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PARLIAMENTARY OVERSIGHT OF REGULATIONS

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Parliamentary Oversight of Regulations
(HillStudies)

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EXECUTIVE SUMMARY

A regulation is a legally binding form of law made pursuant to legislative authority delegated by Parliament. It is usually made by an executive body, like the Governor in Council, a minister, department, board or commission, and can be referred to as an "order" or "rule" among other names.

Parliament's role in supervising the use of regulations has evolved throughout Canada's history. Government operations became more complex after the Second World War; consequently, the technical details of a law are now increasingly set out in regulations, while the key principles are set out in legislation.

Parliament can play an important role in overseeing the executive branch's use of regulations. Both the Senate and the House of Commons and their committees possess different powers to ensure that the use of regulations is subject to parliamentary oversight.

Some statutes empower Parliament to exercise oversight and control. For example, the *Statutory Instruments Act* contains a disallowance procedure, a unique procedure which can result in the regulation-making authority being compelled to revoke a regulation or a portion thereof. While the use of negative and affirmative resolutions of Parliament or the House of Commons is very limited, several statutes have their own mechanisms that empower Parliament to act in relation to the regulations made under these statutes.

In particular, parliamentary committees can play an important role in supervising the use of regulations. While the Standing Joint Committee for the Scrutiny of Regulations reviews regulations on the basis of criteria that relate to legality and procedure, other committees can review the policy or the underlying merits of regulations. Furthermore, several statutes allow parliamentary committees to exercise specific powers in relation to regulations.

Parliament can also exercise oversight in other ways; it can initiate debate about regulations or even pass legislation to amend or repeal legislative authorities that enable the making of regulations. In a very limited number of cases, Parliament can make regulations on a narrow range of topics.

PARLIAMENTARY OVERSIGHT OF REGULATIONS

1 INTRODUCTION

Regulations are "statutory instruments that are established pursuant to legislative powers conferred under an act of Parliament that may result in the imposition of legal sanctions if they are contravened."[1] They are usually made by executive bodies without parliamentary involvement, and they have binding legal effect. Although regulations are not subject to the legislative process, it is through that process that Parliament delegates the authority to make regulations. To supervise the use of this authority, Parliament has gradually asserted its role in overseeing regulations since the Second World War.[2]

Responsibility for the parliamentary oversight of federal regulations is delegated primarily to a parliamentary committee, namely, the Standing Joint Committee for the Scrutiny of Regulations (REGS). However, Parliament is empowered to exercise oversight of regulations in many other ways. For example, several statutes empower Parliament to amend, revoke or confirm certain regulations.

Parliamentary committees other than REGS can also play important roles in scrutinizing regulations. Several statutes specify that regulations are to be referred to various committees for review either pre-enactment (i.e., before the regulations are made and take effect) or post-enactment (i.e., after the regulations are already made and in effect).

Lastly, although regulation-making is traditionally understood to be the exclusive prerogative of the executive branch, a limited number of statutes empower Parliament to act as a regulation-making authority.

This HillStudy discusses Parliament's powers to oversee federal regulations. Because powers of REGS are better known, this publication focuses primarily on Parliament's other regulatory powers.[3]

2 HISTORICAL CONTEXT

The delegation of legislative power to the executive branch – the Crown, the Governor General, the prime minister and Cabinet – is not a recent phenomenon; in 1969, 420 of the 601 statutes examined by the Special Committee on Statutory Instruments provided for delegated legislation.[4] Between 1972 and 2023, over 38,000 regulations were registered by the Clerk of the Privy Council.[5]

As J.R. Mallory explained, "Parliament has neither the technical skill nor the time to process the mass of detailed regulation."[6] Nonetheless, during the post-war period,

Parliament gradually asserted its role in overseeing regulations as delegated legislation became increasingly prevalent.

In 1953, Mallory described how the use and importance of delegated legislation increased after the Second World War, when the federal government invoked the *War Measures Act*, necessitating that regulations be made and published more regularly. The war led to "a major readjustment in the relationships of Parliament to Cabinet and Cabinet to the civil service" as the large volume of decisions to be made warranted a professional bureaucracy to implement government policy.[7]

The *War Measures Act*, unlike its modern replacement, the *Emergencies Act*, made no provision for parliamentary supervision of the making of regulations under the Act.[8] The *Regulations Act*, enacted in 1950, also did not provide for any parliamentary role in the review of delegated legislation, other than providing that every regulation be laid before Parliament.[9] It was introduced in response to "considerable public disenchantment with what was seen as excessive government regulation" following the end of the Second World War.[10]

In 1969, the final report of the House of Commons Special Committee on Statutory Instruments (also known as the "MacGuigan Committee") recommended that regulations be laid before Parliament more quickly and that a "Committee on Regulations" be established as a House of Commons committee.[11] In response, in 1971, Parliament passed the *Statutory Instruments Act*, which created the statutory order of reference for REGS.[12]

2.1 ATTEMPTS AT REFORM

Since the enactment of the *Statutory Instruments Act*, several parliamentary committees have advocated unsuccessfully for a larger role for Parliament in the supervision of regulations.

