

CANADA GAZETTE DIRECTORATE

MANDATE

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Background:

The Assistant Clerk of the Privy Council officially assigned the mandate to decide both 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 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.

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

² SOR/84-88, s. 1

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, of 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:

“(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* unless”³

“(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 twenty-three days. Therefore, after registration by the Clerk of the Privy Council, the regulations must be published in Part II of the *Canada Gazette* within twenty-three 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

³ R.S., c. 31 (4th Supp.), s. 10

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 Issues

Extra issues of the *Canada Gazette*, Part I are published on a day other than the regular publication day, which is Saturday. Extra issues are published because a statutory deadline for a given notice has to be met, or an extra issue is required for special announcements.

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 Unclaimed Bank Balances).

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.

⁴ SOR/85-855, s. 1

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*;⁵

“(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

⁵ SOR/93-245, subs. 4(2)

⁶ SOR/89-247, subs. 1(1)

“(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; and”⁷

“(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 Issues

Extra Issues 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).

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. Like the quarterly index of Part I, the *Statutory Instruments Regulations* prescribe the exact content, as follows:

“16. (1) Subject to subsection (2), the quarterly consolidated index of regulations shall contain in alphabetical order

(a) the name of each regulation required to be contained in the index specifying, with respect to each such regulation, the statutory or other authority pursuant to which it was made and, with respect to each such regulation and amendment thereto, the date upon which it was made, and where applicable, its registration number; and

(b) the name of each Act of Parliament pursuant to which regulations required to be contained in the index have been made and the names of all such regulations made under each such Act, specifying with respect to each such regulation and each amendment thereto the date upon which it was made and, where applicable, the date upon which it was registered, its registration number and a reference to the issue of the *Canada Gazette* in which it may be found or a reference to the regulation-making authority from which a copy may be obtained.

(2) The quarterly consolidated index of regulations shall refer to those regulations that are exempt from registration but are required to be contained

⁷ SOR/78-814

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

⁹ SOR/89-247, subs. 1(2)

in the index, by their name, where practicable, or by class specifying with respect to each such regulation or class of regulation the place where the regulations of that class may be inspected and a copy thereof obtained.”

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 PWGSC 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 2003, 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 in ASCII (American Standard Code for Information Interchange) format (tables, charts, graphs and formulae are extracted) since April 2000. 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 issues. 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 Unit, the editing, page layout to final “OK” print produced and provided to the printer for printing and distribution. On the whole, seven major 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 Revision

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 Unit **edits, revises, compares English and French** for content and ensures that the style and format of the *Canada Gazette* are met. The Publication Support Unit provides the Editing Unit with the various drafts at the different stages of the editing process.

8.1.3 Proofreading

Each draft produced by the Publication Support Unit is proofread by the Editing 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 Unit 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

¹⁰ SOR/94-479, s. 2 (English version)

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.

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

The Canada Gazette Directorate is responsible for the effective and efficient coordination of the typesetting of Part II with the Privy Council Office (PCO). The Orders in Council Division of the Privy Council Office provides the manuscripts and diskettes of the regulations to the Publication Support Unit for typesetting. The Publication Support Unit provides PCO with a draft publication in the format and style of the *Canada Gazette*. PCO proofreads the content of the publication and returns corrections for input by the Publication Support Unit. The Directorate is then responsible for producing the OK Print and the coordination of the printing and distribution to meet the legal publication requirement of Part II. The content of regulations contained in Part II is the responsibility of the Department of Justice. The Clerk of the Privy Council is responsible for the registration of all statutory instruments (SORs and SIs) published in Part II.

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 the 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 24 hours.

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.

10. Revenue Dependency

From 1986 to 2003, the Canada Gazette Directorate operated on a full cost-recovery basis. In 2003, Treasury Board provided permanent on going 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/Subscription Rates

The insertion rates are charged equally to both government and private sector clients. Modifications of the rate structure are approved by the Treasury Board Secretariat under the authority of the Guide on Financial Administration, Policy on Revolving Funds, Chapter 11.

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 Home Page (www.canadagazette.gc.ca).