

Legislative
Assembly
of Ontario



Assemblée
législative
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STANDING COMMITTEE ON PROCEDURE AND HOUSE AFFAIRS

FIRST REPORT ON REGULATIONS 2024

1st Session, 43rd Parliament
3 Charles III

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The Honourable Ted Arnott, MPP
Speaker of the Legislative Assembly

Sir,

Your Standing Committee on Procedure and House Affairs has the honour to present its Report and commends it to the House.

Jennifer K. French, MPP
Chair of the Committee

Queen's Park
November 2024

STANDING COMMITTEE ON PROCEDURE AND HOUSE AFFAIRS MEMBERSHIP LIST

1st Session, 43rd Parliament

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- Christopher Tyrell, the Committee's Clerk, who performed the procedural and administrative duties necessary for the carrying out of our regulations mandate; and
- Tamara Hauerstock of Legislative Research, who acted as Counsel to the Committee, performed the examination of the regulations covered in this report and prepared a draft report for the Committee's consideration. Andrew McNaught of Legislative Research supervised the regulations review.

INTRODUCTION: SCOPE OF THIS REPORT AND THE COMMITTEE'S MANDATE

This report covers the 597 regulations filed under Ontario statutes in 2022.

The report is presented in accordance with the Committee's terms of reference, which are set out in the *Legislation Act, 2006*, and in the Standing Orders of the Legislative Assembly.

Section 33 of the Act (Appendix A to this report) requires the Committee to examine the regulations made under Ontario statutes and provides that all regulations stand permanently referred to the Committee. In conducting its examination, the Committee is directed to consider "the scope and method of the exercise of delegated legislative power," but not "the merits of the policy or objectives to be effected by the regulations or enabling Acts." The Committee is required, from time to time, to report its observations, opinions, and recommendations to the Assembly.

Standing Order 109.1(f) (Appendix B) sets out nine guidelines the Committee is to apply when conducting its review. Guideline (ii), for example, provides that there should be statutory authority to make a regulation. The Standing Order also stipulates that the Committee may not report a regulation to the Assembly without first affording the ministry or agency concerned "an opportunity to furnish orally or in writing to the Committee such explanation as the ministry or agency sees fit."

The Committee's process for reviewing regulations and preparing its reports is set out in Appendix C.

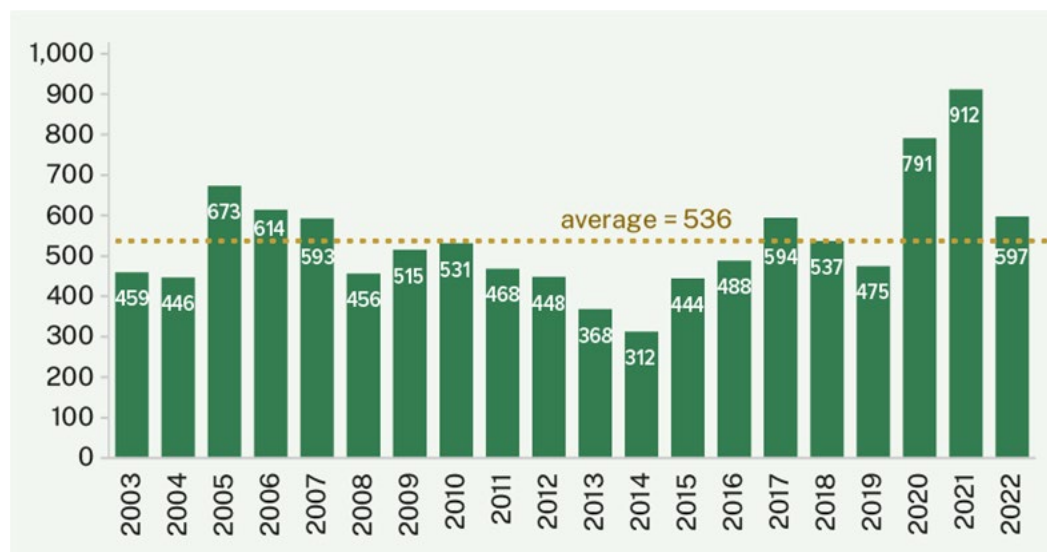
STATISTICS: 2003–2022

Number of Regulations Filed

The graph on the following page indicates the number of regulations filed with the Registrar of Regulations from 2003 to 2022. Over this 20-year period, the average number filed each year was 536.¹

