



Government of Canada Gouvernement du Canada

CANADA GAZETTE DIRECTORATE

MANDATE

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Background:

The Assistant Clerk of the Privy Council officially assigned the mandate to decide both the content and publication date of Part I of the *Canada Gazette* to the Queen's Printer, in a letter dated April 4, 1989.

The Queen's Printer, in turn, has delegated the authority to the Director, Canada Gazette Directorate.

1. Definition of the *Canada Gazette*

The *Canada Gazette* is the "official" newspaper of the Government of Canada—published regularly by the Queen's Printer since 1841. The content of the *Canada Gazette* includes new statutes and regulations, proposed regulations, decisions of administrative boards and an assortment of federal government notices, as well as private sector notices that are required by statute to be published in the *Canada Gazette*. The publication of the *Canada Gazette* is governed by the *Statutory Instruments Act* and the *Statutory Instruments Regulations*.

2. Responsibility for Publication

Section 10 of the *Statutory Instruments Act* confers the responsibility for the publication of the *Canada Gazette* to the Queen's Printer. This responsibility is also reflected in the *Department of Public Works and Government Services Act*, which stipulates in section 19 that the Queen's Printer shall be an officer of the Department of Public Works and Government Services. The Queen's Printer has delegated the responsibility to publish the *Canada Gazette* to the Director of the Canada Gazette Directorate.

3. Date of Publication

The *Statutory Instruments Regulations*¹ (section 13²) prescribe the date of publication of the three parts of the *Canada Gazette*. Part I shall be published at least once every seven days (every Saturday, since 1841). Part II shall be published at least every second Wednesday, since 1947. The publication date for Part III is not set by regulation, but ordinarily it is published whenever sufficient Acts have received Royal Assent to warrant publication.

4. Definition of "Publication"

Section 10 of the *Statutory Instruments Act* reads that the "Queen's Printer shall continue to publish the *Canada Gazette* as the official gazette of Canada." According to an interpretation by counsels Betty Rollo and Alain Prévost of the Privy Council Office (memorandum to Pat Caverley, Registrar of Statutory Instruments, Privy Council Office, dated September 24, 1987), "publish" means "to make publicly or generally known." This includes also the printing and distribution to satisfy subsection 11(2) of the *Statutory Instruments Act* which reads:

¹ C.R.C., c. 1509, unless otherwise indicated

² SOR/84-88, s. 1

“(2) No regulation is invalid by reason only that it was not published in the *Canada Gazette*, but no person shall be convicted of an offence consisting of a contravention of any regulation that at the time of the alleged contravention was not published in the *Canada Gazette* unless³

(a) the regulation was exempted from the application of subsection (1) pursuant to paragraph 20(c), or the regulation expressly provides that it shall apply according to its terms before it is published in the *Canada Gazette*; and

(b) it is proved that at the date of the alleged contravention reasonable steps had been taken to bring the purport of the regulation to the notice of those persons likely to be affected by it.”

Under the *Canada Evidence Act*, a notice in the *Canada Gazette* is evidence *prima facie* proof in all courts of Canada.

The mandatory requirement is further enhanced in subsection 11(1) of the Act which provides that:

“11.(1) Subject to any regulations made pursuant to paragraph 20(c), every regulation shall be published in the *Canada Gazette* within twenty-three days after copies thereof are registered pursuant to section 6.”

The duty to publish is not only mandatory but the time-frame under which the *Canada Gazette* is to be published is set by Parliament at 23 days. Therefore, after registration by the Clerk of the Privy Council, the regulations must be published in Part II of the *Canada Gazette* within 23 days.

Interpretation of W. A. Gagnon, Counsel at the Department of Justice, in a memorandum dated February 28, 1997, stated:

“One may ask why has Parliament fixed a precise publication date for the publication of regulations. In section 10 of the *Statutory Instruments Act* it is determined that the *Canada Gazette* is the “official gazette of Canada.” One could say that the official gazette for a government is what by-laws and resolutions of a board of directors are to a company. In the case of a company, the by-laws and the resolution allow the company to operate. A company being a separate legal entity from its shareholders, its officers could not function if the required by-laws or resolution were not in place. The same with the Government of Canada – if the regulations, orders in council, proclamations and other legal instruments were not made and published as required by law the whole machinery of government could grind to a halt.”

5. Content of the *Canada Gazette*

The *Canada Gazette* is published in three parts, namely, Part I, Part II and Part III, in accordance with section 9 of the *Statutory Instruments Regulations*. Each part publishes a different type of notice.

5.1 Part I

Part I publishes all formal public notices, official appointments and miscellaneous announcements that are required to be published by a federal statute or a regulation, as well as **proposed regulations**.

