

AMENDING CLAUSES

(FORMULES D'ENCADREMENT)

Certain conventions are followed in amending clauses to ensure consistency and clarity. The examples below illustrate the accepted wording and should be followed as appropriate. Particular cases may require consultation with the legislative revisors.

Amending clauses are printed in bold type; the amended provisions and the new text are printed in regular type without quotation marks.

When more than one amendment to the regulations is made, the first amending clause specifies the title of the regulations being amended and includes a footnote that sets out the original SOR number or, if the regulations are included in the last consolidation, their C.R.C number. In subsequent clauses, a reference is made to "the Regulations" (or "the Order").

A. REPEAL

1. Repeal of one section

X. Section 5 of the XYZ Regulations¹ is repealed.

2. Repeal of two consecutive sections

X. Sections 7 and 8 of the Regulations are repealed.

3. Repeal of more than two consecutive sections

X. Sections 7 to 9 of the Regulations are repealed.

Note: In examples 2 and 3 above, any headings between the repealed provisions are implicitly repealed.

4. Repeal of a heading

X. The heading before section 5 of the Regulations is repealed.

5. Repeal of the entirety of the regulations

X. The Meat Inspection Regulations, 1990¹ are repealed.

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¹ SOR/90-288

6. *Unusual cases – Domestic Substances List and Non-domestic Substances List*

X. (1) Part 1 of the *Domestic Substances List*¹ is amended by deleting the following:

67874-32-2

¹ SOR/94-311

(2) Part 1 of the List is amended by adding the following in numerical order:

364059-77-8

Note: Deletions and additions to the *Domestic Substances List* and the *Non-domestic Substances List* are done in successive subclauses of the same amending clause only if those deletions and additions amend the same Part, with deletions preceding additions. If they amend different Parts, then they must be in separate clauses.

B. REPLACEMENT

1. *Replacement of one section with a single section*

X. Section 9 of the Regulations is replaced by the following:

9. . . .

2. *Replacement of one section with several sections*

X. Section 9 of the Regulations is replaced by the following:

9. . . . or 8.1 . . .
9.1 . . . 9. . . .
9.2 . . . 9.1 . . .

3. *Replacement of two consecutive sections*

X. Sections 8 and 9 of the Regulations are replaced by the following:

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8. . . . or 8. . . . or 8. . . .
9. . . . 8.1 . . .
 8.2 . . .
 9. . . .

4. *Replacement of more than two consecutive sections*

X. Sections 8 to 12 of the Regulations are replaced by the following:

8. . . . or 8. . . . or 8. . . .
9. . . . 8.1 . . . 9. . . .
10. . . . 9. . . . 10. . . .
11. . . . 10. . . .
12. . . . 11. . . .
 12. . . .

Note: In examples 3 and 4 above, any headings between the provisions that are replaced are implicitly repealed or replaced, as the case may be.

5. *Replacement of a subsection and further amendments to the same section*

Generally, one amending clause is used for each section of the regulations that is being amended. Thus, if two or more non-consecutive provisions (e.g., subsections, paragraphs, etc.) within the same section are being amended, each of them is to be amended in the order in which the provisions occur by a separate amending subclause of that clause.

X. (1) Subsection 3(3) of the Regulations is replaced by the following:

(3) . . .

(2) Section 3 of the Regulations is amended by adding the following after subsection (4):

(4.1) . . .

(3) Section 3 of the Regulations is amended by adding the following after subsection (7):

(8) . . .

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6. Replacement of the last paragraph of a provision and the addition of a paragraph after it

X. Subsection 10(1) of the Regulations is amended by striking out “or” [or “and”] at the end of paragraph (c) and by replacing paragraph (d) with the following:

(d) . . . ; or [“and”]

(e)

7. Replacement of the last subparagraph of a paragraph with two or more subparagraphs

X. Paragraph 4(6)(a) of the Regulations is amended by striking out “or” [or “and”] at the end of subparagraph (ii) and by replacing subparagraph (iii) with the following:

(iii) . . . , or [“and”]

(iv) . . . ;

8. Replacement of a portion of a provision

(1) Before a paragraph

X. The portion of subsection 30(1) of the Regulations before paragraph (b) is replaced by the following:

30. (1) . . .

(a) . . . ;

Y. The portion of section 5 of the Regulations before paragraph (a) is replaced by the following:

5. . . .

(2) Text after the last paragraph with a new paragraph

X. Subsection 30(1) of the Regulations is amended by striking out “and” at the end of paragraph (d), by adding “and” at the end of paragraph (e) and by replacing the portion after paragraph (e) with the following:

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(f) . . .

(3) Between two paragraphs

X. The portion of subsection 30(1) of the Regulations after paragraph (b) and before paragraph (c) is replaced by the following:

. . .

Note: This amending clause is to be used only to replace text (“sandwich clauses”) between paragraphs.

9. Replacement of a regulation title

(1) Replacement of the title of a regulation that does not have a short title

X. The title of the *XYZ Regulations*¹ is replaced by the following:

WXYZ REGULATIONS

(2) Replacement of the long title and repeal of the short title

X. The long title of the *Public Inquiry (Cooperative Credit Associations) Rules*¹ is replaced by the following:

PUBLIC INQUIRY (COOPERATIVE CREDIT ASSOCIATIONS) RULES

Y. Section 1 of the Rules and the heading before it are repealed.

¹ SOR/92-307

10. Replacement of a heading

X. The heading before section 5 of the Regulations is replaced by the following:

TRAVEL ALLOWANCES

Note: It is not necessary to replace a heading only because it does not conform to the rules regarding capitalization or italics. See “HEADINGS” in DIVISION OF REGULATIONS.

11. Replacement of a heading and the section that follows it

X. Section 8 of the Regulations and the heading before it are replaced by the following:

QUOTAS

8. . . .

12. Replacement of a heading and the subsection that follows it

X. The heading before section 5 of the Regulations is replaced by the following:

REGISTRATION

Y. Subsection 5(1) of the Regulations is replaced by the following:

5. (1) . . .

13. Replacement of a heading and consecutive sections that follow it

X. The heading before section 7 and sections 7 to 10 of the Regulations are replaced by the following:

QUOTAS

7. . . .

CONDITIONS

8. . . .

9. . . .

REVIEW

10. . . .

Note: A heading should always be amended by a separate amending clause (see example 10), unless the section (or sections) after the heading is also being amended. In such cases, as a general rule, an amending clause is used to amend both the heading and the section (or sections) that follow (see examples 11 and 13). However, if a heading and a portion of a

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section after the heading are being amended, two distinct amending clauses are necessary: the first to amend the heading, and the second to amend the substantive provision (see example 12). In example 13, all headings within the block of sections described in the amending clause are implicitly included in the block being replaced.

14. Replacement of several consecutive headings

X. The headings before section 5 of the Regulations are replaced by the following:

PART 1

GENERAL

APPLICATION

15. Replacement of one of several consecutive headings

X. The heading “REQUIREMENTS” before section 14 of the Regulations is replaced by the following:

SAFETY AND EFFECTIVENESS REQUIREMENTS

16. Replacement of the heading of a part, schedule, division or table

X. The heading of Part 5 of the Regulations is replaced by the following:

TARIFFS

17. General replacement of a term

X. Sections 1 to 5 of the Regulations are amended by replacing “Part 1” with “Parts 1 to 5” [with any necessary modifications].

Note: The clause, in the example above, amending consecutive provisions is only to be used if those provisions are not further divided. If the provisions are further divided, the following amending clause is to be used:

Y. The Regulations are amended by replacing “Part 1” with “Parts 1 to 5” in the following provisions:

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(a) the portion of section 1 before paragraph (b);

(b) paragraph 1(c);

(c) subsection 2(3);

(d) subsection 2(6);

(e) sections 3 and 4; and

(f) paragraph 5(2)(d).