¹ The Office of Legislative Counsel has observed that "the 'number' of regulations applying to a given business sector (sector X) may not be indicative of how regulated the sector is. One could argue that a single 100-page regulation governing 'sector X' regulates sector X much more than 20 two-page regulations relating to sector X in which each of the 20 regulations regulates a separate topic. . . . The decision as to whether to draft one long regulation or several shorter ones is made by legislative counsel working together with the relevant ministry, taking into account various factors including the best way to give the public easy access to the laws of Ontario. Consequently, if you are attempting to determine how regulated sector X is, you must analyze the substance of the regulations that apply to sector X rather than counting the numbers of regulations that apply to sector X." (Source: Email communication from Office of Legislative Counsel to Committee counsel, March 6, 2008.)

**Figure 1:
Total Regulations Filed: 2003-2022**



Source: Graphic prepared by Legislative Research and Legislative Library based on information provided by e-Laws

The 597 regulations filed in 2022 were made under the authority of 162 Acts, under the administration of 25 ministries.² Twelve Acts generated at least 10 regulations each; these represented 43% of all regulations filed in 2022.

Appendix D lists the Acts under which at least 10 regulations were filed in 2022.

New, Revoking, and Amending Regulations

Generally, a regulation falls into one of the following three categories:

- *New*
- *Amending* – adds, removes, or substitutes text in a pre-existing or “parent” regulation.
- *Revoking* – revokes a pre-existing or “parent” regulation.³

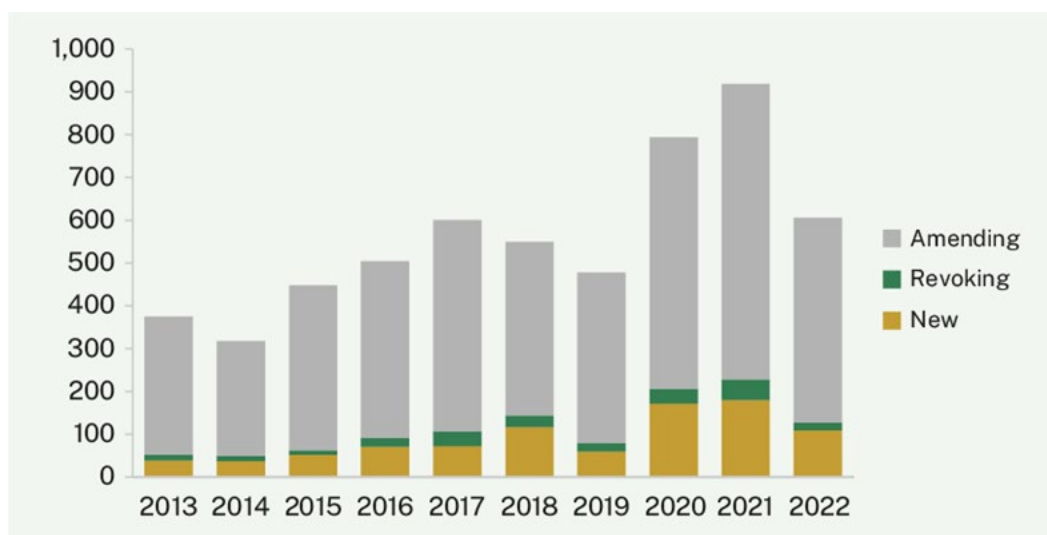
The tables below show the number of new, revoking, and amending regulations filed in the years 2013 to 2022, and the proportion they represent of all regulations filed in a particular year.⁴

² The list of Ministries used for this calculation is found on the Ontario.ca website at *Ministries*, accessed August 29, 2024.

