

The Standing Committee on Statutory Instruments has the honour to present its

#### SIXTH REPORT

Your Committee wishes to present its comments concerning the existing "Commissioner's Orders" and "Regulations" in force, under the present Motor Vehicles Ordinance as many will be continued in force under any new legislation.

The present Motor Vehicles Ordinance has a number of specific Regulation making powers:

Section 154(1) - Provides for Regulations to be made by the Commissioner under 21 separate headings including "(m) generally for carrying out the purposes and provisions of this Ordinance." Sub-section (2) requires all Regulations to be tabled with this House. Many of the Regulations considered in this report were made under this section.

Section 157 - Provides for the appointment of testers of speedometers, tuning forks and other devices and the prescribing of forms. C.O. 1977/38 is made under this authority.

Section 173 establishes a traffic ticket procedure in the Territory and sub-section (3) enables the Commissioner to make Regulations

- "(a) prescribing the form or forms and content of traffic tickets;
- (b) defining any word or expression used in the Regulations;
- (c) authorizing, or providing for the authorization by a municipal by-law of the use on traffic tickets of any word or expression to designate an offence under this Ordinance or the Regulations made hereunder or any municipal by-law made under section 161;

- (d) respecting any matter that he deems necessary for the use of traffic tickets."

C.O. 1969/190 was implemented under the authority of this section.

Under section 156, the Commissioner may make Regulations respecting livestock running at large. This authority has not been used.

Sections 7, 32, 95, 155 and 158 authorize the Commissioner to do certain things or give specific orders. These sections have not been used and therefore have not been reviewed.

For the information of this House in Section 2(1) of the Regulations Ordinance, "Regulation" is defined as meaning "any Regulation, proclamation, rule, order or by-law made under any Ordinance of the Territory but does not include :

- "(a) an order or decision of a judicial tribunal,
- (b) a rule, order or Regulation governing the practice or procedure in any proceedings before a judicial tribunal,
- (c) a rule, order, Regulation, resolution, or by-law made by a local authority, or
- (d) a rule, Regulation or by-law of a company incorporated under the laws of the Territory,"

This definition appears to include all orders made under the sections discussed hereinafter whether specifically referred to as "Regulations" or not. Since they are, by the provisions of the Regulations Ordinance, part of the Regulations a method of organizing and arranging this material in a logical and easily comprehensible fashion must be instituted.

Your Committee in its Fourth Report has suggested this be done by making Regulations or orders under such sections either separate "Parts" of the Regulations under a specific Ordinance or "Schedules" to the Regulations depending on the quantity and type of material involved. Your Committee has already recommended that the authority be cited in Regulations as a general rule, either in the body of the Regulations or by marginal note.

Your Committee further recommends that it is essential that the authority be cited in orders which are implemented under sections other than the Regulation making sections.

Sections under which the Commissioner is authorized to do certain things (but which are not specifically referred to as Regulation making sections) and under which Commissioner's Orders have been made are:

Section 26 - Enabling the Commissioner to prescribe classes of operator's licences, periods for which such licences are valid and the conditions under which they may be issued by the Registrar. C.O. 1971/63 discussed later is made under this authority.

Section 153(2) - (5) - Provides for release from impoundment of vehicles in certain cases.

Section 160(3) - Enables abandoned vehicles to be disposed of.

C.O. 1977/40 could have been implemented under the authority of either sections 160 or 154(1)(m). The authority for the order is not stated on its face and it is not clear from the text of the order.

Section 170(1) - Provides for enforcement of any Regulations made under the Ordinance by means of a criminal penalty.

### The Existing Regulations

These Regulations and orders are referred to in chronological order by their Commissioner's Order Number. All of these Regulations should be reviewed, the grammar and style improved where necessary, numbering improved and then consolidated into one set of comprehensive Motor Vehicle Regulations divided into Parts with Schedules used where appropriate.

C.O. 1959/52 TITLE: Highways Signs (Commercial) Regulations. These Regulations are within the authority of section 154(1)(i) and (m).

Sections 3 and 4 of these Regulations are written in the negative and should be redrafted.

Sections 5 - 12 inclusive require renumbering and section 9 needs redrafting for clarity.

Sections 13 and 14 contain a broad discretion in the Commissioner. Members of this House may recall the situation which ensued several years ago when orders were given and then withdrawn under these Regulations. Those citizens who obeyed the orders issued were later told they could replace their signs (at their own expense) while those who disobeyed and objected succeeded in having the order withdrawn. Your Committee recommends that these Regulations be thoroughly reviewed and consolidated. Their authority should be cited.