Z. The Regulations are amended by replacing “manager of the airport”, “manager of an airport” and “manager of the said airport” with “airport operator” in the following provisions with any necessary modifications:

(a) . . . ;

(b) . . . ; and

(c)

Notes: The general substitution clauses above (examples X to Z) are used if the amendments are technical in nature and are being made for reasons such as a change in the terminology of the enabling Act, a renumbering of that Act (e.g., its section numbers, tariff item numbers, etc.) or a replacement of an obsolete term. If the amending clause amends words or expressions that occur in several provisions of the regulations, the clause is placed in sequence among the amending clauses (example X is inserted after an amendment to section 1) or at the end of the amending regulations, before the coming-into-force provision (examples Y and Z are inserted at the end of the regulations).

All forms of the word or expression that are in the regulations and that are to be replaced should be listed in the amending clause. If the term being replaced has been defined, the old definition must be repealed and the definition of the new term added (see section D, AMENDMENTS TO DEFINITIONS in this article).

If other changes must be made to a provision, the provision should be replaced in its entirety to avoid making it the subject of more than one amending clause. If, despite this rule, the client refuses to replace the provision in its entirety, the following amending clause must be used:

Z.1 Section 2 of the Regulations is amended by replacing “safety officer” and “safety and health committee” with “safety and security officer” and “work place committee”, respectively.

In this type of amendment, several provisions containing the word to be substituted are combined in one paragraph if the provisions are consecutive and share the same level in the text’s hierarchical structure. For example, “subsections 3(2) and (3)” should be combined but not “subsections 3(2) and (7)”. In other words, provisions that would be dealt with in the same amending clause if the provisions were being amended should be combined. An exception to the preceding rule may be made if the list of amended provisions is very long. In such a case, a paragraph of the amending clause may group together all references to the same section whether the amended subsections are contiguous or not.

Z.2 The Regulations are amended by replacing “Park Director” with “Director” in the following provisions:

- (a) subsections 3(5), (8) and (10);**
- (b) sections 6 and 7; and**
- (c) paragraphs 11(3)(b), (d) and (f).**

The provisions listed in this type of amending clause must be the same in both the French and English versions. If the substitution affects provisions in one language version only, a separate amending clause dealing with that version must be used.

18. Replacement of a formula

X. The formula in subsection 65(4) of the Regulations is replaced by the following:

$$A + (B - C)$$

19. Replacement of a description relating to a formula: $[A \times (B - C)]$

X. The descriptions of A and B in subsection 253(1) of the Regulations are replaced by the following:

A is the total of the amounts each of which . . .

B is the total of . . .

20. Replacement of a provision in a legislative text that has no title

X. Paragraph (b) of Order in Council P.C. 2007-10, dated January 24, 2007 and registered as SI/2007-5, is replaced by the following:

C. ADDITION

The following amending clauses are used for the addition of all provisions, including those inserted at the end of the regulations. In general, we reference the provision after which the new provision is to be added. However, in some cases, as in example 1(3) below, it is preferable to reference the provision before which the new provision is added. Always state where the provision is to be added, e.g., “after section . . .”.

1. Adding a section

- (1) At the end of a regulation

X. The Regulations are amended by adding the following after section 17:

18. . . .

- (2) Between two sections

X. The Regulations are amended by adding the following after section 29:

29.1 . . . (See NUMBERING for information about the use of decimal numbers.)

- (3) Between a heading and a section

X. The Regulations are amended by adding the following before section 16:

15.1 . . .

2. Adding a subsection

- (1) At the end of a section

X. Section 11 of the Regulations is amended by adding the following after subsection (2):

(3) . . .

- (2) Between two subsections

X. Section 12 of the Regulations is amended by adding the following after subsection (1):

(1.1) . . .

(3) To a section that is not divided into subsections

X. Section 11 of the Regulations is renumbered as subsection 11(1) and is amended by adding the following:

(2) Despite subsection (1),

Notes: For accuracy and logic, all cross-references to section 11 should be amended to refer to subsection 11(1) where appropriate.

If a paragraph of section 11 is amended and a new subsection (2) added, two amending subclauses are required: the first one to amend the paragraph, and the second one, as in example 2(3) above, to renumber section 11 and add subsection 11(2).

It is inappropriate to renumber an existing provision (see **NUMBERING**). If the client insists, remember to find and change all references to the renumbered provision.

(A) Renumbering a provision when two provisions have the same number, and correcting a cross-reference to the renumbered provision

X. Section 17.1 of the Regulations, as enacted by section 5 of the *Regulations Amending the ABC Regulations*, SOR/XXXX-123, is renumbered as section 17.11 and the cross-reference to that section in section 5.1 of the Regulations is renumbered accordingly.

(B) Renumbering a provision when two provisions have the same number, and correcting several cross-references to the renumbered provision

X. Section 17.1 of the Regulations, as enacted by section 5 of the *Regulations Amending the ABC Regulations*, SOR/XXXX-123, is renumbered as section 17.11 and the cross-reference to that section in the following provisions of the Regulations is renumbered accordingly:

(a) subsection 6.2(5);

(b) section 8.4; and

(c) subsection 11(3).

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3. Adding a paragraph

(1) At the end of a subsection

X. Subsection 39(1) of the Regulations is amended by striking out “or” [or “and”] at the end of paragraph (a), by adding “or” [or “and”] at the end of paragraph (b) and by adding the following after paragraph (b):

(c)

(2) Between two paragraphs

X. Subsection 40(2) of the Regulations is amended by adding the following after paragraph (b):

(b.1) . . . ;

4. Adding to a list that is in a section

X. Section 1 of the *Regulations Establishing a List of Entities*¹ is amended by adding the following at the end of that section:

Palestine Liberation Front
Popular Front

¹ SOR/2002-284

5. Adding a description relating to a formula

X. Subsection 65(4) of the Regulations is amended by striking out “and” at the end of the description of H, by adding “and” at the end of the description of I and by adding the following after the description of I:

J is the amount of depreciation used to calculate

6. Adding to a table

X. Item 2 of Table 10 to section 121 of the Regulations is amended by adding, in columns 2 and 3, the following after subitem (4):

D. AMENDMENTS TO DEFINITIONS

The following amending clauses are to be used to repeal, replace or add definitions.

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As a rule, similar amendments are grouped together in the same amending clause. Repeals of definitions in both languages are set out first, followed by those in one language only; next are replacements in both languages, then replacements in one language only; finally, additions in both languages followed by additions in one language.

When amendments are being made to only one language version, the amending clauses are to be set out in accordance with the alphabetical order of the defined words.

These rules have been established to ensure that, as far as possible, amendments to definitions respect the alphabetical order of each language version.

1. Repeal

(1) One definition

X. The definition “Minister” in section 1 of the *XYZ Regulations*¹ is repealed.

(2) Two or more definitions

X. The definitions “animal”, “mineral”, “produce” and “vegetable” in section 1 of the Regulations are repealed.

2. Replacement

(1) One definition

X. The definition “animal” in section 1 of the Regulations is replaced by the following:

“animal” means

(2) Two or more definitions

X. The definitions “animal”, “mineral”, “produce” and “vegetable” in section 1 of the Regulations are replaced by the following:

“animal” means

“mineral” means

“produce” means

“vegetable” means

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Note: This amending clause is used only when existing terms are given new definitions. However, if the term “animal” were to be replaced by “livestock”, for example, two separate amending clauses would be required to respect the alphabetical order of the definition provision: one to repeal the definition “animal”, and one to add the definition “livestock”.

3. *Addition*

X. Section 1 of the Regulations is amended by adding the following in alphabetical order:

“algae” means

“fungus” means

“plant” means

4. *Amendment of only one language version*

If a definition is amended in only one language version, the amending clause follows the standard wording except that it states which language is being amended. Note that English quotation marks are used in English amending clauses, even when a French term is being amended.