³ These descriptions are based on information found on the Ontario.ca website at *e-Laws definitions: A collection of terms used on e-Laws and their definitions*, accessed August 29, 2024.

⁴ Certain regulations are identified as both New and Revoking regulations by the Registrar of Regulations; accordingly, these regulations are identified as both “New” and “Revoking” in the tables. For this reason, the sum of the percentages shown in Figure 3 totals more than 100% for certain years. In 2022, 9 regulations were identified as both

Figure 2:
New, Revoking, and Amending Regulations Filed: 2013–2022



Source: Graphic prepared by Legislative Research and Legislative Library based on information provided by e-Laws

Figure 3:
New, Revoking, and Amending Regulations Filed: 2013–2022

	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
New	38	37	52	71	72	116	59	172	180	109
% of total	10%	12%	12%	15%	12%	22%	12%	22%	20%	18%
Revoking	15	13	10	21	35	28	20	34	48	18
% of total	4%	4%	2%	4%	6%	5%	4%	4%	5%	3%
Amending	322	268	386	412	493	405	399	588	691	479
% of total	88%	86%	87%	84%	83%	75%	84%	74%	76%	80%

Source: Graphic prepared by Legislative Research and Legislative Library based on information provided by e-Laws

Of the 109 new regulations filed in 2022, 16 were made under a statute with no previous regulations.

New and Revoking regulations. As a result, the sum of the percentages shown in the table for 2022 totals 101%.

**Figure 4:
New Regulations Filed in 2022
Under Statutes with No Previous Regulations**

Statute	O. Reg. No. and Title of Regulation
<i>Credit Unions and Caisses Populaires Act, 2020</i>	O. Reg. 104/22: Sale of Insurance O. Reg. 105/22: General O. Reg. 108/22: Cost of Borrowing and Disclosure to Borrowers
<i>Fair Access to Regulated Professions and Compulsory Trades Act, 2006</i>	O. Reg. 261/22: General O. Reg. 522/22: General (Amending O. Reg. 261/22)
<i>Fixing Long-Term Care Act, 2021</i>	O. Reg. 246/22: General O. Reg. 484/22: General (Amending O. Reg. 246/22)
<i>Foreign Cultural Objects Immunity from Seizure Act, 2019</i>	O. Reg. 243/22: General
<i>Forensic Laboratories Act, 2018</i>	O. Reg. 285/22: Information Related to Accreditation O. Reg. 286/22: Tests, Accrediting Bodies, Standards and Information
<i>Northern Ontario School of Medicine University Act, 2021</i>	O. Reg. 152/22: General
<i>Securities Commission Act, 2021</i>	O. Reg. 43/22: Transitional Matters
<i>Supporting Retention in Public Services Act, 2022</i>	O. Reg. 413/22: Personal Support Workers and Direct Support Workers O. Reg. 480/22: Nursing Professionals
<i>Towing and Storage Safety and Enforcement Act, 2021</i>	O. Reg. 417/22: General
<i>Université de Hearst Act, 2021</i>	O. Reg. 153/22: General

Source: Table prepared by Legislative Research based on information provided by e-Laws

REGULATIONS REPORTED

Following our initial review of the 597 regulations filed in 2022, we wrote to seven ministries to inquire about 16 regulations made under ten Acts. After considering the responses to our inquiries, we decided to report six regulations under the Committee's second guideline and four regulations under the Committee's third guideline. The guidelines read:

(ii) Regulations should be in strict accord with the statute conferring of power, particularly concerning personal liberties.

(iii) Regulations should be expressed in precise and unambiguous language.

Regulations are reported under the Ministry responsible for the regulation being reported. It should be noted that our comments and recommendations relate to specific provisions of a regulation, rather than to the regulation as a whole.