In 1980, the House of Commons Special Committee on Regulatory Reform (also known as the "Peterson Committee") tabled its report in the House of Commons; it included 29 recommendations to strengthen parliamentary oversight of the regulatory process.[13] In it, the committee devoted a section to "The Role of Parliament in the Regulatory Process" in which it noted that "it is evident that Parliament has not properly equipped itself to carry out this role."[14] However, the House did not concur in this report and its recommendations.[15]

In 1985, the Special Committee on Reform of the House of Commons published its third report, known as the "McGrath Report."[16] That report contained a chapter titled "The Review of Delegated Legislation" where it expressed concern that "many regulations contain matters of policy that are never debated in the House of Commons."[17] The report included two recommendations specific to the oversight of

delegated legislation.[18] Although several recommendations of the McGrath report were eventually implemented, the two recommendations specific to oversight were not.

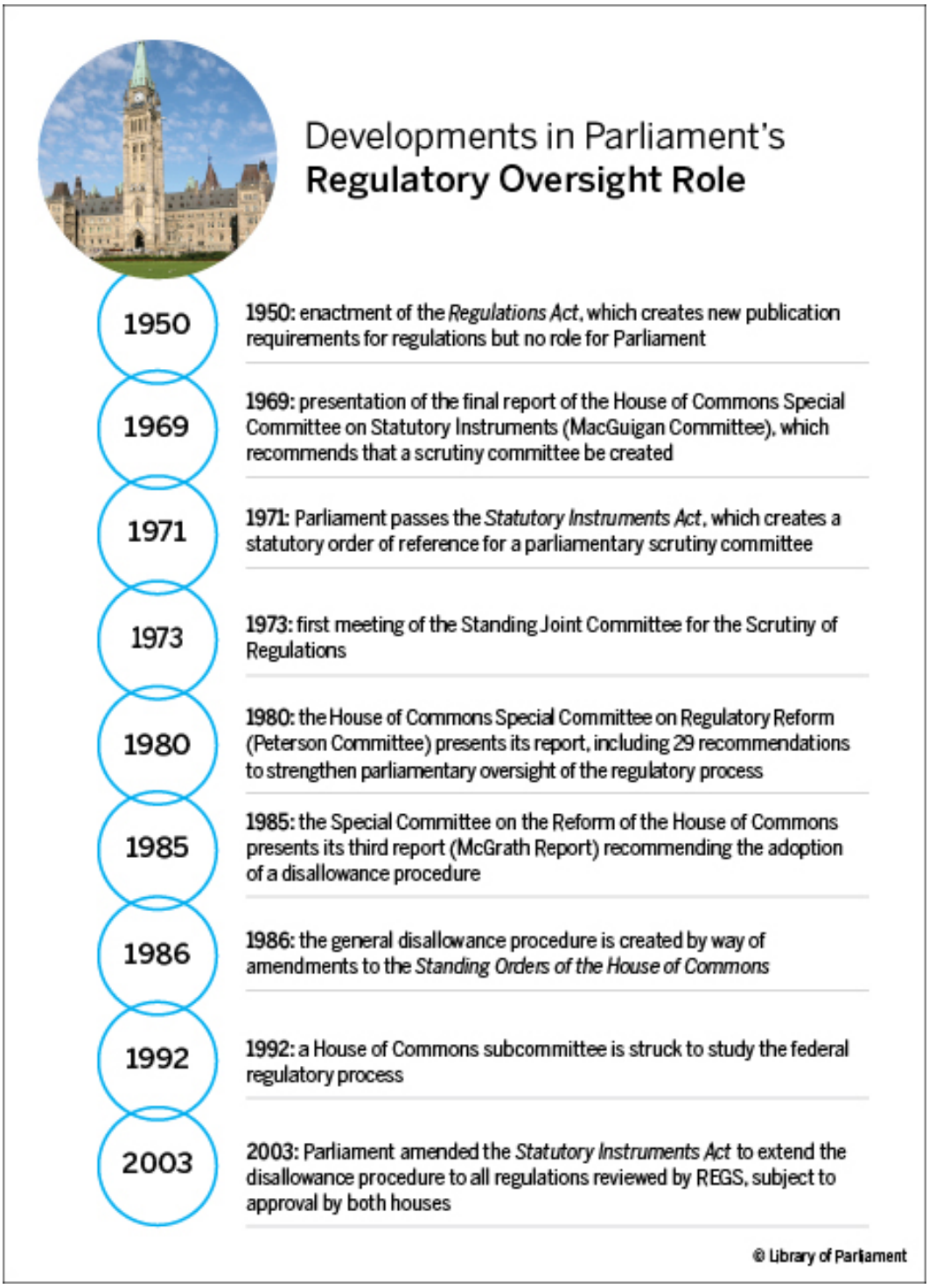
In 1992, a House of Commons subcommittee was struck to examine the federal regulatory process. In its 1993 report, the Sub-committee on Regulations and Competitiveness of the House of Commons Standing Committee on Finance expressed concern about Parliament's ability to oversee regulations:

> Unfortunately, to date, parliamentary scrutiny of regulations – with the notable exception of the [Joint Committee] review, which however is confined to the legal probity of regulations and not their substantive merits – is all but absent: the task is normally dull and difficult, and the incentive to undertake it weak or non-existent. The Executive's formal accountability to Parliament for regulation making therefore amounts, in practice, to a dead letter.[19]

In relation to Parliament's role in the oversight of regulations, this report included six recommendations. For example, it recommended that every bill with a clause enabling the making of regulations be accompanied by a memorandum explaining why that delegated authority is sought.[20] It also recommended that standing committees should consider the merits of "major proposed regulations."[21] However, most of these recommendations were not adopted.