X. The definition “enfant” in section 1 of the French version of the XYZ Regulations¹ is replaced by the following:

« enfant »

5. *Replacement of the equivalent French or English term at the end of the definition*

X. The expression “(substances aromatisantes)” at the end of the definition “flavouring” in section 1 of the English version of the Regulations is replaced by the expression “(substances aromatiques)”.

6. *Addition after the final paragraph of a definition*

If a new paragraph is added after the last paragraph of a definition, the equivalent French term is included at the end of that new paragraph. This results in the equivalent French term being repeated. Therefore, the removal of the equivalent French term from the paragraph that used to be the last paragraph in the definition, where it no longer belongs, is done administratively.

SUMMARY

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Definitions in a definition section should be amended in the following order:

1. Repeals (both versions)
2. Repeals (one version only, in the alphabetical order of that version)
3. Replacements — complete definitions (both versions)
4. Replacements — complete definitions (one version only, in the alphabetical order of that version)
5. Replacements of portions (both versions, in the alphabetical order of English version)
6. Replacements of portions (one version only, in the alphabetical order of that version)
7. Additions (both versions)
8. Additions (one version only, in the alphabetical order of that version)

Examples of a definition section amended in the proper order:

1. (1) The definitions “application” and “ship” in section 1 of the Regulations are repealed.

1. (1) Les définitions de « demande » et « navire », à l'article 1 du même règlement, sont abrogées.

(2) The definition “package” in section 1 of the English version of the Regulations is repealed.

(2) La définition de « package », à l'article 1 de la version anglaise du même règlement, est abrogée.

(3) The definitions “agent” and “officer” in section 1 of the Regulations are replaced by the following:

(3) Les définitions de « agent » et « autorité compétente », à l'article 1 du même règlement, sont respectivement remplacées par ce qui suit :

“agent” means

« agent » [. . .]

“officer” means

« autorité compétente » [. . .]

(4) The definition “analyste” in section 1 of the French version of the Regulations is replaced by the following:

(4) La définition de « analyste », à l'article 1 de la version française du même règlement, est remplacée par ce qui suit :

« analyste »

« analyste » [. . .]

(5) The definition “patent” in section 1 of the English version of the Regulations is replaced by the following:

(5) La définition de « patent », à l'article 1 de la version anglaise du même règlement, est remplacée par ce qui suit :

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“patent” means

“patent” means [. . .]

(6) The expression “(package)” at the end of the definition “contenant” in section 1 of the French version of the Regulations is replaced by the expression “(container)”.

(6) La mention « (package) » qui figure à la fin de la définition de « contenant », à l'article 1 de la version française du même règlement, est remplacée par « (container) ».

(7) Section 1 of the Regulations is amended by adding the following in alphabetical order:

(7) L'article 1 du même règlement est modifié par adjonction, selon l'ordre alphabétique, de ce qui suit :

“motion” means

« requête » [. . .]

(8) Section 1 of the English version of the Regulations is amended by adding the following in alphabetical order:

(8) L'article 1 de la version anglaise du même règlement est modifié par adjonction, selon l'ordre alphabétique de ce qui suit :

“container” means

“container” means

(9) Section 1 of the French version of the Regulations is amended by adding the following in alphabetical order:

(9) L'article 1 de la version française du même règlement est modifié par adjonction, selon l'ordre alphabétique, de ce qui suit :

« directeur »

« directeur » [. . .]

Note: In examples (4) and (9) above, the French quotation marks are used because they are part of the French language provision being amended and not part of the amending clause.

Example for replacing portions of a definition (both language versions):

2. (1) Paragraph (d) of the definition “apple” in section 1 of the Regulations is replaced by the following:

2. (1) L'alinéa d) de la définition de « pomme », à l'article 1 du même règlement, est remplacé par ce qui suit :

(d)

d) [. . .]

(2) Subparagraph (a)(iii) of the

(2) Le sous-alinéa a)(iii) de la définition

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definition “bean” in section 1 of the Regulations is replaced by the following:

(iii)

(3) The portion of the definition “watermelon” in section 1 of the Regulations before paragraph (a) is replaced by the following:

“watermelon” means

(4) The portion of the definition “zucchini” in section 1 of the Regulations after paragraph (b) is replaced by the following:

. . . .

de « haricot », à l'article 1 du même règlement, est remplacé par ce qui suit :

(iii) [. . .]

(3) Le passage de la définition de « melon d'eau » précédant l'alinéa a), à l'article 1 du même règlement, est remplacé par ce qui suit :

« melon d'eau » [. . .]

(4) Le passage de la définition de « courgette » suivant l'alinéa b), à l'article 1 du même règlement, est remplacé par ce qui suit :

[. . .]

E. AMENDMENTS TO ONE LANGUAGE VERSION ONLY

1. English version only

X. Subsections 136(1) and (2) of the English version of the Regulations are replaced by the following:

136. (1) [English text]

(2) [English text]

2. French version only

X. Subsections 157(1) and (2) of the French version of the Regulations are replaced by the following:

157. (1) [French text]

(2) [French text]

3. Amendment of a part of a provision in only one language version

X. The portion of section 4 of the French version of the Regulations before paragraph (a) is replaced by the following:

4. [French text]

F. AMENDMENTS TO SCHEDULES

Generally, the rules that apply to amendments within the body of the regulations also apply to schedules; thus, a separate amending clause is required for each section of the schedule or group of consecutive provisions of the schedule being amended.

1. *Replacement of schedules*

(1) Replacement of the only schedule in a regulation

X. The schedule to the Regulations is replaced by the schedule set out in the schedule to these Regulations.

SCHEDULE
(Section X)

SCHEDULE
(Section 15)

[Text of the schedule]

(2) Replacement of a schedule by one or more schedules in regulations having more than one schedule

X. Schedule 1 to the Regulations is replaced by the Schedule 1 [or the Schedules 1 and 1.1] set out in the schedule to these Regulations.

SCHEDULE
(Section X)

SCHEDULE 1
(Section 15)

[Text of the schedule]

SCHEDULE 1.1
(Section 17)

[Text of the schedule]

(3) Replacement of more than one schedule by more than one schedule

X. Schedules 1 and 2 to the Regulations are replaced by the Schedules 1 and 2 set out in the schedule to these Regulations.

SCHEDULE
(Section X)

SCHEDULE 1
(Section 10)

[Text of the schedule]

SCHEDULE 2
(Section 21)

[Text of the schedule]

2. Adding schedules

(1) In regulations having no schedule

X. The Regulations are amended by adding, after section 100, the schedule [or the Schedules 1 and 2] set out in the schedule to these Regulations.

SCHEDULE
(Section X)

SCHEDULE
(Section 10)

[Text of the schedule]

(2) In regulations having more than one schedule

X. The Regulations are amended by adding, after Schedule 3, the Schedule 4 [or the Schedules 4 to 6] set out in the schedule to these Regulations.

SCHEDULE
(Section X)

SCHEDULE 4
(Section 10)

[Text of the Schedule]

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(3) After a single schedule

X. The schedule to the Regulations is numbered as Schedule 1.

Y. The Regulations are amended by adding, after Schedule 1, the Schedule 2 set out in the schedule to these Regulations.

SCHEDULE
(Section Y)

SCHEDULE 2
(Section 20)

[Text of the Schedule]

(4) Before a single schedule

X. The schedule to the Regulations is numbered as Schedule 2.

Y. The Regulations are amended by adding, before Schedule 2, the Schedule 1 set out in the schedule to these Regulations.

SCHEDULE
(Section Y)

SCHEDULE 1
(Section 20)

[Text of the Schedule]

3. Replacement within a schedule

(1) Consecutive sections or items

X. Sections 4 and 5 of the schedule to the Regulations are replaced by the following:

4.

5.

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(2) Non-consecutive sections or items

X. Item 4 of the schedule to the Regulations is replaced by the following:

4.

Y. Item 7 of the schedule to the Regulations is replaced by the following:

7.