Subsection 11(1) of the *Statutory Instruments Regulations* prescribes the exact content of Part I as follows:

“11. (1) Subject to subsection (3) and section 14, every statutory instrument, other than a regulation, and every other document that is required or authorized to be published in the *Canada Gazette* by or under the authority of the Act or any other Act of Parliament shall be published in Part I of the *Canada Gazette*.”⁴

5.1.1 Extra editions

Extra editions of the *Canada Gazette*, Part I, are published on a day other than, and before, the regular publication day, which is Saturday. Extra editions are published because a statutory deadline for a given notice has to be met, or an extra edition is required for special announcements; in other words, certain circumstances warrant the publication of an extra edition.

³ R.S., c. 31 (4th Supp.), s. 10

⁴ SOR/85-855, s. 1

5.1.2 Supplements

Supplements form part of the regular issue of Part I, but they are placed at the end of the issue. In general, high-volume documents published at regular intervals are published as supplements. This facilitates the page make-up and pagination on the one hand and allows the reader to keep the document in a separate file on the other hand.

Sometimes, when the supplement itself contains too many pages to be attached to the regular issue of the *Canada Gazette*, it is published separately (for example, the Transportation of Dangerous Goods).

5.1.3 Extracts

Extracts are separate copies of particular notices extracted from the regular issues and reprinted separately to meet clients' requests for copies of their notices.

The Canada Gazette Directorate provides the service for an extract requested by the author department or private sector prior to the publication of the *Canada Gazette* and printed at the same time as the regular issue. The Publishing and Depository Services of PWGSC provide coordinating services for extracts requested by a client other than the author, or for all those requested after publication in the *Canada Gazette*.

5.1.4 Weekly Index

Every issue of the *Canada Gazette*, Part I, contains an index that is compiled and prepared to help the reader find the different notices published in that issue.

5.1.5 Quarterly Index

The quarterly index is a compilation of the weekly indices. The *Statutory Instruments Regulations* prescribe the exact content as follows:

“17. The quarterly index of all documents, other than regulations, that have been published in the *Canada Gazette* shall contain, in alphabetical order, the name of each Act of Parliament under or in relation to which each such document has been issued, made or established, specifying with respect to each such document the issue of the *Canada Gazette* in which it may be found.”

5.2 Part II

Part II publishes regulations and other classes of statutory instruments and documents, and the *Consolidated Index of Statutory Instruments*. Subsections 11(2) and (3) of the *Statutory Instruments Regulations* prescribe the content of Part II as follows:

“(2) Every regulation, other than a regulation that is exempt from publication, shall be published in Part II of the *Canada Gazette*.

(3) The following classes of statutory instruments or other documents shall be published in Part II of the *Canada Gazette*:

(a) orders made by the Governor in Council under the *Public Service Rearrangement and Transfer of Duties Act*;

(b) orders made by the Governor in Council whereby any member of the Queen's Privy Council for Canada is designated to act as the Minister for the purposes of any Act of Parliament or to act as the appropriate Minister for the purposes of the *Financial Administration Act*;⁵

(c) proclamations;

(d) orders made under section 23 of the *Financial Administration Act*;⁶

(e) rules governing the practice and procedure in proceedings before a judicial body that is established under an enactment of a province that are required to be published in the *Canada Gazette* by an Act of Parliament; and⁷

⁵ SOR/93-245, subs. 4(2)

⁶ SOR/89-247, subs. 1(1)

(f) [Repealed]⁸

(g) orders fixing the day or days on which an Act or any provision thereof shall come into force.”⁹

5.2.1 Extra editions

Extra editions of Part II are published on a day other than a regular publication date for Part II when the deadline date for a regular edition of Part II cannot be met, or for special announcements and proclamations (for example, calling of elections, proclamation of war and peace); in other words, certain circumstances warrant the publication of an extra edition.

5.2.2 Extracts

On request, the Canada Gazette Directorate provides clients with extracts of notices published in Part II.

5.2.3 Consolidated Index of Statutory Instruments

The *Consolidated Index of Statutory Instruments* is a compilation of all regulations made since January 1, 1955, and which are still in force. Section 17 of the *Statutory Instruments Regulations* prescribe the exact content of the index.

5.3 Part III

Part III of the *Canada Gazette* contains the public Acts of each session of the Parliament, as well as their enactment proclamations. Section 12 of the *Statutory Instruments Regulations* reads:

“12. The public Acts of each session of the Parliament of Canada shall be published in Part III of the *Canada Gazette*.”

5.4 Responsibility for the Content

The Canada Gazette Directorate is responsible for the content of Part I. The Privy Council Office is responsible for the content of Part II, and the Department of Justice is responsible for the content of Part III.