Ministry of Education

O. Regs. 469/22, 526/22, 542/22, and 565/22, amending O. Reg. 137/15 (General) and O. Reg. 543/22, amending O. Reg. 138/15 (Funding, Cost Sharing and Financial Assistance) under the Child Care and Early Years Act, 2014

Issue

Was the notice required by the Act given with respect to the regulations?

Section 84 of the *Child Care and Early Years Act, 2014* (CCEYA) requires the Minister to publish notice of a proposed regulation on a government website (and in any other format the Minister considers advisable) and provide the public with a minimum of 45 days to submit comments on the proposed regulation. Section 84 further provides that the Minister may decide that the notice requirements should not apply in urgent situations or where the proposed regulation is of a minor or technical nature. In that case, the Minister must give notice to the public of this decision as soon as possible.

Our initial review of O. Regs. 469/22, 526/22, 542/22, 543/22, and 565/22 did not reveal whether the Minister had given notice of the proposed regulations or notice of a decision (or decisions) that the notice requirement did not apply. This raised the possibility that the regulation had not been made "in strict accord with the statute conferring of power" (Committee Guideline (ii)).

Accordingly, the Committee asked the Ministry whether the notice requirements set out in s. 84 of the Act had been satisfied in the case of each regulation.

The Ministry replied that, in respect of each of the noted regulations, the Minister made a decision that public consultation was not required given the urgency of the situation. The Ministry stated that it was in the process of posting notice of these decisions on Ontario's Regulatory Registry.

Subsequent review found that notice of the Minister's decision not to conduct public or stakeholder consultations has been posted on Ontario's Regulatory Registry.

As the Ministry has now posted the required notice, the Committee is not making a recommendation.

Ministry of Energy and Electrification

O. Reg. 257/22, amending O. Reg. 429/04 (Adjustments Under Section 25.33 of the Act) under the Electricity Act, 1998

Issue

Should the references to certain clauses of O. Reg. 429/04 be corrected?

Section 13 of O. Reg. 257/22 adds s. 8.1 to parent regulation O. Reg. 429/04. Section 8.1(1)(a) provides as follows:

8.1(1) In this section,

"effective date" means,

(a) for the purposes of subsections (2) and (3),
the day that is 10 business days after the day
the IESO receives **the notice referred to in
clause (2)(c) and any information required
under clause (2)(d)** [emphasis added]

According to the version of O. Reg. 429/04 we reviewed on the e-Laws website, the reference to notice is found in clause (2)(d) (not (2)(c)) and the reference to additional information is found in clause (2)(e) (not (2)(d)).

We therefore asked the Ministry whether the clause meets the requirements of Guideline (iii) of the Standing Order, which requires that regulations be expressed in precise language.

The Ministry replied that, before receiving our inquiry, it had flagged that the references to clauses 2(c) and 2(d) should be references to clauses 2(d) and 2(e). It explained that corrections to the references will be included with other proposed amendments to O. Reg. 429/04. The Ministry indicated that it anticipated seeking the necessary approvals for the proposed amendments in the Summer/Fall 2024 and, if approved, will be filing the amending regulations shortly thereafter.

Since the Ministry has indicated that it will be taking steps to address this matter, the Committee is not making a recommendation.

Ministry of Municipal Affairs and Housing

O. Reg. 228/22, amending O. Reg. 595/06 (Fees and Charges) under the City of Toronto Act, 2006

Issue

Should the reference to “a municipality and local board” in s. 10 of O. Reg. 595/06, as amended by O. Reg. 228/22, be further amended to be consistent with the rest O. Reg. 595/06?

O. Reg. 228/22 revoked and substituted s. 10 of parent regulation O. Reg. 595/06. New s. 10 refers to “a municipality and a local board”; however, other sections of O. Reg. 595/06 refer to “the City and a local board (extended definition).” The inconsistent references indicated a possible violation of the Committee’s third guideline.