(3) Items in tabular format

X. Items 4 and 5 of the schedule to the Regulations are replaced by the following:

| Item | Column 1 Licence and Card | Column 2 Fee |
|------|------------------------------|-----------------|
| 4. | Commercial fishing licence | \$25 |
| 5. | Recreational fishing licence | \$10 |

(4) Content in a column

X. The portion of items 1 and 2 of the schedule to the Regulations in column 2 is replaced by the following:

| Item | Column 2 Fee (\$) |
|-----------|----------------------|
| 1.(1) (a) | 47 |
| (b) | 52 |
| (c) | 67 |
| (2) | 98 |
| 2. | 26 |

X. The portion of paragraph 3(b) of Schedule 3 to the Regulations in column 2 is replaced by the following:

| Item | Column 2 Fee |
|--------|-----------------|
| 3. (b) | \$2 |

Or, depending on the existing formatting:

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| Item | Column 2 Fee |
|-------------|-------------------------|
| 3. | (b) \$2 |

X. The portion of item 102 of Schedule 3 to the Regulations in columns 1 and 2 is replaced by the following:

| Item | Column 1 Name shown in the Répertoire toponymique du Québec, or description | Column 2 Local Name |
|-------------|--|--------------------------------|
| 102. | Lac Montaubois | Lac Montaubois |

X. The portion of subitem 1(1) of the schedule to the Regulations before paragraph (a) in column 1 is replaced by the following:

| Item | Column 1 Description |
|-------------|--|
| 1. | (1) Letter mail not more than 245 mm in length, 156 mm in width or 5 mm in thickness |

Note: In items that are being partially amended, the item number and the column headings are in bold font and the columns under which no amendments are being made are omitted. The complete alpha-numeric identification of the item should be given in the item column even if parts of that identification appear in other columns.

(5) In a schedule that is a list, replacing a listed English term that is followed by its French equivalent

X. The reference to

Etoposide

Étoposide

in Part 1 of Schedule F to the Regulations, is replaced by the following:

Etoposide and its derivatives

Étoposide et ses dérivés

(6) In one language version only

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X. Section 1 of Schedule 5 to the English version of the Regulations is replaced by the following:

1.

4. Additions within a schedule

(1) After a Part

X. Schedule 1 to the Regulations is amended by adding the following after Part 3:

PART 4

FAUNA

[Text of the Part]

(2) After the heading of the schedule

X. The schedule to the Regulations is amended by adding the following after the heading “SCHEDULE/(Section 2)”:

PART 1

FLORA

[Text of the Part]

(3) In a column

X. Item 3 of the schedule to the Regulations in column 2 is amended by striking out “or” [or “and”] at the end of paragraph (a), by adding “or” [or “and”] at the end of paragraph (b) and by adding the following after paragraph (b):

| Item | Column 2 Fee |
|------|-----------------|
| 3. | (c) \$5 |

(4) In a list

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X. Schedule 1 to the Regulations is amended by adding the following in alphabetical order:

Germany
Italy
Japan

(5) In a list that is arranged neither alphabetically nor numerically

X. Schedule 1 to the Regulations is amended by adding the following at the end of that Schedule:

President of . . .
Director of . . .
Chairperson of . . .

(6) In a schedule without item numbers or Part numbers

X. The schedule to the Regulations is amended by adding the following after “XV”:

. . . .

(7) In a schedule whose items are numbered following the alphabetical order of the English and the French terms, respectively (i.e., the English and French item numbers do not correspond)

X. The schedule to the *Access to Information Act Heads of Government Institutions Designation Order*¹ is amended by adding the following in numerical order:

| Item | Column 1 Government Institution | Column 2 Position |
|------|--|-------------------------------|
| 34 | Canadian Nuclear Safety Commission <i>Commission canadienne de la sûreté nucléaire</i> | President <i>Président</i> |

5. Repeal in a schedule consisting of a list of English terms followed by the equivalent French term

**X. The reference to
Urofollitropin (human)**

Urofollitropine (humain)

in Part I of Schedule F to the *Food and Drug Regulations*¹ is repealed.

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¹ C.R.C., c. 870

6. *Replacement of section references*

(1) Few section references

X. Schedule 2 to the Regulations is amended by replacing “(Sections 23 and 24)” after the heading “SCHEDULE 2” with “(Section 20)”.

(2) Many section references

X. Schedule 2 to the Regulations is amended by replacing the section references after the heading “SCHEDULE 2” with the following:

(Paragraphs 6(1)(a) and (2)(b), subsection 6(3), paragraph 6(4)(a), subsections 6(5) and (6), paragraphs 8(1)(a) and (2)(b) and 10.1(1)(b) and subparagraph 16.1(1)(b)(i))

(3) Same section reference appearing in several schedules

X. The Regulations are amended by replacing “(Sections 1 to 3)” with “(Sections 1 and 2)” after the schedule heading in the following Schedules:

(a) Schedule 1; and

(b) Schedules 3 to 6.

(4) A bilingual schedule

X. Schedule 2 to the Regulations is amended by replacing “(Section 6/article 6)” after the heading “OTHER SPECIES REQUIRING AN IMPORT PERMIT/AUTRES ESPÈCES QUI EXIGENT UNE LICENCE D’IMPORTATION” with “(Sections 6 and 14, subsection 15(1) and section 20/articles 6 et 14, paragraphe 15(1) et article 20)”.

7. *Replacement of a column heading*

X. The heading “Rate” of column 3 of Schedule 1 to the Regulations is replaced by “General Tariff”.

8. *Replacement of comments or notes at the end of a schedule*

(1) Numbered comments or notes

X. Note 3 of the schedule to the Regulations is replaced by the following:

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3. [or Note 3: . . .]

(2) A comment or note that has no number

X. The note at the end of Schedule 2 to the Regulations is replaced by the following:

. . . . *

9. *Replacing text in a schedule that has no item numbers*

X. Schedule 3 to the *ABC Regulations*¹ is amended by replacing the symbol “X” in the column under the heading “EFG” opposite “Denmark” in the column under the heading “Country” with the following:

. . . .

10. *Repeals in and additions to a schedule*

Note: As an exception to the general rule and to avoid an excessive number of amending clauses, non-consecutive items in a schedule, and in particular, schedules to fishing regulations, may be placed in the same amending clause.

X. Items 11, 12 and 53 of Part 1 of Schedule 5 to the Regulations are repealed.

Y. Schedule 12 to the Regulations is amended by adding the following in numerical order:

43.1 Patterson Lake

60.1 West Goose Lake

* * * * *

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AMENDING REGULATIONS

(RÈGLEMENT MODIFICATIF)

Amending regulations are regulations that amend, repeal or replace existing regulations or add to their provisions. Amending regulations may also amend more than one existing regulation.

Regulations that entirely replace existing regulations may also be considered amending regulations, even if they are presented as new regulations.

Principles

The power to make regulations includes the power to amend or repeal them. This principle is confirmed by subsection 31(4) of the *Interpretation Act*:

(4) Where a power is conferred to make regulations, the power shall be construed as including a power, exercisable in the same manner and subject to the same consent and conditions, if any, to repeal, amend or vary the regulations and make others.

Unless otherwise provided in the enabling statute, only the person with the power to make the regulations has the power to amend or repeal them. To amend two or more regulations by means of a single amending regulation, the regulation-making authority (Governor in Council, minister, etc.) must be the same for all the regulations to be amended. The instruments to be amended must also bear the same designation, that is, “SOR” or “SI”. In other words, an amending regulation cannot amend, at the same time, some instruments that are designated “SOR” and others that are designated “SI”.

Note that, as any other type of regulations, an amending regulation may be made under more than one enabling statute.