6. Format of the *Canada Gazette*

Section 10 of the *Statutory Instruments Regulations* stipulates that the “typography, style and format of Part I, Part II and Part III of the *Canada Gazette* shall be substantially similar to the typography, style and format of the public general Acts of the Parliament of Canada.” For example, the side-by-side format of the *Canada Gazette* follows the side-by-side format of the Acts of Parliament. Pursuant to the provisions of the *Official Languages Act*, it is published in both official languages.

7. Sale and Distribution

Publishing and Depository Services Directorate of Public Works and Government Services Canada is responsible for the sale of subscriptions to the print copy of the *Canada Gazette* in accordance with Treasury Board’s Communications Policy. The Depository Services Program is responsible for the distribution of the *Canada Gazette* to Members of Parliament and the libraries across Canada.

All three parts of the *Canada Gazette* have been available **free of charge** on the Internet (Canada Site) and extranet (Publiservice) since 1998 in PDF (Portable Document Format) side-by-side format. In April 1st 2003, an Order in Council, (SI/2003-58) gave official status to the PDF version of Parts I, II and III of the *Canada Gazette* pursuant to Subsection 10 (2) of the *Statutory Instruments*

⁷ SOR/78-814

⁸ Added SOR/86-318; revoked SOR/93-245, subs. 4(3)

⁹ SOR/89-247, subs. 1(2)

Act. The PDF Internet version was given the same “official” status as the print copy. Both are published simultaneously.

An alternate format for persons with disabilities has been available, in separate English and French versions, in ASCII (American Standard Code for Information Interchange) format (tables, charts, graphs and formulae are extracted) since April 2000. Then, in 2003, the ASCII format was upgraded to HTML (Hyper Text Mark-up Language) to facilitate searching.

8. Core Functions of the Canada Gazette Directorate

The Canada Gazette Directorate is responsible for **the timely publication** of the three parts of the *Canada Gazette*, including the weekly and quarterly indices, the supplements, the extracts and the extra editions. This responsibility is essential to the regulatory process. Failure to publish on time could lead to court challenges, and serious legal and financial implications. Although the Directorate is responsible for the publication dates, and the distribution of all three parts, the core functions are not the same.

8.1 Part I

The Canada Gazette Directorate is fully responsible for the coordination, form and style, production and content of Part I. This includes a whole range of activities, from the arrival of a manuscript in the Administration Section, the editing and the page layout to final “OK” print produced and provided to the printer for printing and distribution. The following functions are discernible: coordinating and reviewing, formatting and revising, editing, typesetting, proofreading and revising signatures, producing camera-ready copy, and invoicing clients.

8.1.1 Coordinating and Reviewing

The texts to be published in Part I come from a variety of departments, boards, agencies, commissions and Crown corporations, and from the private sector. Only notices which are required to be published pursuant to a statutory requirement may be published in Part I. Sometimes, the Clerk of the Privy Council may authorize or request the publication of a notice because he or she deems it to be in the public interest¹⁰. It is the responsibility of the Canada Gazette Directorate to review incoming manuscripts in order to determine whether they are eligible for publication. **The Director reviews the “public interest” notices and, based on precedents, recommends publication in Part I to the Assistant Clerk of the Privy Council who is responsible for final approval. The Director acts as liaison between author departments and the Privy Council Office in such matters.**

8.1.2 Formatting and Revising

The notices to be published come from a wide variety of clients. Inevitably, they are presented in a variety of styles and formats. The Editing Section **edits, revises, compares English and French content** and ensures that the style and format of the *Canada Gazette* are met. The Publication Support Section provides the Editing Section with the various drafts at the different stages of the editing process.

8.1.3 Proofreading

Each draft produced by the Publication Support Section is proofread by the Editing Section to ensure that all typographical errors are indicated and subsequently corrected.

8.1.4 Revising signatures

Once all texts have been compiled into “signatures” for printing, the Editing Section ensures that all texts are complete, that they have been placed in the proper order and that all mistakes have been corrected. It is an ultimate verification of the requirements of section 10 of the *Statutory Instruments Regulations* regarding the typography, style and format of Part I. Most important, the Canada Gazette Directorate has to ensure that the statutory deadlines respecting publications are met.

¹⁰ SOR/94-479, s. 2 (English version)

8.1.5 Camera-ready Copy

The Canada Gazette Directorate produces the camera-ready copy for the printer.

8.1.6 Invoicing

In order to recover some of its operating costs, the Canada Gazette Directorate invoices author departments, agencies, etc., and the private sector for each notice appearing in the *Canada Gazette*. The rates vary for Part I, Part II and Part III.

8.1.7 Statutory Declarations

Upon request, the Canada Gazette Directorate provides clients with statutory declarations as proof of publication. The Director signs a sworn declaration as to the authenticity of the notice when requested by the client to satisfy the *Canada Evidence Act* or to comply with private sector corporate by-laws.

8.2 Part II

In accordance to subsections 11(2) and (3) of the *Statutory Instruments Regulations*, only regulations, statutory instruments and other documents such as orders in council, proclamations and rules are published in the *Canada Gazette*, Part II.

