

1978 S.C. Op. Atty. Gen. 118 (S.C.A.G.), 1978 S.C. Op. Atty. Gen. No. 78-93, 1978 WL 22572

Office of the Attorney General

State of South Carolina

Opinion No. 78-93

May 12, 1978

***1 SUBJECT: Period of Time, Days, legislature, state Agencies (General)**

As set forth in South Carolina Code of Laws, 1976, as amended, Section 1–23–120, the General Assembly shall have a period of ninety days to review any regulation promulgated by an agency. The ninety-day period of review shall begin on the date the regulation is filed with the President of the Senate and the Speaker of the House of Representatives.

TO: Cyril B. Busbee
State Superintendent of Education

QUESTION:

Should the ninety (90) day period of review of any regulation by any agency as found in South Carolina Code of Laws, 1976, as amended, Section 1–23–120, be interpreted as ninety (90) calendar days when the General Assembly is officially in session, day one (1) commencing on the date the regulations are filed with the Speaker of the House of Representatives and the President of the Senate?

STATUTES AND CASES:

South Carolina Code of Laws, 1976, as amended, Section 1–23–120.

Okanogan Indians vs. United States, 279 U.S. 672

Martin vs. Ellisor, 266 S.C. 377, 223 S.E.2d 415 (1976)

Mitchell vs. Mitchell, 266 S.C. 196, 222 S.E.2d 499 (1976)

McGarrah vs. Stockton, Mo.App., 425 S.W.2d 223, 226 (1968)

70 C.J.S. Period (1951)

DISCUSSION:

It is axiomatic that where a statute is plain and unambiguous, and its terms are clear, the statute must be interpreted in accordance with its literal meaning. Martin v. Ellisor, 266 S.C. 377, 223 S.E.2d 415 (1976) and Mitchell v. Mitchell, 266 S.C. 196, 222 S.E.2d 499 (1976). Section 1–23–120 is such a provision.

The word ‘days’, as it is normally used in legislation, when not qualified, is defined in its ordinary and common usage as calendar days. Okanogan Indians v. United States, 279 U.S. 672. Therefore, as set forth in § 1–23–120, the period of ninety days for the General Assembly to review any regulations promulgated by any agency, is a continuous period constituting calendar days, not legislative days. See McGarrah v. Stockton, Mo. App. 425 S.W.2d 223, 226 (1968); 70

C.J.S. Period (1951). Section 1–23–120 further states that the ninety day period of review is initiated on the date the regulation is filed with the President and Speaker and that such period will continue to completion unless:
[s]ine die adjournment of the General Assembly shall toll the running of the period of review and the remainder of such period shall begin to run upon the next convening of the General-Assembly excluding special sessions called by the Governor.

CONCLUSION:

Based on the clear and unambiguous language of § 1–23–120, the ninety day period for the General Assembly to review any regulations promulgated by any agency is to be a period of ninety continuous calendar days when the General Assembly is officially in session, beginning on the date the regulation is filed with the President of the Senate and the Speaker of the House.

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