As the *Interpretation Act* provides, the power to amend or repeal regulations is subject to the same conditions as those that applied when the original regulations were made. Therefore, if certain regulations are subject to conditions precedent, those conditions must also be met when the regulations are amended or repealed. (see **CONDITIONS PRECEDENT**)

Format

Amending regulations follow the same format as the regulations being amended, except that the title of the regulations is followed by the heading “AMENDMENTS” and

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amending formulas are inserted before each of the provisions being amended. (see **AMENDING CLAUSES**)

An amending regulation that amends two or more regulations should follow the same format as Miscellaneous Amendment Regulations (see **MISCELLANEOUS AMENDMENT REGULATIONS**), except that the title does not include the expression “Miscellaneous Program” at the end. (see **TITLE OF REGULATIONS**) The regulations being amended or repealed are set out in the amending regulation in the order of their original publication (e.g., C.R.C., c. 534; C.R.C., c. 1054; SOR/81-221; SOR/90-1038; and SOR/96-117), and are grouped under their enabling Acts if they are made under more than one Act. The Acts that are listed as headings are set out in English alphabetical order, in accordance with the Table of Public Statutes. However, if one enabling Act has many more amendments than the other Acts that are being amended, it is preferable that this Act be placed first in the list, rather than being placed in alphabetical order.

It is possible to combine in one amending regulation, regulations that are required by the enabling Act to be republished in the *Canada Gazette*, Part I, with regulations that are not subject to such a requirement. In such a case, a “whereas” clause is inserted in the executive order that is published in the *Canada Gazette*, Part II, to reflect the fact that the relevant regulations were republished in accordance with the enabling Act.

If new regulations are being made to entirely replace the old ones, they are formatted as new regulations, except that provisions making consequential amendments to other regulations (if any) and repealing the old regulations are inserted before the coming-into-force provision. The title of the regulations that are being consequentially amended and the old regulations are footnoted to specify their SOR numbers. In this circumstance, however, the title of the new regulations does not mention the consequential amendments or the repeal of the old regulations.

Examples

Note: If an amending regulation does not have a “**COMING INTO FORCE**” heading or any other heading, the heading “**AMENDMENTS**” should be deleted.

Example 1: Regulations amending a single regulation

REGULATIONS AMENDING THE MIGRATORY BIRDS REGULATIONS

AMENDMENTS

1. Subsection x(x) of the *Migratory Birds Regulations*¹ is replaced by the following:

(x) . . .

2. Section x of the Regulations is replaced by the following:

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X. . . .

¹ C.R.C., c. 1035

Example 2: Regulations amending more than one regulation

REGULATIONS AMENDING CERTAIN REGULATIONS MADE UNDER THE
PROCEEDS OF CRIME (MONEY LAUNDERING) AND TERRORIST
FINANCING ACT

**PROCEEDS OF CRIME (MONEY LAUNDERING) AND TERRORIST
FINANCING SUSPICIOUS TRANSACTION REPORTING
REGULATIONS**

1. Section x of the *Proceeds of Crime . . . Suspicious Transaction Reporting Regulations*¹ is replaced by the following:

X. ...

**PROCEEDS OF CRIME (MONEY LAUNDERING) AND TERRORIST
FINANCING REGULATIONS**

2. Subsection x of the *Proceeds of Crime . . . Regulations*² is replaced by the following:

X. ...

**CROSS BORDER CURRENCY AND MONETARY INSTRUMENTS
REPORTING REGULATIONS**

3. Section x of the *Cross Border Currency . . . Regulations*³ is repealed.

¹ SOR/2001-317

² SOR/2002-184

³ SOR/2002-412

Example 3: Regulations repealing a single regulation

REGULATIONS REPEALING THE EXPORT AND IMPORT OF HAZARDOUS
WASTES REGULATIONS

REPEAL

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1. The *Export and Import of Hazardous Wastes Regulations*¹ are repealed.

¹ SOR/92-637

Example 4: Regulations repealing many regulations set out in a list

REGULATIONS REPEALING CERTAIN REGULATIONS MADE UNDER THE
CANADA SHIPPING ACT

REPEAL

1. The following regulations are repealed:

- (a) the *Boat and Fire Drill Regulations*¹;
- (b) the *Pilot Ladder Regulations*²; and
- (c) the *Navigating Appliances and Equipment Regulations*³.

¹ C.R.C., c. 1406

² SOR/78-218

³ SOR/84-689

Example 5: Regulations replacing an existing regulation

MEDICAL DEVICES REGULATIONS

INTERPRETATION

1. The following definitions apply in these Regulations.

...

REPEAL

x. The *Medical Devices Regulations*¹ are repealed.

¹ C.R.C., c. 871

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Example 6: Regulations amending a schedule to an Act

ORDER AMENDING SCHEDULE 1 TO THE CONTROLLED DRUGS AND
SUBSTANCES ACT

AMENDMENT

1. Section 18 of Schedule 1 to the *Controlled Drugs and Substances Act*¹ is
replaced by the following:

18.

¹ S.C. 1996, c. 19

* * * * *

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CAPITAL AND LOWER CASE LETTERS

(MAJUSCULES ET MINUSCULES)

The title at the beginning of a regulation and the headings of parts are written entirely in capital letters. (see DIVISION OF REGULATIONS)

A reference to the title or a named part of a regulation or an Act is capitalized. However, conjunctions, articles and prepositions in titles are usually in lower case. (see TITLE OF REGULATIONS)

Examples:

... as set out in the *Hazardous Products (Carpet) Regulations*

... in Part 1 of the Regulations

... within the meaning of the *Bankruptcy and Insolvency Act* or is a bankrupt within the meaning of that Act

... under any Act of Parliament

A reference to a schedule is not capitalized unless it is a numbered schedule.

Examples:

... in item 1, in column 1, of the schedule

... item 2 of Schedule 1

A reference to a section, paragraph, subparagraph, etc., is not capitalized.

Examples:

... as set out in section 1 of Schedule 4

... in subparagraph 15(b)(i)

In a definition provision, although the opening sentence and all definitions are followed by a period, a defined term is not capitalized unless it normally begins with a capital letter.

Example:

1. The following definitions apply in these Regulations.

“Act” means the *Canadian Environmental Protection Act, 1999*. (Loi)

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CAPITAL AND LOWER CASE LETTERS

“applicant” means a person who makes an application to the Agency for a certificate of fitness. (*demandeur*)

* * * * *

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CITATION OF STATUTES

(DÉSIGNATION DES LOIS)

FEDERAL STATUTES

Paragraph 40(1)(a) of the *Interpretation Act* provides as follows:

40. (1) In an enactment or document,

(a) an Act may be cited by reference to its chapter number in the Revised Statutes, by reference to its chapter number in the volume of Acts for the year or regnal year in which it was enacted or by reference to its long title or short title, with or without reference to its chapter number; . . .

Based on paragraph 40(1)(a), this article treats the reference to the short or long title of an Act without reference to its chapter number as an acceptable form of citation of the Act. A reference to the “**full citation**” of an Act means a citation that is composed of its short title or, if the Act only has a long title, its long title, together with its chapter number and year.

While there are a number of acceptable ways of citing federal Acts in federal regulations, the following rules govern when to use one form of citation over another:

Short title vs. long title

If an Act has a long and a short title, for reasons of concision, always refer to the Act by its short title, even if the Act is not in force.

Full citation using footnotes

The full citation of an Act through the use of footnotes occurs when the title of the Act is referred to in prepublication notices, orders in council, other executive orders and in amending clauses of regulations. (see FOOTNOTES)

Short title used in the body of regulations (no footnotes)

When an Act is cited using its short title in the body of a regulation (other than in amending clauses), do not include the Act's chapter number or year unless

- the citation occurs in a coming-into-force provision (See COMING-INTO-FORCE PROVISIONS), or

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- the Act referred to was enacted before the 1985 revision, the Act referred to has been repealed or there is more than one version of the Act with provisions that are in force, e.g. the *Income Tax Act*.

In coming-into-force orders, use the full citation of the Act. (See **COMING-INTO-FORCE ORDERS**)

Long title used in the body of the regulations (no footnotes)

Some amending Acts only have a long title and when that long title is used in the body of a regulation (other than in amending clauses) or in a coming-into-force order, use the full citation of the Act.