Despite these repeated calls for more parliamentary oversight of regulations, Parliament's role in this area has remained relatively static since the 1970s.[22] Other than REGS, the main ways in which Parliament can exercise oversight of regulations are provided for by statutes and parliamentary committees.

Figure 1 – Summary of Developments in Parliament's Regulation Oversight Role



Source: Figure prepared by the Library of Parliament.

[Figure 1 – text version]

3 PARLIAMENT'S STATUTORY POWERS

3.1 DISALLOWANCE

REGS is empowered to initiate the disallowance procedure, which can result in a regulation-making authority being compelled to revoke a regulation or a portion thereof. This procedure is outlined in the *Statutory Instruments Act*.[23]

3.2 AFFIRMATIVE AND NEGATIVE RESOLUTIONS OF PARLIAMENT OR OF THE HOUSE OF COMMONS

Before the adoption of the 1986 disallowance procedure, several statutes outlined their own procedures for the adoption of affirmative or negative resolutions of either Parliament or the House of Commons alone in relation to certain regulations made under those statutes.

In general, under the affirmative resolution procedure, a regulation does not come into force unless approved by Parliament or, in some cases, by the House of Commons alone. Under the negative resolution procedure, certain regulations can be revoked by Parliament or, in some cases, by only the House of Commons, usually following a debate.[24]

In 1971, when the *Statutory Instruments Act* was enacted, a new section was added to the *Interpretation Act* to standardize the affirmative and negative resolution procedure across statutes.[25] Interestingly, the MacGuigan Committee's final report of 1969 had noted that several statutes had similar negative resolution procedures.[26]

Today, section 39 of the *Interpretation Act* outlines the procedure applicable to statutes that employ the use of the terms "subject to affirmative resolution of Parliament," "subject to affirmative resolution of the House of Commons," "subject to negative resolution of Parliament" and "subject to negative resolution of the House of Commons" of which there are only a few. Only one federal statute on the books, the *Employment Insurance Act*, has an affirmative resolution procedure that remains in place to this day.[27]

Although modern references to these procedures are very rare, the procedures remain available to parliamentarians drafting Senate public bills or private member's bills.[28] It has been remarked that the affirmative resolution procedure can be useful for statutes that enable the making of regulations that could be politically sensitive.[29]

However, some issues associated with the use of affirmative and negative resolutions for regulations have likely contributed to their limited use in today's federal statute book. The need for an affirmative resolution could result in delays, while the negative resolution procedure could create legal uncertainty.[30]

3.3 OTHER STATUTORY POWERS

Several statutes empower Parliament to act in relation to regulations made under them. Rather than employing a consistent approach through the *Interpretation Act* or the *Statutory Instruments Act*, how these powers can be exercised varies from one statute to another. Depending on the statute, these procedures may only be applicable to some regulations, not all, so verifying the enabling authority of a particular regulation is key to determining whether Parliament is empowered to act in a particular case.

Table 1 lists examples of Parliament's statutory powers in relation to regulations other than those previously discussed.

Table 1 – Parliament's Statutory Powers in Relation to Regulations (Currently in Force)

Statutory Provision	Power	Requirement	Agreement of Both Houses Required?
Canada Transportation Act, s. 47(6)	Revocation	Resolution adopted within 30 sitting days after an order is laid before both houses	Yes
Canada-Germany Tax Agreement Act, 1982, s. 6	Revocation	Resolution adopted by either the Senate or the House, signed by no fewer than 15 senators or 30 members of Parliament (MPs)	No
Customs Tariff, ss. 32(1), 64, 68(4), 77.4, 78(3), 132(2)	Approval (ss. 32(1), 78(3), 132(2)) or cessation (ss. 64, 68(4), 77.4)	Adoption of resolution	Yes
Defence Production Act, s. 34(2)	Revocation or amendment	Notice of motion signed by ten members of either house within seven days of publication of the regulation	No
Electricity and Gas Inspection Act, ss. 40–42	Revocation	Notice of motion signed by no fewer than 20 senators or 50 MPs before the 20th sitting day after the order is tabled	Yes
Emergencies Act, s. 61	Revocation or amendment	Notice of motion signed by no fewer than 10 senators or 20 MPs	Yes
Employment Insurance Act, s. 153	Repeal	Notice of motion signed by no fewer than 30 MPs before 10th sitting day after regulations are tabled	No, House only
Energy Administration Act, ss. 72–78	Confirmation or revocation	For confirmation, the motion must be signed by a minister. For revocation, the motion must be signed by no fewer than 30 MPs	Yes

