be certainly in a better position to make a recommendation or a decision with respect to where they should go.

The Chair: — Thank you, Mr. Ring. Mr. Hart, would you be prepared to make a motion in that regard? I'm sensing from committee members that this is generally the direction we should proceed and the motion's made. We'll have it read, and we'll vote on it.

The motion before us by Mr. Hart is:

That the department officials be invited to appear before the committee to discuss the regulations on the leases regarding Provincial Lands Amendment Regulations, 1997.

Is that agreed to? It's agreed to, and it's carried. Thank you.

Anything else in front of us, Mr. Ring?

Mr. Ring: — Not that was sent out in the package, although I did have two files that were from 1998 that weren't included in the package, and I just seek the committee's direction with respect to those two.

Yesterday there was a motion passed indicating that if it was not an urgent concern or it was really something that was quite routine that was noticed, I could write the department concerned to have them look at it and perhaps make a change.

And I think the two follow-ups . . . or the two regulations that I do have from 1998 fall into that category. And so I just wanted to find out from the committee whether or not I could use that motion from yesterday to go back to deal with two '98 regulations, rather than waiting to bring them forward to the next meeting, saying that, you know, the proper title for something is this and not that. I don't know that the committee needs to bother or use its time with those types of issues.

The Chair: — What's the wish of the committee? I was just kind of wondering, Mr. Ring, if you could just give us a bit of an idea which areas, without going into detail, that we'd be dealing with and then . . .

Mr. Ring: — Yes, the one area was with respect to a set regulations they indicate the expression urban park is used in the regulation, and then they list three urban parks in the province, although the title for the urban park that's used is not the name of the legal entity of that urban park.

And Mr. Holtzmann said that he didn't know what an urban park was and so it could create a little bit of confusion. And so he would suggest that you change the name that appears in the regulations from A to A incorporated or what have you. So it's really just clarifying — putting a dot on an "i" if you will.

The Chair: — I'm getting the impression from committee members that that certainly would be appropriate and at least we would then have something with a little more meat to deal with next time, rather than just sitting around discussing something that might be addressed fairly simply.

So are the committee members agreed then, we just ask Mr. Ring to do the follow-up and then we'll proceed from there?

It's agreed. It's carried.

So that appears to cover the business of the meeting today. Yesterday when we had adjourned I had asked Mr. Ring what timelines we might have as far as planning for another meeting. I'm not sure about other committee members, but I think this fall we might be getting . . . days might be getting fairly tight. Some of us are involved in another committee that's meeting fairly regularly over the next four or five weeks, then it's almost into Christmas time.

And I'm wondering from committee members, and I wanted to ask Mr. Ring, whether or not mid to late January might be an appropriate time for a meeting and what we might have available — whether that's too late in your views; or get some feedback from committee members as to when a good meeting date down the road might be.

Mr. Ring, have you got any comments as to what might be available for that period?

Mr. Ring: — Yes, I think probably late January might be the earliest opportunity to have a meeting, given the other two

special committees that the legislature . . . or that are operating in the province at this time.

That would also, I think, give sufficient time for perhaps some of the follow-up and even give us enough time to make arrangements to have one or two of the groups that were to come forward to do that.

And seeing as that is something that hasn't been done for a number of years, we could work through that process and give the departmental officials sufficient time to come forward and make a presentation or to discuss the regulations rather than phoning them up and saying, the legislative committee would like to speak to you, can you come down on Wednesday and they're . . . I mean that would send certainly a jolt into a lot of people I would think. So if we . . . I think that would be sufficient time to give them an opportunity to prepare.

The Chair: — I seek the direction then from committee members and I know probably there's some personal time periods in that as well. So if you could give the committee a bit of an idea what would suit your individual plans. Yes, Mr. Yates.

Mr. Yates: — Early February would be a better timetable for our caucus members for a number of reasons . . . January . . . extremely busy time.

The Chair: — Great, okay.

Mr. Yates: — So we beg the consideration of opposition members of this committee.

The Chair: — Is there anyone opposed to working on early January . . . early February, pardon me? Might be appropriate?

Then I would suggest as Chair then, that based on that, sitting down with the Clerk and Mr. Ring, and I believe as well after some communication with the departments in regards to availability, we will attempt to have a meeting set up for either the first or second week of February. That gives us the time period then to touch with basic departments.

The reason I'm allowing . . . saying either or is just so we can get everyone here. Is that fine? The call of the Chair? And we'll work for mid-week. Let's say a Wednesday, Thursday, or Wednesday or Thursday?

How is that?

A Member: — Sounds good.

A Member: — I'm agreeable.

The Chair: — It's agreed. Are there any other areas of discussion prior to adjournment?

Well I thank the committee members for their time this morning, their involvement, and I wish you all a very fine Thanksgiving, and don't go too hard on the turkey.

The committee adjourned at 9:35 a.m.