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**Official Report  
of Debates  
(Hansard)**

**Wednesday 29 February 2012**

**Journal  
des débats  
(Hansard)**

**Mercredi 29 février 2012**

**Standing Committee on  
Regulations and Private Bills**

Organization

**Comité permanent des  
règlements et des projets  
de loi d'intérêt privé**

Organisation

Chair: Peter Tabuns  
Clerk: Tamara Pomanski

Président : Peter Tabuns  
Greffière : Tamara Pomanski

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## LEGISLATIVE ASSEMBLY OF ONTARIO

## ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE  
ON REGULATIONS  
AND PRIVATE BILLS**

**COMITÉ PERMANENT DES  
RÈGLEMENTS ET DES PROJETS DE LOI  
D'INTÉRÊT PRIVÉ**

Wednesday 29 February 2012

Mercredi 29 février 2012

*The committee met at 0906 in room 151.*

ELECTION OF CHAIR

**The Clerk of the Committee (Ms. Tamara Pomanski):** Good morning. Welcome to the Standing Committee on Regulations and Private Bills.

It is my duty to call upon you to elect a Chair. Pursuant to standing order 117(c) and the sessional paper that was tabled on November 24, 2011, the Chair of the Standing Committee on Regulations and Private Bills must be a member of the third party. Are there any nominations?

**Mr. John Vanthof:** I'd like to nominate Peter Tabuns.

**The Clerk of the Committee (Ms. Tamara Pomanski):** Mr. Tabuns has been nominated. Are there any further nominations? Does the member accept the nomination?

**Mr. Peter Tabuns:** Absolutely.

**The Clerk of the Committee (Ms. Tamara Pomanski):** Mr. Tabuns, would you please take the chair?

**Mr. Peter Tabuns:** Sure.

ELECTION OF VICE-CHAIR

**The Chair (Mr. Peter Tabuns):** Thank you, members of the committee. Our next item of business—I've actually got instructions; this is a wonderful thing.

Good morning, honourable members. It's my duty to entertain a motion for Vice-Chair. Are there any motions?

**Mr. Bill Walker:** I move that Mr. Vanthof be appointed Vice-Chair of the committee.

**The Chair (Mr. Peter Tabuns):** Are there any other motions? Are members ready to vote? Shall the motion carry? Done. That's it. I'm picking it up as I go along; bear with me.

APPOINTMENT OF SUBCOMMITTEE

**The Chair (Mr. Peter Tabuns):** Appointment of subcommittee on committee business.

**Mr. Grant Crack:** I move that a subcommittee on committee business be appointed to meet from time to time, at the call of the Chair or at the request of any

member thereof, to consider and report to the committee on the business of the committee;

That the presence of all members of the subcommittee is necessary to constitute a meeting;

That the subcommittee be composed of the following members: the Chair as chair, Mr. Vanthof, Mr. Coteau and Mr. Hillier; and

That substitution be permitted on the subcommittee.

**The Chair (Mr. Peter Tabuns):** Mr. Crack has moved a subcommittee motion. Any discussion or comments? None? I'll now put the question. Shall the motion carry? The motion is carried.

BRIEFING

**The Chair (Mr. Peter Tabuns):** Next item of business: The briefing by staff on the function of the committee.

**The Clerk of the Committee (Ms. Tamara Pomanski):** Good morning again. My name is Tamara Pomanski. I'm the committee clerk of this committee.

Just a broad overview of what we do, our role in the committee and how we'll help this committee move forward: As the committee clerk, I'm the principal adviser on the rules, procedures and practices of the committee, and my advice is available to all members at any time on a confidential and impartial basis. Feel free to contact my office, as well as my assistant, Kate. You would have all hopefully received your resource binders a few days ago, and our contact information is on the last page. As well as the procedural advice, I'm also responsible for all the administrative operations of the committee as well as the financials, subject to the direction of the Chair and members of the committee.

In terms of this committee, we have two different parts: There's the private bills part, and then there's the regulations part. I will speak to the private bills in just a brief overview, and my colleague Andrew McNaught, from legislative research, will speak about his role in the committee and the regulations area.

Private bills do not form part of public law and don't have general application to everyone in Ontario. Private bills apply only to those to whom a bill specifically applies. A private bill is initiated by an application from a member of the public and a party seeking legislation. Every applicant must have an MPP in the House sponsor

their bill, so from time to time you may be asked, as members of the Legislature, to sponsor a bill. If you have any questions, feel free to call our office, and we can help walk you through in terms of your role for sponsoring a bill.

For further information on the committee, again, please refer to your resource binders as well as standing orders number 82 to 97, and 108(i), which mandates the committee itself.

Now I'll just pass it along to Andrew.

**Mr. Andrew McNaught:** Good morning. I'm Andrew McNaught. I'm the research officer and legal counsel to this committee. I've been working with the standing committee on and off for many years. Tamara has just asked me to give you a quick overview of what is probably the lesser-known aspect of this committee's mandate, which is the regulations review.

I'll begin by noting that most Ontario statutes include regulation-making powers, and these powers are typically exercised by either the Lieutenant Governor in Council, the cabinet or the minister responsible for the statute. On average, there are approximately 500 to 550 regulations made under Ontario statutes each year. The purpose of regulations is to provide the legislative details required to carry out the full intent of a bill passed by the Legislature.

An important difference between a bill and a regulation is that bills are debated in the House; regulations are not. In effect, they're made behind closed doors. It is for this reason that a royal commission in the 1960s recommended that a standing committee of the Legislature be established to oversee the way in which regulations are being made. It was in response to those recommendations that this committee acquired its regulations mandate in the mid-1970s. As Tamara mentioned, the committee's regulations mandate is currently set out in the standing orders in 108(i), and it is also described in section 33 of the Legislation Act.