Statutory Provision	Power	Requirement	Agreement of Both Houses Required?
Energy Supplies Emergency Act, ss. 46–48	Confirmation or revocation	For confirmation, the motion must be signed by a minister; for revocation, the motion must be signed by no fewer than 10 senators or 20 MPs	No
Export Act, s. 5(2)	Approval (allows a regulation to remain in force beyond prorogation of Parliament)	Adoption of resolution	Yes
International Development (Financial Institutions) Assistance Act, ss. 5–11	Confirmation or revocation	For confirmation, the motion must be signed by a minister; for revocation, motion must be signed by no fewer than 15 senators or 30 MPs	Yes
James Bay and Northern Quebec Native Claims Settlement Act, s. 5	Revocation	Notice of motion signed by no fewer than 20 senators or 50 MPs	Yes
Old Age Security Act, s. 42	Revocation	Notice of motion signed by no fewer than 20 senators or 50 MPs	Yes
Official Languages Act, s. 87	Disapproval of proposed regulation	Notice of motion signed by no fewer than 15 senators or 30 MPs	Yes
Safe Containers Convention Act, ss. 8–11	Revocation	Notice of motion signed by no fewer than 20 senators or 50 MPs	Yes
Special Economic Measures Act, s. 7	Amendment or revocation	Notice of motion signed by no fewer than 20 senators or 50 MPs	Yes
United Nations Act, s. 4(2)	Annulment	Resolution adopted within 40 days after a regulation or order is laid before both houses	Yes

Sources: Table prepared by the Library of Parliament using information obtained from *Canada Transportation Act*, S.C. 1996, c. 10, s. 47(6); *Canada–Germany Tax Agreement Act, 1982*, S.C. 1980-81-82-83, c. 156, s. 6; *Customs Tariff*, S.C. 1997, c. 36, ss. 32(1), 64, 68(4), 77.4, 78(3) and 132(2); *Defence Production Act*, R.S.C. 1985, c. D-1, s. 34(2); *Electricity and Gas Inspection Act*, R.S.C. 1985, c. E-4, ss. 40–42; *Emergencies Act*, R.S.C. 1985, c. 22 (4th Supp.), s. 61; *Employment Insurance Act*, S.C. 1996, c. 23, s. 153; *Energy Administration Act*, R.S.C. 1985, c. E-6, ss. 72–78; *Energy Supplies Emergency Act*, R.S.C. 1985, c. E-9, ss. 46–48; *Export Act*, R.S.C. 1985, c. E-18, s. 5(2); *International Development (Financial Institutions) Assistance Act*, R.S.C. 1985, c. I-18, ss. 5–11; *James Bay and Northern Quebec Native Claims Settlement Act*, S.C. 1976-77, c. 32, s. 5; *Old Age Security Act*, R.S.C. 1985, c. O-9, s. 42; *Official Languages Act*, R.S.C. 1985, c. 31 (4th Supp.), s. 87; *Safe Containers Convention Act*, R.S.C. 1985, c. S-1, ss. 8–11; *Special Economic Measures Act*, S.C. 1992, c. 17, s. 7; and *United Nations Act*, R.S.C. 1985, c. U-2, s. 4(2).

All these powers are exercised differently, given a lack of consistency across statutes. For example, the number of senators who are required to sign various types of motions ranges from 10 to 20, while the number of members of Parliament required

ranges from 20 to 50. The majority of motions require the agreement of both houses. Most of these powers relate to post-enactment regulations, and a small number can be exercised pre-enactment (for example, section 87 of the *Official Languages Act*).

Although these powers apply to a small number of regulations, they serve to illustrate a range of possible tools to strengthen parliamentary oversight of the executive's regulatory powers, and some notable examples of their use exist. For instance, in December 1992, a motion to amend regulations pursuant to section 7 of the *Special Economic Measures Act* was moved by an opposition member and defeated in the House of Commons.[31] The House debate on that motion gave opposition members an opportunity to criticize the government's foreign affairs policy related to the making of the regulations.[32]

4 ROLE OF PARLIAMENTARY COMMITTEES

The main parliamentary committee tasked with overseeing federal regulations is REGS. Its scrutiny is carried out post-enactment, based on 13 criteria adopted at the beginning of each session. These criteria are legal in nature and do not touch upon the policy or merits of regulations.

In addition to this post-enactment legal scrutiny, several other parliamentary committees are empowered by statute or by their chamber's rules to exercise oversight of regulations.

These parliamentary committees may consider policy issues beyond these criteria, including the underlying merit of a particular regulation. For example, as part of the analysis provided in a regulation's Regulatory Impact Analysis Statement,[33] regulation-making authorities typically conduct a Gender-based Analysis Plus. This is done to assess the impact of a regulation based on identity factors, such as gender, race, ethnicity, religion, age and ability status. A parliamentary committee could invite witnesses to appear to comment on whether the regulation-making authority in question accurately assessed this impact.

4.1 REFERRAL TO COMMITTEE PURSUANT TO STATUTORY AUTHORITY

Several statutes specify that regulations must be referred to parliamentary committees for review – usually to the appropriate committees of both the Senate and the House of Commons. This referral and review may be conducted either pre-enactment[34] or post-enactment,[35] depending on the statute.