C.O. 1968/118 TITLE: Regulations in Respect of the Impoundment of Motor Vehicles. These Regulations outline the procedure to be used and the persons to be notified where vehicles are impounded under section 146 of the present Ordinance.

Section 2 of this order creates the form to be used for release of impounded vehicles.

Form A attached to C.O. 1968/118 contains the following errors:  
Under Note: Section 1 refers to obtaining permission from the Registrar of Motor Vehicles, Lynn Building Whitehorse.

Reverse side of Form A: Under "N.B." refers to motor vehicle liability insurance of not less than \$10,000/20,000 public liability and \$2,000 property damage.

Under "How to File Proof of Financial Responsibility", section 3(a) contains the same incorrect insurance requirements.

These Regulations should be reviewed, amended, their authority properly cited and then consolidated.

C.O. 1969/121 SUBJECT: "Helmet Standards" The authority for this Regulation is section 154(1)(n) of the Ordinance. This authority is not cited in the order. Reference is made to a "standard" which is not included in the Regulation and your Committee recommends that wherever possible the actual standard referred to should be included in the Regulations. This order should be amended to include the standard and cite its authority and then be consolidated.

1968/188 SUBJECT: Closing Road Right of Way - The authority for this order is section 154(1)(j)(i) however, the authority has not been cited in the order. This order should be revoked and placed together with other similar orders under the Highways Ordinance, 1975(3rd).

C.O. 1969/190 TITLE: Regulations Respecting Traffic Tickets.  
These Regulations prescribe forms as are provided for by section 173(3) of

the Ordinance. These Regulations should be reviewed and consolidated as a separate part of the Motor Vehicle Regulations.

1970/188 TITLE: School Bus Regulations. General comments on style, numbering and consolidation apply.

Your Committee adopts and reiterates its comments made on the proposed draft Regulations in its Fourth Report and would add the following. These draft Regulations appear to include all motor vehicles used to convey children to and from school, including "parent associations" and cases "in respect of the use of which public monies are used to defray part or all of the cost". (section 1) The set standards, however, are apparently intended for commercial school-bussing operations only. No standards appear to exist to cover the "parent association" or "public monies used to defray all or part of the cost", situations. If such standards are in fact included in the standard referred to in section 2 of this draft it is an excellent argument for including the "standards" in the Regulations. Further the word "stop" appears to be missing from the first phrase of section 12 and the authority is not cited.

1971/63 TITLE: Classified Operator's Licence Regulations. The authority for these Regulations is section 26 of the Motor Vehicles Ordinance.

These Regulations should be reviewed and redrafted for clarity. Section 3 setting "standards" has sub-paragraphs containing two or more sentences. These Regulations make use of "and/or" which is not acceptable and have been made confusing by frequent amendment.

1973/77 Trailer Mobile Home and Recreational Vehicle Standards. The authority for this Regulation is section 154(1)(m) and is not cited

in the order. Although a C.S.A. standard is prescribed, the standard is not included in the Regulation. Your Committee recommends this order be revised to include the standards, have its authority cited, and be consolidated.

1973/122 TITLE: Regulations Respecting Temporary Operation Permits. The authority for this Regulation is section 154(1)(q). This order should be reviewed, amended to cite its authority and consolidated.

1973/133 TITLE: Regulations Respecting Unfit Vehicle Equipment. There is authority for this order under section 154(1)(p) and section 159 of the Motor Vehicles Ordinance. Sections 1 and 2 of the Regulations are redundant of the Ordinance and should be redrafted to implement the provisions of the Ordinance rather than rewrite the Ordinance. Section 3 creates a criminal penalty, as is permitted by section 170 of the Ordinance.

Sections 4 and 5 of this Regulation provide remedies to enforce the orders referred to in section 1 and 2.

Your Committee recommends that this Regulation be amended as suggested and its authority be cited.

1974/250 TITLE: Brake Regulations Respecting Buses, Trucks, Truck Tractors and Commercial Trailers. The authority for these Regulations is contained in section 154(1)(d) and they are within that authority. In section 3 the phrase "required by this division" does not fit with the general format and style of Regulations and should be amended. In section 6 the reference to "section 50, sub-section 8" is incorrect and should read section 49, sub-section 8. Further these Regulations should be consolidated, properly numbered and amended to reflect their authority.