How to refer to chapter numbers

A full citation involves referring to the chapter of the Act. How the chapter is cited depends on whether the Act is part of the Revised Statutes, 1985. For those statutes that are part of the 1985 revision, the manner of citation is governed by section 9 of the *Revised Statutes of Canada, 1985 Act*, R.S., c. 40 (3rd Supp.):

9. A chapter of the Revised Statutes may be cited and referred to in any Act, regulation, proceeding, instrument or document either by its short or long title as an Act or by using the expression “Revised Statutes, 1985, chapter . . .”, or “chapter . . . of the Revised Statutes”, or the abbreviation “R.S.C., 1985, c. . . .” or “R.S., c. . . .”, adding in each case the number of the particular chapter.

Although section 9 provides for a variety of acceptable forms, the following abbreviations are used in footnotes in regulations: “R.S., c. . . .” and, in the case of a Supplement, “R.S., c. . . . (. . . Supp.)”.

For statutes that are not part of the 1985 revision (either because they were excluded from the revision or were enacted after December 12, 1988), paragraph 40(1)(a) of the *Interpretation Act* requires the chapter number in the “volume of Acts for the year or regnal year in which it was enacted” to be cited. The citation set out in footnotes is in an abbreviated form.

The abbreviation used for statutes enacted after the revision is “S.C. 2 . . . , c. . . .”

Statutes that were enacted before the 1985 revision but that do not appear in the Revised Statutes, 1985 are cited as “S.C. 1980-81-82-83, c. . . .” or, in a statute revision year, as “R.S.C. 1970, c. . . .”.

The following form of citation is used when the chapter number and year of an Act are set out in the body of the regulation (other than in amending clauses):

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CITATION OF STATUTES

(a) chapter 48 of the Statutes of Canada, 1988;

(b) chapter B-1 of the Revised Statutes of Canada, 1985.

Although previous practice has been to refer to the chapter as “being chapter 48”, the reference to “being” should no longer be used.

PROVINCIAL STATUTES

If a regulation refers to a provincial statute, the citation method used should be the one used in that province except, in every case, the word “chapter” is to be abbreviated to “c.”.

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COMING-INTO-FORCE ORDERS

(DÉCRETS D'ENTRÉE EN VIGUEUR)

GENERAL

Most statutes delegate to the Governor in Council the power to fix, by order, their coming-into-force date.

The provision that authorizes the coming into force of a whole Act on a single day is worded as follows:

63. This Act comes into force on a day to be fixed by order of the Governor in Council.

The provision that authorizes the piecemeal coming into force of an Act is worded as follows:

74. The provisions of this Act come into force on a day or days to be fixed by order of the Governor in Council.

A more detailed formulation is sometimes used in an amending Act to provide for the coming into force of provisions enacted by the amending Act:

221. The provisions of this Act, and the provisions of any Act as enacted by this Act, come into force on a day or days to be fixed by order of the Governor in Council.

Sometimes an amending Act will replace a provision in another Act (the main Act) that is not in force. When the amending Act comes into force, the amendment is merged into the main Act. Note that the new provision will come into force in accordance with the coming-into-force provision in the main Act. See *Potter Distilleries Ltd. v. R.*⁷¹ and the paragraph in the *Legislation Deskbook* dealing with the amendment of provisions not in force.⁷²

Also, note that subsection 5(3) of the *Interpretation Act* provides that coming-into-force provisions come into force on assent.

A coming-into-force order cannot provide for the coming into force of an Act or a provision of an Act on a day before the day on which the order is made because this

⁷¹ (1981), 132 D.L.R. (3d) 190 (BCCA) aff'd (1980), 111 D.L.R. (3d) 167 (BCSC).

⁷² See section 3.6 of the *Legislation Deskbook* under the heading **COMMENCEMENT – AMENDMENT OF PROVISIONS NOT IN FORCE**.

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would give the order a retroactive effect. The order may only have a retroactive effect if the Act specifically authorizes this.

If a coming-into-force order states that an Act or a provision of an Act is to come into force on a particular day, the Act or provision comes into force on the expiry of the previous day.⁷³

If a coming-into-force order has been made that brings an Act or a provision of an Act into force on a particular day, once that day has passed, the order is spent and cannot be repealed or amended so as to fix another day as the day of commencement. Once the power under the Act to issue the order is exercised, only an Act of Parliament can change the commencement day. However, if a coming-into-force order has been made that brings an Act or a provision of an Act into force on a particular day and that day has not yet arrived, the order can be amended or repealed.

If an Act provides that it expires, lapses or otherwise ceases to have effect on a day to be fixed by order, the above rules apply, except that the Act ceases to have effect on the beginning of the day after the day stated in the order.⁷⁴

Coming-into-force orders are not “regulations”, but are “statutory instruments”, within the meaning of those terms in the *Statutory Instruments Act*. Paragraph 11(3)(g) of the *Statutory Instruments Regulations* requires that orders fixing the day or days on which an Act or a provision of an Act comes into force be published in the *Canada Gazette*, Part II. Paragraph 6(b) of the *Statutory Instruments Act* requires that they be registered by the Clerk of the Privy Council. Coming-into-force orders are designated “SI”. The appropriate regulations section examines coming-into-force orders in its role as legal advisor to the Clerk of the Privy Council. The examination proceeds from an administrative practice and not from a legislative requirement.

Coming-into-force orders are published together with an explanatory note. (see **EXPLANATORY NOTE**)

For reasons of concision, when referring to an Act in a coming-into-force order use its short title, even if the short title is not in force.

Note that coming-into-force orders no longer refer to the date of assent.

CHECKLIST FOR DRAFTING A COMING-INTO-FORCE ORDER

1. Check if the coming-into-force provision in the Act provides sufficient authority for the type of coming-into-force order envisioned.

⁷³ Subsection 6(1) of the *Interpretation Act*.

⁷⁴ Subsection 6(1) of the *Interpretation Act*.

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2. Check if there are coming-into-force provisions located elsewhere than at the end of the Act.
3. Check for previous coming-into-force orders to determine which provisions are already in force.
4. Check if any of the provisions that are being brought into force require the making of regulations and whether the authority to make those regulations is in force. If some of the provisions require regulations, determine if the regulations will be enacted when those provisions are scheduled to come into force. If a provision to be brought into force contains a phrase like “subject to the regulations”, “in accordance with the regulations” or “must provide the prescribed information or documents”, or if the general regulation-making section specifically refers to the provision to be brought into force, but there will be no regulations in place when the provision is to come into force, evaluate how the courts would likely interpret the operation of the provision without regulations and the associated legal risks.⁷⁵
5. If only a portion of an Act is being brought into force, take the following into account:
 - verify that what is coming into force is a provision,⁷⁶ e.g. a legislative unit. A coming-into-force order should not bring a section into force but omit a specified word or words.
 - determine if some provisions are so closely related that it does not appear possible to bring one into force without the other. For example, if one provision establishes an agency and others set out its powers, the provisions setting out the powers should not be brought into force unless the one establishing the agency is also brought into force. Also, a provision that uses a defined term should not be brought into force unless the definition is also brought into force.
 - determine if the effect of the coming-into-force order would thwart Parliament’s intent, for instance, by bringing into force an application provision but not its exceptions.
 - verify that what is being brought into force forms a sentence.
 - in an amending Act, if a provision replaces one or more sections with several new sections, the coming-into-force order should not bring any of the new sections into force unless one or more of the original sections are intended to be repealed and it

⁷⁵ See John Mark Keyes, “Required rule-making: When do you have to make delegated legislation?” (2001) 15 *Canadian Journal of Administrative Law and Practice* at 293.

⁷⁶ See *Reference re: Criminal Law Amendment Act, 1968-69 (Canada)*, s. 16, [1970] SCR 777.