A committee referral allows for studying the regulations, inviting witnesses, reporting to the appropriate house and requesting a government response.[36] For statutes that do not explicitly refer regulations to a parliamentary committee, a committee may study regulations nonetheless under a statutory review provision.[37] These provisions

usually require parliamentary committees to review an "Act and its operation," which may include the statute's regulations.

It is worth noting that some statutes specify that parliamentary committees possess special powers in relation to the regulations referred to them. Table 2 lists examples of the special statutory powers delegated to parliamentary committees that are currently in force in relation to regulations.

Table 2 – Special Statutory Powers of Parliamentary Committees in Relation to Regulations (Currently in Force)

Statutory Provision	Details	Committee	Pre- or Post-Enactment?
Canada Consumer Product Safety Act, s. 38	Committee "may review the proposed regulation and report its findings"; if a committee recommendation is ignored, the Minister must table a statement of the reasons for ignoring it	House of Commons Standing Committee on Health and "an appropriate committee of the Senate"	Pre-enactment
Canada National Marine Conservation Areas Act, s. 7	Some proposed orders can be disapproved by committee	"[T]he standing committee of each House that normally considers matters relating to marine conservation areas"	Pre-enactment
Canada National Parks Act, ss. 7 and 34	Some proposed orders can be disapproved by committee	"[T]he standing committee of each House that normally considers matters relating to parks"	Pre-enactment
Emergencies Act, s. 61	The committee can revoke or amend orders or regulations exempt from publication	A joint committee designated or established for that purpose (parliamentary review committee)	Post-enactment
Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law), s. 16(3)	The committee may make a recommendation as to whether a foreign national subject to an order or regulation should remain or no longer be subject to that order or regulation	"Committees of the Senate and the House of Commons that are designated or established by each House for that purpose"	Post-enactment
Railway Safety Act, s. 47.3	Review of any regulations made under the Act "either on its own initiative or on receiving a written complaint regarding a specific safety concern"	Standing Senate Committee on Transport and Communications and the House of Commons Standing Committee on Transport, Infrastructure and Communities	Post-enactment
Referendum Act, s. 7(7)	Referral of proposed regulations to committee "to review the regulation" and to "make …	Such committee of each house "as is designated or established"	Pre-enactment

Statutory Provision	Details	Committee	Pre- or Post-Enactment?
	recommendations to the Chief Electoral Officer"		
Transportation of Dangerous Goods Act, 1992, s. 30	Review of any regulations made under the Act "either on its own initiative or on receiving a written complaint regarding a specific safety concern"	Standing Senate Committee on Transport and Communications and the House of Commons Standing Committee on Transport, Infrastructure and Communities	Post-enactment

Sources: Table prepared by the Library of Parliament using information obtained from *Canada Consumer Product Safety Act*, S.C. 2010, c. 21, s. 38;; *Canada National Marine Conservation Areas Act*, S.C. 2002, c. 18, s. 7; *Canada National Parks Act*, S.C. 2000, c. 32, ss. 7 and 34; *Emergencies Act*, R.S.C. 1985, c. 22 (4th Supp.), s. 61; *Justice for Victims of Corrupt Foreign Officials Act (Sergei Magnitsky Law)*, S.C. 2017, c. 21, s. 16(3); *Railway Safety Act*, R.S.C. 1985, c. 32 (4th Supp.), s. 47.3; *Referendum Act*, S.C. 1992, c. 30, s. 7(7); and *Transportation of Dangerous Goods Act, 1992*, S.C. 1992, c. 34, s. 30.

Many of these powers only apply to some regulations made under the parent statute. Consultation of the specific statute in question will be necessary to determine the scope of the power.

4.2 REFERRAL TO COMMITTEE PURSUANT TO THE *RULES OF THE SENATE* AND THE *STANDING ORDERS OF THE HOUSE OF COMMONS*

The *Rules of the Senate* establish general mandates for committees. However, in most cases, Senate committees would be empowered to conduct reviews of regulations following the adoption of an order of reference by the Senate.[38]

In the *Standing Orders of the House of Commons*, Standing Order 32(5) provides that:

> Reports, returns or other papers laid before the House in accordance with an act of Parliament shall thereupon be deemed to have been permanently referred to the appropriate standing committee.[39]

This rule allows House committees to initiate inquiries without having to wait for an order of the House. The appropriate standing committee is typically identified by the minister tabling the document, based on the subject matter of the regulation.[40]

The 1980 report of the House of Commons Special Committee on Regulatory Reform describes the kind of oversight that was envisioned for House committees under this standing order.[41] That report recommended that House standing committees be authorized to:

> (a) monitor the regulatory processes of federal departments and agencies;

> (b) review the subject matter of new subordinate legislation as to policy or merits; and
>
> (c) review specific regulatory activities of federal departments and agencies utilizing program evaluation reports.[42]

A list of regulations referred to committee pursuant to Standing Order 32(5) can be found in the *List of Reports and Returns* published by the House of Commons Administration for each parliamentary session.[43]

Furthermore, under the Standing Orders, the Standing Committee on Access to Information, Privacy and Ethics (ETHI) is the only House committee other than REGS with a specific mandate to review and report on regulations. ETHI's mandate specifies that it is responsible,

> in cooperation with other committees, [for] the review of and report on any federal legislation, regulation or standing order which impacts upon the access to information or privacy of Canadians or the ethical standards of public office holders.[44]

5 OTHER FORMS OF PARLIAMENTARY SUPERVISION

5.1 PARLIAMENTARY DEBATE

Like any other public policy issue, parliamentarians may raise regulatory issues in the Senate or House of Commons when the opportunity arises. For example, during Question Period, a parliamentarian could pose a question related to the impact of a regulation.