In summary, the act and the standing orders provide that the committee is to conduct an examination of regulations made under Ontario statutes each year, and that in conducting this review, the committee is to consider the scope and method of the exercise of delegated legislative power. In effect, that means that the committee's job is to ensure that regulations are made in compliance with the nine guidelines that are set out in the standing order. I've given you a copy of standing order 108(i), and you'll see that in the middle of the page there, there are these nine guidelines. These guidelines are based on legal principles that are well established in many common-law jurisdictions.

Over the years, the two guidelines that have been most frequently cited in committee reports are guidelines (ii) and (iii). Guideline (ii) reads that "Regulations should be in strict accord with the statute conferring of power." In plain language, that means there should be explicit authority in the statute to make a regulation. So that's one of the main tests that we apply when reviewing a regulation. Guideline (iii) provides that "Regulations should

be expressed in precise and unambiguous language." In other words, a regulation should be clearly written.

It's important to note that the committee's mandate explicitly excludes consideration by the committee of the merits of the policy or objectives underlying a regulation. According to the royal commission report which I mentioned earlier, the reason the committee's mandate is limited in this way is that the policy underlying a legislative scheme or framework has already been debated and decided in the House. So it was considered inappropriate for a committee to be able to subsequently open up that policy debate. I think Mr. Hillier has a differing view of that. He introduced a private member's bill last year that would have given this committee the power, among other things, to consider the policy underlying regulations, but we'll see if that is reintroduced this year.

Finally, the act requires the committee to report from time to time its observations, opinions and recommendations to the House. There's no prescribed date by which the committee has to report each year, but the practice in recent years has been that the committee considers a report about once a year.

In terms of the actual mechanics of the review, it's the research officers in my office who conduct the first stage of the regulations review on behalf of the committee. That means that we read all of the regulations published each year and flag possible violations of the committee's guidelines. We then write letters to the ministry legal branches that are responsible for those regulations. Once we receive responses from the ministries, we then consider whether they have adequately addressed our concerns about possible violations. In most cases we accept the ministry explanation, but sometimes we don't.

The next stage is to prepare a draft report for the committee, which includes a discussion of those regulations that, in our view, continue to represent a possible violation of one or more of the committee's guidelines.

The final stage is that the committee meets to consider the draft report. At this point, you basically have three options—that is, you can decide to include a regulation in the committee's final report along with a recommendation; you can decide to include a regulation without a recommendation, in which case you might simply note that there was a disagreement between the committee's legal counsel and the ministry legal branch; and your final option is not to include the regulation in the final report.

Once the committee has agreed to any changes to the draft report, a final report is then tabled in the House.

I have just one last note: Last May, this committee received a draft report on regulations made in 2010, but it was unable to deal with it before the end of the session. So that is one matter that is outstanding before the committee.

**The Chair (Mr. Peter Tabuns):** Thank you. I have a question from Mr. Sergio and then I'll open for other questions or comments.

**Mr. Mario Sergio:** Could you mention the sub-committee's responsibilities as well? And if you could

clarify a bit the private members' bills that may come to this committee: How should the committee treat them?

**The Chair (Mr. Peter Tabuns):** Tamara?

**The Clerk of the Committee (Ms. Tamara Pomanski):** I'm sorry, what was your question again? Sorry, Mr. Sergio.

**Mr. Mario Sergio:** The role of the subcommittee and the private members' bills that may be forthcoming to this committee by members.

**The Clerk of the Committee (Ms. Tamara Pomanski):** Traditionally, the subcommittee will actually meet when it feels it's necessary to decide on how they should handle the bills. For example, the private member's bill that was referred to this committee: How many public hearings should there be? Should the com-

mittee travel or not? They make recommendations to the committee, will bring a report forward, and then that's when the committee will decide whether or not to approve it on how to handle the bills.

**Mr. Mario Sergio:** So in other words, if the subcommittee deals with that, then it means that private members' bills are accepted by this committee?

**The Clerk of the Committee (Ms. Tamara Pomanski):** Yes.

**Mr. Mario Sergio:** I wasn't clear with the explanation by Andrew. Okay. Thank you.

**The Chair (Mr. Peter Tabuns):** Are there other questions or comments? There being none, I understand our business is complete. We stand adjourned.

*The committee adjourned at 0919.*





## CONTENTS

Wednesday 29 February 2012

Election of Chair .....	T-1
Election of Vice-Chair.....	T-1
Appointment of subcommittee .....	T-1
Briefing.....	T-1
The Clerk of the Committee (Ms. Tamara Pomanski)	
Mr. Andrew McNaught	

### STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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Mr. Peter Tabuns (Toronto–Danforth ND)

#### **Vice-Chair / Vice-Président**

Mr. John Vanthof (Timiskaming–Cochrane ND)

Mr. Michael Coteau (Don Valley East / Don Valley-Est L)

Mr. Grant Crack (Glengarry–Prescott–Russell L)

Mr. Vic Dhillon (Brampton West / Brampton-Ouest L)

Mr. Randy Hillier (Lanark–Frontenac–Lennox and Addington PC)

Mr. Rod Jackson (Barrie PC)

Mr. Mario Sergio (York West / York-Ouest L)

Mr. Peter Tabuns (Toronto–Danforth ND)

Mr. John Vanthof (Timiskaming–Cochrane ND)

Mr. Bill Walker (Bruce–Grey–Owen Sound PC)

#### **Clerk / Greffière**

Ms. Tamara Pomanski

#### **Staff / Personnel**

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Legislative Research Service