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is clear how the new sections correspond to the original sections (for example, it is clear from the subject matter of a new section 5 that it is intended to replace the original section 5). Note that the coming into force of only some of the new sections may create legal uncertainty. Depending on the circumstances, there may be a good argument that the partial coming into force has the effect of repealing all of the original sections.

- if a provision that is coming into force on a piecemeal basis is referred to in a coordinating amendment, determine the effect of the piecemeal coming into force on the coordinating amendment. For example, if the coordinating amendment refers to the coming into force of section 8 of the *ABC Act*, do not proceed with a coming-into-force order that brings section 8 into force piecemeal. Allowing only subsection 8(1), for example, to come into force would make the fulfillment of the condition set out in the coordinating amendment impossible. Note that the coordinating amendment could be located in the Act that contains the provision that is coming into force or in another Act or in a Bill.
 - if a provision that is coming into force on a piecemeal basis is referred to in a transitional provision, determine the effect of the piecemeal coming into force on the transitional provision.
 - if one provision repeals several consecutive sections, those sections cannot be repealed piecemeal.⁷⁷
6. Check the location of all headings. The article “**AMENDING CLAUSES**” (see note to item 13, B. REPLACEMENT) states that all headings within the block of sections described in the amending clause are implicitly included in the block being replaced.

By analogy, the practice is not to mention headings when referring to a group of consecutive provisions in a coming-into-force order, e.g. if the coming-into-force order says that sections 5 to 25 are in force, any headings in between those provisions are included. However, if the block of sections is preceded by a heading, the practice is to mention that heading.

EXAMPLES**Coming into force of a whole Act**

When drafting a coming-into-force order that brings a whole Act into force, it is not necessary to expressly exclude the coming-into-force provisions.

Her Excellency the Governor General in Council, on the recommendation of the Minister of Justice, pursuant to section 43 of *An Act to amend the Young Offenders*

⁷⁷ See section 3.6 of the *Legislation Deskbook* under the heading **DAY OF COMMENCEMENT – CONSECUTIVE REPEAL OR REPLACEMENT**.

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Act and the Criminal Code, chapter 19 of the Statutes of Canada, 2005, hereby fixes December 1, 2006 as the day on which that Act comes into force.

Coming into force of a whole Act other than provisions in force on assent

When drafting a coming-into-force order that brings a whole Act into force other than provisions that came into force on assent, the coming-into-force order should mention the provisions that came into force on assent, except for the coming-into-force provisions.

Her Excellency the Governor General in Council, on the recommendation of the Minister of Foreign Affairs, pursuant to section 47 of the *Remote Sensing Space Systems Act*, chapter 45 of the Statutes of Canada, 2005, hereby fixes April 5, 2007 as the day on which that Act comes into force, other than section 46, which came into force on assent.

Coming into force of a portion of an Act

There are two approaches that can be used when drafting a coming-into-force order that brings into force a portion of an Act. The first is to set out only those provisions that are coming into force.

Her Excellency the Governor General in Council, on the recommendation of the Minister of Industry, pursuant to section 14 of *An Act to amend the Lobbyists Registration Act and to make related amendments to other Acts*, chapter 12 of the Statutes of Canada, 2005, hereby fixes January 31, 2006 as the day on which subsection 1(1) and sections 2 to 4, 6, 7, 9, 10, 12 and 13 of that Act come into force.

The second approach is to provide that the Act is coming into force except for the provisions that came into force on assent (other than the coming-into-force provisions), the provisions that are otherwise already in force and the provisions that are not being brought into force by the order. In the explanatory note for the order, it would be useful to identify the excluded provisions that are not in force and to indicate when the other excluded provisions came into force. If the number of provisions that are already in force is greater than the number of provisions to be brought into force, consider drafting the order using the first approach.

Her Excellency the Governor General in Council, on the recommendation of the Minister of Foreign Affairs, pursuant to section 47 of the *Remote Sensing Space Systems Act*, chapter 45 of the Statutes of Canada, 2005, hereby fixes April 5, 2007 as the day on which that Act comes into force, other than sections 10, 15, 35 and 46.⁷⁸

Order amending a coming-into-force order

Her Excellency the Governor General in Council, on the recommendation of the Minister of Industry, pursuant to section 61 of *An Act to amend the Copyright Act*,

⁷⁸ Note that there is no mention that section 46 came into force on assent.

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COMING-INTO-FORCE ORDERS

chapter 24 of the Statutes of Canada, 2006, hereby amends Order in Council P.C. 2006-1065 of July 25, 2006 by replacing paragraph (b) with the following:

(b) September 1, 2007 as the day on which subsection 67.1(2) of the *Copyright Act*, as enacted by section 45 of *An Act to amend the Copyright Act*, comes into force;
and

(c) January 1, 2008 as the day on which section 67 and subsection 67.1(1) of the *Copyright Act*, as enacted by section 45 of *An Act to amend the Copyright Act*, come into force.

PROCLAMATIONS

As of February 14, 2011, there were nine Acts providing that the Act or any of its provisions come into force on a day to be fixed by proclamation, rather than by order, and for which no proclamation had been issued.

An order in council is required to authorize the issuance of every proclamation bringing an Act or a provision of an Act into force.⁷⁹ The order in council may be repealed or amended at any time before the proclamation is issued. If the proclamation has been issued and the coming-into-force date has not passed, there must be a new order in council recommending that a proclamation be issued repealing or amending the former proclamation, and not an order in council amending the earlier order in council.

A proclamation cannot provide for the coming into force of an Act or a provision of an Act on a day before the day on which the order in council authorizing its issuance is made because this would give the Act retroactive effect. The proclamation may only give the Act retroactive effect if there is specific statutory authority to do so.

The proclamation can provide that an Act or a provision of an Act comes into force on the same day as the order in council authorizing its issuance, even though the proclamation is actually issued on a later day.⁸⁰

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⁷⁹ Subsection 18(2) of the *Interpretation Act*.

⁸⁰ Subsection 18(3) of the *Interpretation Act*.

COMING-INTO-FORCE PROVISIONS

(DISPOSITIONS D'ENTRÉE EN VIGUEUR)

This article, unless otherwise noted, applies to regulations within the meaning of that term in the *Statutory Instruments Act*.

In general, every regulation concludes with a coming-into-force provision.⁸¹

1. Location and form

The coming-into-force provision is the last provision of regulations, although it is placed before the schedules in new regulations that contain schedules and in amending regulations that add or replace whole schedules.

The coming-into-force provision is in bold type if any preceding provisions are in that typeface (for example, amending formulas, repeal provisions and transitional provisions). In all other cases, it is not in bold.

2. Date of registration

Unless regulations are to come into force on a specific day or on the occurrence of an event, regulations come into force on the day of their registration by the Clerk of the Privy Council.⁸²

The coming-into-force provision reads as follows:⁸³

10. These Regulations come into force on the day on which they are registered.

Statutory instruments and other documents that are not regulations generally come into force when they are made, not when they are registered.⁸⁴

3. Date expressly mentioned

If regulations are to come into force on a given date — which generally cannot precede the making of the regulations⁸⁵ — the coming-into-force provision sets out that date:

43. These Regulations come into force on January 1, 2008.

⁸¹ There is an exception when an Act expressly provides for the coming into force of its regulations. See item 7.4 in Part 2 – **DATE PROVIDED FOR IN THE ENABLING ACT**.

⁸² See section 9 of the *Statutory Instruments Act*.

⁸³ Drafting Advisory No. 1998-1

⁸⁴ See **DATE OF REGISTRATION**, item 7.1 in Part 2 for more details.

⁸⁵ See **DATE PRECEDING REGISTRATION**, Item 7.2 in Part 2 for the exceptions to this principle.

PART 4: Drafting and Format Rules
COMING-INTO-FORCE PROVISIONS

If there is a high probability that the regulations may be made or registered after January 1, 2008, the following provision may be used to avoid an unauthorized retroactivity:⁸⁶

43. These Regulations come into force on January 1, 2008, but if they are registered after that day, they come into force on the day on which they are registered.