1974/330 SUBJECT: Cancellation of Registration and Licence Plate 5913. As far as your Committee has been able to determine, the specific authority for this Regulation was removed by the 1975 - 3rd session Amendments to the Motor Vehicles Ordinance. The 1975 amendments give the Registrar power to cancel or suspend Registrations.

Since, in 1977 this order is a dead issue, your Committee can see no purpose to be served by including this Order in a consolidation of the Motor Vehicles Regulations and recommends that provision be made in the filing and circulation of Regulations for a class of orders called "Orders Not Consolidated and Not Repealed". A list of such orders could then be included as the final Schedule to the Motor Vehicle Regulations.

Your Committee recommends this House request the Registrar of Regulations be asked to provide a report on the feasibility of this recommendation.

1976/30 SUBJECT: "Damaged Motor Vehicle Clearance". The authority to prescribe the notice implemented under this Regulation is contained in section 74.1 of the Motor Vehicles Ordinance and not section 75 as is cited in section 1 of this order. This same error is made in section 3 of the order.

Your Committee recommends this order be corrected and consolidated.

1976/31 TITLE: Fire Extinguisher Regulation. Since no specific Regulation making powers exist, this Regulation was implemented under section 154(1)(m) of the Ordinance which is adequate. Your Committee again refers to its Fourth Report and questions why the fire extinguisher Regulation does not apply to liveries. Your Committee recommends this



Regulation be redrafted to cite its authority, and include the standard referred to, then be renumbered and consolidated.

1976/260 SUBJECT: Forms in Use. This order consolidates the forms required by the Ordinance and Regulations, however, the forms under C.O. 1968/118 were not included. This was a good start and should be followed by a consolidation of the Regulations with an index. Its authority is provided by section 154(1)(c), (g) and (m).

1977/40 SUBJECT: Release of Vehicle. No authority was cited in this Order, however, either section 154(1)(m) or 160 would be adequate. Your Committee reiterates its comments on C.O. 1974/330.

Your Committee again recommends that in future all orders or Regulations cite their authority.

1977/44 SUBJECT: Amends C.O. 1971/63. This order adds a section to C.O. 1971/63. It is within the authority of section 26 of the Ordinance. C.O. 1971/63 as published and circulated contains the amendment this order makes and, therefore, this order need no longer be circulated as it is already consolidated.

1977/176 SUBJECT: DUAL Registration of Certain Classes of Motor Vehicles. Authority for this order is found under sections 154(1)(e), (k) and (m) and is necessary to create an exception to the provisions of section 24(1)(d) of the Ordinance.

Your Committee recommends that this order be consolidated and that it create a separate part or schedule of a consolidated set of Regulations and further that its authority be cited.

1978/24 SUBJECT: Vehicle Registration and Licence Plates. The general comments with respect to consolidation and style apply to this order. Authority is section 154(1)(c) and (m) of the Ordinance.

Further, the word "Service" in sub-section 1(b) is misspelled and in section 2 under Prefix - 1C0000 the word "sub-section" is missing before the reference 1(c).

With respect to the substance of the order the Prefix 1P0000 is used in five different classes of vehicles. These classes are the first, fourth, eighth, ninth and tenth as listed under the heading PREFIX.

Further the 18th class listed dealing with private motor vehicles indicates only "Two Letters" and not "Two letters - 0000" which would indicate 2 letters followed by four digits and would be consistent with the style used in the rest of the section.

Your committee recommends that this order be redrafted as indicated and consolidated.

#### In Conclusion

Your Committee recommends the review, amendment, and consolidation of all present and proposed Regulations into one set of comprehensive "Motor Vehicle Regulations" with:

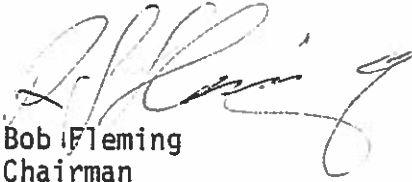
- (a) all authorities cited in the text of the Regulations or by marginal note
- (b) all standards referred to being included in the Regulations.

Your Committee recommends that basic precedents be prepared which will establish uniform wording and style for amending the consolidated Regulations and prescribed forms. Your Committee recommends that the Registrar of Regulations be requested by this House to provide a Report on the feasibility of setting up a class of Orders called "Orders not Consolidated and Not Repealed" for handling orders such as C.O. 1974/330 and 1977/40.

Your Committee further recommends that a copy of the Report be transmitted to Mr. Jack Hibberd, Minister of Consumer and Corporate Affairs, for his consideration and action.

March 22, 1978

Respectfully Submitted,



Bob Fleming  
Chairman