Statutes can also provide for a parliamentary debate about specific regulations. For example, section 12(3) of the *Migratory Birds Convention Act, 1994* requires that a debate be held in the House of Commons in relation to a specific type of order.[45]

5.2 LEGISLATIVE CHANGE

Parliament could pass legislation to amend[46] or to repeal[47] regulations or a portion thereof. When passing legislation, Parliament could also amend the enabling clause of a regulation's parent statute, which could have the effect of changing the scope of the regulatory powers delegated to a regulation-making authority.[48] Parliament could even eliminate the delegation entirely by passing legislation that repeals an enabling clause, thereby rendering all regulations made pursuant to that enabling authority of no force or effect. Legislative amendments could also be made to add new regulation-making authorities.[49]

6 PARLIAMENT AS A REGULATION-MAKING AUTHORITY

Most federal regulations are made by the Governor in Council or a minister, department, agency, board or other executive authority. However, in a few special cases, Parliament can make regulations. Most of these enabling authorities reside in the *Parliament of Canada Act* (PCA).[50]

For example:

- PCA, section 19.5 enables the Standing Senate Committee on Internal Economy, Budgets and Administration to make regulations on certain subjects relating to the exercise of its powers and functions.
- PCA, section 59 enables the Senate and House of Commons to make regulations respecting members' attendance and sessional allowance deductions.
- PCA, section 59.1 enables the Senate and House of Commons to make regulations respecting members' attendance and sessional allowance deductions for certain family-related reasons.
- PCA, section 74(2) enables the Speakers of both houses, assisted by the Standing Joint Committee on the Library of Parliament, to make regulations respecting the Library of Parliament.
- The *Centennial Flame Research Award Act*, section 6(1)[51] enables the House of Commons Board of Internal Economy to make regulations that govern the collection of money for the Centennial Flame Research Award Fund.

Although regulations are rarely made by Parliament, they do exist. For example, two regulations currently in force were made under section 59 of the PCA.[52] The House of Commons has also made regulations under section 59.1 of the PCA.[53]

7 CONCLUSION

Parliament has gradually asserted its role in overseeing the federal government's use of regulations. As regulations have become more pervasive in modern times, it is important that Parliament exercise this role in a meaningful way. In doing so, Parliament conducts an important check on the exercise of executive power.

NOTES

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2. J.R. Mallory, "Delegated Legislation in Canada: Recent Changes in Machinery," *Canadian Journal of Economics and Political Science*, Vol. 19, No. 4, November 1953, p. 462.

3. For information on the Standing Joint Committee for the Scrutiny of Regulations, see Shawn Abel, Geoffrey Hilton and Cynthia Kirkby, *The Standing Joint Committee for the Scrutiny of Regulations*, Publication no. 2014-18-E, Library of Parliament, 21 February 2022; and Stephanie Feldman, "Scrutiny of Regulations: 50 Years in Review," *HillNotes*, Library of Parliament, 9 May 2024.

4. Library of Parliament, "House of Commons Committees, 28th Parliament, 1st Session: Special Committee on Statutory Instruments, Vol. 1, Third report," Canadian Parliamentary Historical Resources, Database, 1969, p. 4.

5. Stephanie Feldman, "Scrutiny of Regulations: 50 Years in Review," *HillNotes*, Library of Parliament, 9 May 2024.

6. J.R. Mallory, "Delegated Legislation in Canada: Recent Changes in Machinery," *Canadian Journal of Economics and Political Science*, Vol. 19, No. 4, November 1953, p. 462.

7. Ibid., pp. 462–463.

8. The *Emergencies Act* replaced the *War Measures Act* in 1988. For more information on the *Emergencies Act* and Parliament's role in supervising the regulations made under it, see Stephanie Feldman, "The *Emergencies Act*: Parliament's Role During a National Emergency," *HillNotes*, Library of Parliament, 22 February 2022.

9. *An Act to provide for the Publication of Statutory Regulations*, 1950, c. 50, Hein Online, Database, accessed 25 August 2026 [SUBSCRIPTION REQUIRED].

10. J.R. Mallory, "Curtailing 'Divine Right': The Control of Delegated Legislation in Canada," in O.P. Dwivedi, ed., *The Administrative State in Canada: Essays in Honour of J.E. Hodgetts*, 1982, p. 134.

11. Library of Parliament, "House of Commons Committees, 28th Parliament, 1st Session: Special Committee on Statutory Instruments, Vol. 1," Canadian Parliamentary Historical Resources, Database, 1969, pp. 92–93.

12. *Statutory Instruments Act*, R.S.C. 1985, c. S-22, s. 19.

13. Library of Parliament, "House of Commons Committees, 32nd Parliament, 1st Session: Special Committee on Regulatory Reform, Report," Canadian Parliamentary Historical Resources, Database, December 1980, pp. iii–vi.