All federal departments, boards, agencies, commissions and Crown corporations that are required to publish in the *Canada Gazette*, Part II, must submit their notices directly to the Orders in Council Division of the Privy Council Office, where they will be examined, reviewed and registered. The Division then sends those notices directly to the Canada Gazette Directorate.

The Canada Gazette Directorate is fully responsible for the format and style, production and content of the *Canada Gazette*, Part II, but most importantly, it is responsible to ensure that the statutory deadlines respecting the publication of Part II are met. The content of the Statutory Orders and Regulations (SOR), and Statutory Instruments (SI) published in Part II is the responsibility of the Department of Justice, whereas their registration is done by the Clerk of the Privy Council.

To produce Part II, a whole range of activities are required, from the receipt of notices, through the formatting and proofreading, to the production of the final camera-ready copy provided to the printer for printing and distribution. The five functions described below are discernible: (1) copy-marking and formatting; (2) proofreading; (3) revising batches; (4) producing camera-ready copy; and (5) invoicing clients.

8.2.1 Copymarking and formatting

In order to ensure the style and format of the *Canada Gazette* are met, the Proofreading Section marks the notices to be formatted by the Publications Support Services. A draft of the formatted notices is produced and sent to the Editing Services.

8.2.2 Proofreading

The Proofreading Section compares the original version of the notices with the draft version of the formatted notices to ensure text accuracy and completeness, proofreads the notices' content and compares the English and French notices' content for consistency while making sure that the style and format of the *Canada Gazette* are met. Mistakes are identified on the draft of the formatted notices.

The Publications Support Services insert the corrections indicated by the Proofreading Section and produce a new draft of the formatted notices for the Proofreading Section who will ensure that all types of errors have been identified and subsequently corrected. This last step is repeated until there are no more mistakes.

8.2.3 Revising batches

When all notices have been compiled into batches commonly known as “signatures” for printing, the Proofreading Section verifies them to ensure that all notices are complete, in the proper order and error-free. It is the ultimate verification of the requirements of section 10 of the *Statutory Instruments Regulations* regarding the typography, style and format of Part II.

8.2.4 Camera-ready copy

The Canada Gazette Directorate produces the camera-ready copy of the *Canada Gazette*, Part II, for the printer.

8.2.5 Invoicing

In order to recover some of its operating costs, the Canada Gazette Directorate invoices federal government clients for each notice they publish in the *Canada Gazette*, Part II. The insertion fees are calculated using the Part II fee schedule.

8.3 Part III

The content of Part III is the responsibility of the Department of Justice who provides the Canada Gazette Directorate with a camera-ready copy. The Directorate ensures the layout is made according to the approved standards, and prepares the pagination for the printer. The Directorate coordinates the printing and distribution of Part III.

9. Other services available from the Canada Gazette Directorate

While fulfilling the core functions necessary to publish all three parts of the *Canada Gazette* according to the statutory deadlines, the Canada Gazette Directorate offers a wide range of other services.

9.1 Advice

The Canada Gazette Directorate provides expert advice on publication in the *Canada Gazette* to government and private sector clients. The advice includes effective means of publication, cost, etc. The Directorate has established a level of service where every request for information is returned within 48 hours, i.e. 2 working days.

9.2 Translation

The Canada Gazette Directorate provides translation services for certain types of notices from private sector clients. Please contact us for further information.

9.3 RSS Feeds

The Canada Gazette Directorate offers RSS Feeds as part of a service that allow convenient access to the contents of Part I. Subscribe to this free service and keep up to date on new content.

9.4 Archives

In partnership with Library and Archives Canada, the Canada Gazette Directorate has undertaken a project to digitize all issues dating from 1841 to 1997. The issues from 1998 to present are already available on-line on the *Canada Gazette* Web site. Visit the Library and Archives Canada Web site to learn more about this project and to discover many years of history!

10. Revenue Dependency

From 1986 to 2003, the Canada Gazette Directorate operated on a full cost-recovery basis. In 2003, Treasury Board provided permanent ongoing a-base funding in the sum of \$1.5M. The remaining revenue of between \$2M and \$2.5M is recovered by charging insertion fees and subscription fees.

10.1 Insertion Rates and Subscription Rates

Insertion rates are charged equally to both government and private sector clients.

Subscription rates are prescribed under Schedule II of the *Statutory Instruments Regulations* and require a Treasury Board Submission and Order in Council for any change in rates.

10.2 Request for Insertion in the *Canada Gazette* Form

Every client required to publish a text in the *Canada Gazette* must fill out and submit a Request for Insertion Form. The forms for both government and non-government clients can be accessed and completed on the *Canada Gazette's* Web site (www.gazette.gc.ca).