

ORAL QUESTION—KEVIN O'REILLY, MLA FRAME LAKE

QUESTION 25-19(2): CO-DRAFTING IN REGULATION DEVELOPMENT NWT

February 7, 2020

MR. O'REILLY: Merci, Monsieur le President. My questions are for the Minister of Justice. There do not appear to be any standards or processes for developing regulations that include public consultation or even co-drafting with Indigenous governments, so can the Minister tell us if there is a process and/or standards for 22 making regulations in the Northwest Territories? Mahsi, Mr. Speaker.

MR. SPEAKER: Thank you, Member for Frame Lake. Minister of Justice.

HON. CAROLINE WAWZONEK: Thank you, Mr. Speaker. Regulations cover a wide breadth and variety of different types of topics. There is a variety that range from items that are fairly technical, some that are community-specific; in some cases, consultation is built into the legislation itself, so, no, there is not a single set standard at present in terms of how regulations are drafted in the Northwest Territories.

MR. O'REILLY: I want to thank the Minister for that, and I will just give her an example. In the federal government, they have a gazetting process that does allow for a 60- or 90-day period of public comment. We have nothing here, apparently, or a patchwork. I want to ask the Minister whether Cabinet has a position or has taken a position on public consultation during development of regulations, particularly the regulations on post-devolution resource management.

HON. CAROLINE WAWZONEK: This topic has certainly come up in front of Cabinet, and it is one that has already come up in terms of the Department of Justice taking a lead and being aware that this is something where we can do better. As far as what that will look like, at the present time I can't say, but it is our intention that we can have a better system in place to determine, as I said earlier, which regulations should be subject to public consultation, what that process would look like. It is our intention to build that in so that it's more clear, so that the public knows, so that this House will know, which regulations would be subject to a consultation and then what that will look like for those particular regulations.

MR. O'REILLY: I want to thank the Minister for that response. We have something bubbling away maybe on public consultation with regard to development of regulations, but can the Minister tell us whether Cabinet is committed to a co-drafting process for the development of resource management regulations?

HON. CAROLINE WAWZONEK: Again, that has also come up at Cabinet, that has also come up in the Department of Justice, and, similarly, there are obligations within the devolution process to the intergovernmental council to ensure that, in some circumstances, there will be a process that engages those partners. That protocol is also being worked on, and so, again, I am in the same situation of, while I do not have a specific that I can provide to the Member, I can assure the Member that that is in progress and it is actively being worked on right now to develop some things so we have some standards in place and so there is not this uncertainty around which ones are subject to a more consultative type of drafting process and which ones are not. That kind of uncertainty should be eliminated.

MR. SPEAKER: Thank you, Minister. Member for Frame Lake.

MR. O'REILLY: Merci, Monsieur le President. I want to thank the Minister for that response. Clearly, we need to clarify, or the Minister needs to clarify, what the process is going to be moving forward with development of regulations in terms of public consultation, co-drafting with Indigenous governments. I am glad to hear that there is something bubbling away, that it's on their radar, but can the Minister tell us very specifically: is she going to work with and consult with the appropriate standing committees before final decisions are made by Cabinet on this?

HON. CAROLINE WAWZONEK: It certainly is the desire of Cabinet, as I hope the Members are seeing, to be more consultative in our approach. There are two different streams we have spoken about; firstly, more public consultation and developing that process for all regulations generally to determine which ones go through that process and which ones don't, as well as items that go through the intergovernmental council, and that may be subject to somewhat different processes. Certainly, once there is a stage for which regulations should receive general public consultation, I would commit to taking that through to committee and ensuring that they have an opportunity before a final decision is made to see what the approach, what the protocol, might look like. Thank you, Mr. Speaker.

QUESTION 30-19(2)

MR. O'REILLY: Merci, Monsieur le President. I just have one question, and it's for the Minister of Justice, if I may. In response to an earlier question, she did commit to consulting with the standing committee in looking at how the public would be engaged in the future around regulation making. That is great, but she did not say anything about co-drafting and whether she would be consulting with standing committee on that. I just want to remind her that, in the last Assembly, the Standing Committee on Economic

Development and Environment developed a whole report around co-drafting, with lots of recommendations, ideas about how to improve that process going forward, including the involvement of standing committee. I would like to know from the Minister of Justice whether she is prepared to work with the Standing Committee on Economic Development and Environment moving forward in looking at how Indigenous governments are going to be involved in co-drafting of regulations. Mahsi, Mr. Speaker.

MR. SPEAKER: Thank you, Member for Frame Lake. Minister of Justice.

HON. CAROLINE WAWZONEK: Mr. Speaker, I did not speak specifically to co-drafting in terms of how that would look and what commitments might be made. Quite frankly, the reason is that, if I make a commitment in this House, I am going to take it very seriously, and I understand that co-drafting and the involvement of the Indigenous governments, the involvement of the intergovernmental council, involves EIA, involves Cabinet, involves more than just the Department of Justice, and so I was not prepared to stand up and make that specific commitment here. Nevertheless, I can certainly commit to working with standing committee, making sure that I am personally briefed and aware of what is in that report, and so, to that extent, we will move forward, but that is about as far as I am prepared to go today, Mr. Speaker.