14. Ibid., p. 21.

15. Treasury Board of Canada Secretariat, "Appendix A Reforming Canada's Regulatory Process: 1980," *Number 14: Regulatory Reform through Regulatory Impact Analysis: The Canadian Experience*, 23 July 2001.

16. Library of Parliament, "House of Commons Committees, 33rd Parliament, 1st Session: Special Committee on Reform of the House of Commons, Third Report," Canadian Parliamentary Historical Resources, Database, June 1985.

17. Ibid., p. 35.

18. Ibid., p. 36.

19. Library of Parliament, "House of Commons Committees, 34th Parliament, 3rd Session: Standing Committee on Finance, Seventeenth Report," Canadian Parliamentary Historical Resources, Database, December 1992, p. 7.

20. Ibid., p. 63.

21. Ibid.

22. However, some improvements were made to the disallowance power during this period. For more information, see Cynthia Kirkby, Shawn Abel and Geoffrey Hilton, "4. Disallowance," *The Standing Joint Committee for the Scrutiny of Regulations*, Publication no. 2014-18-E, Library of Parliament, 21 February 2022.

23. Ibid; and *Statutory Instruments Act*, R.S.C. 1985, c. S-22, s. 19.1.

24. For more information on how these debates can be conducted, please see Eric Janse and Jeffrey LeBlanc, eds., "Chapter 15: Special Debates – Statutory Debates," *House of Commons Procedure and Practice*, 4th ed., 2025.

25. *Statutory Instruments Act*, S.C. 1970–71, c. 38, s. 28, Hein Online, Database, accessed 25 August 2026 [SUBSCRIPTION REQUIRED]; and Library of Parliament, "House of Commons Bills, 28th Parliament, 3rd Session: C176–C200," Canadian Parliamentary Historical Resources, Database, 1971, pp. 16 and 17.

26. Library of Parliament, "House of Commons Committees, 28th Parliament, 1st Session: Special Committee on Statutory Instruments, Vol. 1," *Third report*, Canadian Parliamentary Historical Resources, Database, 1969, p. 83.

27. The *Employment Insurance Act* requires Parliament to adopt an affirmative resolution before the Canada Employment Insurance Commission may make certain regulations. See *Employment Insurance Act*, S.C. 1996, c. 23, s. 5(5).

28. In the last 30 years, five bills have included this procedure: Bill C-111, An Act respecting employment insurance in Canada, 35th Parliament, 1st Session; Bill C-493, An Act to promote shipbuilding, 1999, 36th Parliament, 1st Session; Bill C-213, An Act to promote shipbuilding, 1999, 36th Parliament, 2nd Session; Bill C-389, An Act to promote shipbuilding, 2001, 37th Parliament, 1st Session; Bill C-370, An Act to continue VIA Rail Canada Inc. under the name VIA Rail Canada, to amend the Canada Transportation Act and to make consequential amendments to other Acts, 42nd Parliament, 1st Session.

29. Paul Salembier and Peter Bernhardt, "Understanding the Regulation Making Process," *Canadian Parliamentary Review*, Vol. 25, No. 1, 2002.

30. Ibid.

31. Library of Parliament, "House of Commons Journals, 34th Parliament, 3rd Session: Vol. 132 Pt. 3," Canadian Parliamentary Historical Resources, Database, 8 December 1992.

32. Library of Parliament, "House of Commons Debates, 34th Parliament, 3rd Session: Vol. 12," Canadian Parliamentary Historical Resources, Database, 8 December 1992, p. 14873.

33. A Regulatory Impact Analysis Statement is a "clear, non-technical synthesis of expected impacts, based on a Regulatory Impact Assessment of a proposed regulation. It is published in the *Canada Gazette* with the regulatory text," but it is not part of the regulation. See Government of Canada, *Cabinet Directive on Regulation*.

34. See, for example, *Assisted Human Reproduction Act*, S.C. 2004, c. 2, s. 66(2); *Citizenship Act*, R.S.C. 1985, c. C-29, s. 27.1; *Firearms Act*, S.C. 1995, c. 39, s. 118(3); *Immigration and Refugee Protection Act*, S.C. 2001, c. 27, s. 5(2); and of the *Telecommunications Act*, S.C. 1993, c. 38, s. 10(4). For more information on committee reviews of proposed regulations, see Stephanie Feldman, *Parliamentary Committee Review of Regulations*, Publication no. 2025-17-E, Library of Parliament, 24 July 2025.

35. See, for example *Canada Transportation Act*, S.C. 1996, c. 10, s. 47(5); *Investment Canada Act*, R.S.C. 1985, c. 28 (1st Supp.), s. 35(3); *Official Languages Act*, R.S.C. 1985, c. 31 (4th Supp.), s. 88; and *Time Limits and Other Periods Act (COVID-19)*, S.C. 2020, c. 11, s. 11(2).