We therefore asked the Ministry whether s. 10 should be further amended so that its wording is consistent with the rest of O. Reg. 595/06.

The Ministry replied that this issue “will be brought to the Ministry’s attention to consider and address.”

Since the Ministry has indicated that it will be taking steps to address this matter, the Committee is not making a recommendation.

Ministry of Health

O. Reg. 120/22, amending O. Reg. 107/96 (Controlled Acts) under the Regulated Health Professions Act, 1991

Issue

Should O. Reg. 120/22 have been approved by the Lieutenant Governor in Council?

Section 43(1) of the *Regulated Health Professions Act, 1991*, provides that the Minister of Health may make regulations, “subject to the approval of the Lieutenant Governor in Council.”

O. Reg. 120/22 was made by the Minister; however, it did not indicate approval by the Lieutenant Governor in Council. This omission suggested a possible violation of the Committee’s second guideline.

We therefore asked the Ministry to comment on whether O. Reg. 120/22 was made in a manner that met the requirements of s. 43(1) of the Act.

The Ministry replied that O. Reg. 120/22 was made by the Minister on January 21, 2022, and approved by the Lieutenant Governor in Council on February 10, 2022; however, the version of the regulation originally published on the e-Laws website did not indicate that approval had been received.

The Ministry submitted that the e-Laws version of the regulation, in both English and French, has been corrected and republished to show the correct making and approval timing. A notice of the correction appears at the end of the republished regulation. In addition, a notice of correction was published in *The Ontario Gazette* on April 27, 2024 (Vol. 157-17).

Since the Ministry has addressed this matter, the Committee is not making a recommendation.

O. Reg. 293/22, amending O. Reg. 21/12 (General) under the Audiology and Speech-Language Pathology Act, 1991

<p style="text-align: center;">Issue</p> <p>Should O. Reg. 21/12 be amended to clarify the purpose of Schedule 1?</p>
--

O. Reg. 293/22 replaced the reference to the now-repealed *Long-Term Care Homes Act, 2007*, in O. Reg. 21/12 with a reference to the *Fixing Long-Term Care Act, 2021*. The reference to the former Act is found in Schedule 1 to O. Reg. 21/12.

A further review of O. Reg. 21/12, however, revealed no reference to Schedule 1 in the body of the regulation. As a result, Schedule 1 appears as a stand-alone provision at the end of O. Reg. 21/12, whose purpose is unclear, and indicating a possible violation of the Committee's third guideline.

We therefore asked the Ministry whether O. Reg. 21/12 should be amended to clarify the purpose of Schedule 1.

The Ministry replied that

Schedule 1 refers to a requirement relating to a teaching certificate of registration that was in the regulation prior to March 2021. When the College of Audiologists and Speech-Language Pathologists of Ontario amended the regulation to revoke the provisions relating to the teaching certificate class of registration in 2021, Schedule 1 should also have been revoked, but due to an inadvertent oversight, it was not.

Given that the College has the authority to make the regulation (or part thereof), and therefore to revoke it, the ministry will work with the College on how best to address this.

Since the Ministry has indicated that it will be addressing this matter, the Committee is not making a recommendation.

O. Reg. 304/22, amending Regulation 634 of R.R.O. 1990 (General) under the Homemakers and Nurses Services Act

Issue

Should s. 8 of Regulation 634 be amended to reflect amendments to the Act?

As with O. Reg. 293/22, above, O. Reg. 304/22 replaced the reference to the now-repealed *Long-Term Care Homes Act, 2007*, in s. 8(2)(a) of Regulation 634 of R.R.O. 1990, with a reference to the *Fixing Long-Term Care Act, 2021*.

A further review revealed that while s. 8(2) of Regulation 634 sets out conditions for certain persons to be eligible to receive services under s. 8(1) of the *Homemakers and Nurses Services Act*, s. 8 of the Act has been repealed. The reference to a repealed provision of the authorizing Act indicated a possible violation of the Committee's third guideline.