36. For example, in 2021, the House of Commons Standing Committee on Public Safety and National Security was referred proposed (pre-enactment) regulations under section 118(3) of the *Firearms Act*. It held a meeting on the subject on 16 December 2021 when it heard from the minister responsible for the regulations in question. Following that meeting, the committee adopted and tabled its report on the subject, which stated that the committee "agrees with the adoption, without amendment, of the Proposed Regulations." See House of Commons, Standing Committee on Public Safety and National Security (SECU), *Evidence*, Meeting 3, 16 December 2021; and SECU, *Proposed Regulations Amending Certain Regulations Made Under the* Firearms Act, Second report, 31 January 2022.

37. For more information about statutory reviews, see Robert Mason, *Statutory Reviews Within the Purview Of Parliamentary Committees*, Working paper, 8 May 2025 [ACCESS TO PARLIAMENTARY NETWORK REQUIRED].

38. Senate, "Mandate – Orders of Reference," *Fundamentals of Senate Committees*, Committees Directorate, July 2025.

39. House of Commons, *Standing Orders of the House of Commons, Consolidated version as of April 27, 2026*, S.O. 32(5).

40. Eric Janse and Jeffrey LeBlanc, eds., "Chapter 10: The Daily Program – Tabling of Documents by a Minister," *House of Commons Procedure and Practice*, 4th ed., 2025.

41. Library of Parliament, "House of Commons Committees, 32nd Parliament, 1st Session: Special Committee on Regulatory Reform, Report," Canadian Parliamentary Historical Resources, Database, December 1980.

42. Ibid., p. iv, Recommendation 17.

43. For example, see House of Commons, *List of Reports and Returns*, 26 May 2025.

44. House of Commons, *Standing Orders of the House of Commons, Consolidated version as of April 27, 2026*, S.O. 108(3)(h)(vi).

45. *Migratory Birds Convention Act, 1994*, S.C. 1994, c. 22, s. 12(3).

46. See, for example, Bill C-58, An Act to amend the Canada Labour Code and the Canada Industrial Relations Board Regulations, 2012, 44th Parliament, 1st Session (S.C. 2024, c. 12), cl. 15.

47. See, for example, Bill C-40, An Act to amend the Criminal Code, to make consequential amendments to other Acts and to repeal a regulation (miscarriage of justice reviews), 44th Parliament, 1st Session (S.C. 2024, c. 33), cl. 19.

48. See, for example, Bill S-5, An Act to amend the Canadian Environmental Protection Act, 1999, to make related amendments to the Food and Drugs Act and to repeal the Perfluorooctane Sulfonate Virtual Elimination Act, 44th Parliament, 1st Session (S.C. 2023, c. 12), cl. 33(7).

49. See, for example, Bill S-233, An Act to amend the Customs Act and the Immigration and Refugee Protection Act (presentation and reporting requirements), 42nd Parliament, 1st Session (S.C. 2017, c. 11), cl. 4.

50. *Parliament of Canada Act*, R.S.C. 1985, c. P-1.

51. *Centennial Flame Research Award Act*, S.C. 1991, c. 17.

52. These are the *Senate Sessional Allowance (Suspension) Regulations*, SOR/98-126, and the *Senate Sessional Allowance (Deductions for Non-attendance) Regulations*, SOR/98-337, which are both referred to in the *Rules of the Senate*. See *Senate Sessional Allowance (Suspension) Regulations*, SOR/98-126; *Senate Sessional Allowance (Deductions for Non-attendance) Regulations*, SOR/98-337; and Senate, *Rules of the Senate*, April 2026.

53. The *House of Commons Members' Sessional Allowance Regulations (maternity and parental arrangements)* were recommended by the House of Commons Standing Committee on Procedure and House Affairs for adoption by the House of Commons. That report was concurred in by the House on 12 June 2019. See House of Commons, Standing Committee on Procedure and House Affairs, *Regulations Respecting the Non-Attendance of Members by Reason of Maternity or Care for a New-Born or Newly-Adopted Child*, Ninety-seventh report, 12 June 2019; and House of Commons, *Journals*, 12 June 2019.

APPENDIX A – TEXT VERSION OF FIGURE 1

FIGURE 1 – SUMMARY OF DEVELOPMENTS IN PARLIAMENT'S REGULATION OVERSIGHT ROLE

This infographic outlines how Parliament's oversight role over regulations has evolved since 1950. In 1950, the *Regulations Act* was enacted, which created new publication requirements for regulations but no role for Parliament. In 1969, the final report of the House of Commons Special Committee on Statutory Instruments (also known as the MacGuigan Committee), recommended the creation of a scrutiny committee. In 1971, Parliament passed the *Statutory Instruments Act*, which created a statutory order of reference for a parliamentary scrutiny committee. In 1973, the Standing Joint Committee for the Scrutiny of Regulations met for the first time. In 1980, the House of Commons Special Committee on Regulatory Reform presented its report which included 29 recommendations to strengthen parliamentary oversight of the regulatory process. In 1985, the Special Committee on the Reform of the House of Commons presented its third report recommending the adoption of a disallowance procedure. In 1986, the general disallowance procedure was created by way of amendments to the *Standing Orders of the House of Commons*. In 1992, a House of Commons subcommittee was struck to study the federal regulatory process. In 2003, Parliament amended the *Statutory Instruments Act* to extend the disallowance procedure to all regulations reviewed by REGS, subject to approval by both houses.

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