We therefore asked the Ministry whether further amendments to s. 8 of Regulation 634 were required to reflect the repeal of s. 8 of the *Homemakers and Nurses Services Act*.

The Ministry replied that s. 8 of Regulation 634 should be revoked and the Ministry is looking into how best to address this.

Since the Ministry has indicated that it will be addressing this matter, the Committee is not making a recommendation.

UPDATE ON STEPS TAKEN WITH RESPECT TO REGULATIONS PREVIOUSLY REPORTED

First Report 2023 (Regulations Filed in 2021)

The Committee's *First Report on Regulations 2023* reported three regulations filed in 2021. The issues reported and relevant actions taken with respect to the reported regulations are set out below.

O. Reg. 735/21, amending Regulation 23 of R.R.O. 1990 (Pounds) under the Animals for Research Act

The *Animals for Research Act* (ARA) sets out in s. 20(7.2) – (7.4) the steps that must be taken by the operator of a pound who believes it has possession of a pit bull.

O. Reg 735/21 amended Regulation 23 (Pounds) of R.R.O. 1990, by adding provisions that address the situation where the operator of a pound "has not yet made a final decision" that the dog is a pit bull or has not yet done everything required under s. 20(7.4) of the ARA.

As amended by O. Reg. 735/21, Regulation 23 now includes a waiting period before an operator can make a final decision or take all steps described under s. 20(7.4) of the ARA and provides that the operator must release the dog to its owner in certain circumstances and under certain conditions.

The Committee was unable to locate specific authority in the ARA for a regulation establishing a waiting period in the above circumstances and asked the Ministry to pinpoint authority for the above-noted provisions of O. Reg. 735/21.

Following a review of the Ministry's correspondence, the Committee recommended that the Ministry of Agriculture, Food and Rural Affairs either (a) take steps to amend Regulation 23 to align with the regulation-making authority granted by the *Animals for Research Act* or (b) take steps to bring forward a Bill to amend the *Animals for Research Act* to authorize regulations prescribing (1) a waiting period before a pound operator can make a final decision or take all steps under s. 20(7.4) of the Act and (2) the release of a possible pit bull during the prescribed waiting period.

As of October 24, 2024, none of the recommended amendments had been made to Regulation 23 or the *Animals for Research Act*.

O. Reg. 759/21, amending O. Reg. 401/21 (General) under the Extra-Provincial Corporations Act

O. Reg. 401/21 is the general regulation under the *Extra-Provincial Corporations Act* (EPCA). It prescribes classes of corporations that are exempt from the EPCA. As originally made, the regulation exempted corporations that held a manufacturer's licence to sell under the *Liquor Licence Act*.

O. Reg. 759/21 amended the general regulation so that it references the *Liquor Licence and Control Act, 2019*, rather than the now-repealed *Liquor Licence Act*.

The authority to make regulations prescribing classes of extra-provincial corporations and exempting classes of extra-provincial corporations from the EPCA is s. 24.1(1)(b) of that Act. This regulation-making power is assigned to the Minister.

While the parent regulation (O. Reg. 401/21) was made by the Minister, it appeared that the amending regulation (O. Reg. 759/21) was made by the Lieutenant Governor in Council.

We therefore asked the Ministry to comment on whether O. Reg. 759/21 was properly made. The Ministry replied that it would work to address the issues raised with this regulation. Since the Ministry indicated that it would be addressing this matter, the Committee did not make a recommendation.

O. Reg. 106/23, made by the Minister and filed on June 1, 2023, revokes and substitutes s. 15(3) of O. Reg. 401/21. The substituted provision replaces the provision amended by O. Reg. 759/21. This amendment addresses the issue raised by the Committee.

O. Reg. 437/21, amending O. Reg. 618/05 (Designation of Bus By-Pass Shoulders on King's Highway) under the Highway Traffic Act

O. Reg. 618/05 designates parts of highways as having paved shoulders for use of buses and prescribes the signage that indicates that use. O. Reg. 437/21 strikes out references in the parent regulation to licences issued under the now-repealed *Public Vehicles Act*.

The authority to make regulations designating any part of the King's Highway as having a paved shoulder and restricting the use of the paved shoulder to prescribed vehicles is found in s. 151(1) of the *Highway Traffic Act*. This regulation-making power is assigned to the Minister.

Upon review, it appeared that O. Reg. 437/21 was made by the Lieutenant Governor in Council, not the Minister. We therefore asked the Ministry to comment on whether O. Reg. 437/21 was properly made.

The Ministry replied that the fact that O. Reg. 437/21 was not made as a Minister's regulation "will be brought to the Ministry's attention to address."

Since the Ministry indicated that it would be addressing this matter, the Committee did not make a recommendation.

O. Reg. 322/23, made by the Minister and filed on October 3, 2023, revokes and substitutes subsections 1(1) to (1.3) of O. Reg. 618/05. The substituted provisions replace those that were amended by O. Reg. 437/21. This amendment addresses the issue raised by the Committee.

APPENDIX A

Section 33 of the *Legislation Act, 2006*

33(1) At the commencement of each session of the Legislature, a standing committee of the Assembly shall be appointed under this section with authority to sit during the session.

(2) Every regulation stands permanently referred to the standing committee for the purposes of subsection (3).

(3) The standing committee shall examine the regulations with particular reference to the scope and method of the exercise of delegated legislative power but without reference to the merits of the policy or objectives to be effected by the regulations or enabling Acts, and shall deal with such other matters as are referred to it by the Assembly.

(4) The standing committee may examine any member of the Executive Council or any public servant designated by the member respecting any regulation made under an Act that is under his or her administration.

(5) The standing committee shall, from time to time, report to the Assembly its observations, opinions and recommendations.

APPENDIX B

Standing Order 109.1(f)

109.1 Within the first 10 sessional days following the commencement of a Parliament, the membership of the Standing Committee on Procedure and House Affairs shall be appointed, on motion with notice, for the duration of the Parliament, which committee is empowered:

(f). . . to be the Committee provided for by section 33 of Part III (Regulations) of the *Legislation Act, 2006*, and having the terms of reference as set out in that section, namely: to be the Committee to which all regulations stand permanently referred; and to examine the regulations with particular reference to the scope and method of the exercise of delegated legislative power without reference to the merits of the policy or objectives to be effected by the regulations or enabling statutes, but in so doing regard shall be had to the following guidelines:

- (i) Regulations should not contain provisions initiating new policy, but should be confined to details to give effect to the policy established by the statute;
- (ii) Regulations should be in strict accord with the statute conferring of power, particularly concerning personal liberties;
- (iii) Regulations should be expressed in precise and unambiguous language;
- (iv) Regulations should not have retrospective effect unless clearly authorized by statute;
- (v) Regulations should not exclude the jurisdiction of the courts;
- (vi) Regulations should not impose a fine, imprisonment or other penalty;
- (vii) Regulations should not shift the onus of proof of innocence to a person accused of an offence;
- (viii) Regulations should not impose anything in the way of a tax (as distinct from fixing the amount of a licence fee, or the like); and
- (ix) General powers should not be used to establish a judicial tribunal or an administrative tribunal,

and, the Committee shall from time to time report to the House its observations, opinions and recommendations as required by section 33 of Part III (Regulations) of the *Legislation Act, 2006*, but before drawing the attention of the House to a regulation or other statutory instrument, the Committee shall afford the ministry or agency concerned an opportunity to furnish orally or in writing to the Committee such explanation as the ministry or agency thinks fit.

APPENDIX C

Committee's Process for the Review of Regulations



APPENDIX D

Acts Under Whose Authority Ten or More Regulations Were Filed in 2022



Source: Graphic prepared by Legislative Research and Legislative Library based on information provided by e-Laws