Sometimes it is necessary that regulations come into force at a particular time, for example:

3. These Regulations come into force at 00:00:03 a.m. PDT on February 2, 2007.

In fiscal regulations, such as those made under the *Income Tax Act* and the *Excise Tax Act*, there is a well-established practice of drafting coming-into-force provisions as follows when the coming into force occurs on a future date:

APPLICATION

16. Section 12 applies after 2008.

4. Date related to an event

In some cases, the coming into force of regulations is conditional on another event, such as the coming into force of an Act or one of its provisions.

12. These Regulations come into force on the day on which section 43 of the *Canada-Israel Free Trade Agreement Implementation Act*, chapter 33 of the Statutes of Canada 1996, comes into force.

For reasons of concision, an Act should be cited by its short title, even if the Act is not in force.

If there is a high probability that the regulations may be made or registered after section 43 comes into force, the following provision may be used to avoid an unauthorized retroactivity:

12. These Regulations come into force on the day on which section 43 of the *Canada-Israel Free Trade Agreement Implementation Act*, chapter 33 of the Statutes of Canada 1996, comes into force, but if they are registered after that day, they come into force on the day on which they are registered.

⁸⁶ If the regulations were made on January 1, 2008 but not registered within 7 days after that date, the problem would not be retroactivity but an inconsistency between section 43 and the effect of subsection 9(1) of the *Statutory Instruments Act*. Paragraph 9(1)(a) of that Act provides that regulations cannot come into force before registrations unless the regulations expressly state that they come into force on a day before registration and are registered within 7 days after being made. Thus, if the regulations containing section 43 were registered on January 9, 2008, 9(1)(a) would not apply and the regulations would come into force, not on January 1, 2008, but on registration.

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COMING-INTO-FORCE PROVISIONS

5. Multiple dates

In other cases, it is provided that regulations come into force in stages.

Example 1:

9. (1) These Regulations, except subsections 3(2) and 4(2), come into force on the day on which they are registered.

(2) Subsections 3(2) and 4(2) come into force on December 1, 2007.

Example 2:

21. (1) These Regulations, except section 10, come into force on November 1, 2007.

(2) Section 10 comes into force on December 1, 2007.

Example 3:

13. (1) Subject to subsection (2), these Regulations come into force on March 1, 2007.

(2) Items 2.3, 2.4 and 3.2 of Part 2 of Schedule 3 to the *Contraventions Regulations*, as enacted by section 6 of these Regulations, come into force on June 1, 2007.

Example 4:

4. These Regulations come into force

(a) in respect of passenger cars, on September 1, 2007; and

(b) in respect of multipurpose passenger vehicles and trucks, on September 1, 2008.

6. Retroactivity

Some Acts provide for the making of regulations with retroactive effect. The coming-into-force provision of the regulations uses the verb “deem” to express the fiction of going back in time for the coming into force.

Example 1:

6. These Regulations are deemed to have come into force on November 9, 2003.

PART 4: Drafting and Format Rules
COMING-INTO-FORCE PROVISIONS

Example 2:

22. These Regulations come into force, or are deemed to have come into force, on November 29, 2007.

The wording in example 2 is used if the proposed regulations are stamped before the date mentioned and there is a high probability that they will not be made until after that date.

In fiscal regulations, such as those made under the *Income Tax Act* and the *Excise Tax Act*, there is a well-established practice of drafting coming-into-force provisions as follows:

APPLICATION

16. (1) Sections 1, 3 and 4 apply after October 8, 2005.

(2) Section 2 applies after 1999.

7. Marginal notes

In new regulations, if marginal notes are used and there are no headings, the marginal note is “Coming into force”. If there is a heading “COMING INTO FORCE”, the marginal note should reflect the day that the regulations come into force. For example, if the regulations come into force on registration, use “Registration” or, if the regulations come into force on a day expressly mentioned, use that day as the marginal note: “January 1, 2007”. If the coming into force is tied to the coming into force of an Act, use the citation of the Act: “S.C. 2007, c. 6”.

8. Amending regulations that are not in force

Sometimes it is necessary to amend a provision of a regulation (the main regulation) that is not in force. In this case, the amending regulations should use the coming into force provision set out in item 2 above so that they will come into force on the day on which they are registered. The effect will be that the amendment is merged into the main regulation on the day on which the amendment is registered. The amended provision will come into force in accordance with the coming into force provision in the main regulation. This approach is consistent with *Potter Distilleries Ltd v. R.*⁸⁷ and the approach recommended in the Legislation Deskbook for amending an Act that is not in force.⁸⁸

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⁸⁷ (1981), 132 DLR (3d) 190 BCCA aff'g (1980), 111 DLR (3d) 167 BCSC

⁸⁸ See section 3.6 of the Legislation Deskbook under the heading **COMMENCEMENT – AMENDMENT OF PROVISIONS NOT IN FORCE**

CONDITIONS PRECEDENT

(CONDITIONS PRÉALABLES)

Regulations may be subject to certain conditions precedent that are set out in the enabling act. For example, the regulation-making authority may be required to consult with others or obtain the approval of others before making the regulations. In other cases, the Act may require that the regulation-making authority be satisfied that a certain fact or situation exists before exercising its regulation-making power.

The recital of the fulfilment of a condition precedent in an order in council or other executive order is important, as the recital constitutes, in the absence of evidence to the contrary, proof that the condition precedent was in fact fulfilled. It is extremely important for the drafter to examine the enabling statute carefully, for if the statute prescribes conditions precedent to the exercise of the power and these are not fulfilled, the regulation-making authority cannot legally exercise its power.⁸⁹ The entire Act, not just the provisions dealing with the making of regulations, must be read carefully to ensure that all the conditions attached to the regulation-making power are fulfilled and spelled out, step by step, in the order in council or other executive order.

Below are examples of orders in council and other executive orders in respect of regulations made under Acts that provide for conditions precedent. The fact that the condition precedent has been satisfied is recited in a paragraph introduced by the word “whereas”. The wording of the “whereas” clause follows the wording of the provision in the Act setting out the condition precedent. The first word in each recital begins with a capital and each recital ends with a semi-colon.

For reasons of concision, footnotes have been deleted from the examples.

Example 1: Prepublication

Whereas, pursuant to subsection 11(3) of the *Motor Vehicle Safety Act*, a copy of the proposed *Regulations Amending the Motor Vehicle Safety Regulations (Expiration Date for Certain Technical Standards Documents)*, **substantially in the annexed form, was published in the *Canada Gazette*, Part I, on November 20, 2004 and a reasonable opportunity was afforded** to interested persons to make representations to the Minister of Transport with respect to the proposed Regulations;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Transport, pursuant to section 5 and subsection 11(1) of the *Motor*

⁸⁹ See John Mark Keyes, *Executive Legislation* (Toronto: Butterworths, 1992) at 72-73, and Elmer A. Driedger, *Construction of Statutes*, 2nd ed. (Toronto: Butterworths, 1983) at 309-313.

PART 4: Drafting and Format Rules
CONDITIONS PRECEDENT

Vehicle Safety Act, hereby makes the annexed *Regulations Amending the Motor Vehicle Safety Regulations (Expiration Date for Certain Technical Standards Documents)*.

If the regulations were not modified as a result of prepublication, the word “**substantially**” should be dropped.

Example 2: Tabling of a proposed regulation

Whereas, pursuant to subsection 5(2) of the *Immigration and Refugee Protection Act*, the Minister of Citizenship and Immigration has caused a copy of the proposed *Regulations Amending the Immigration and Refugee Protection Regulations* **to be laid before each House of Parliament**, substantially in the annexed form;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Citizenship and Immigration, pursuant to subsection 5(1) and section 17 of the *Immigration and Refugee Protection Act*, hereby makes the annexed *Regulations Amending the Immigration and Refugee Protection Regulations*.

If the regulations were not modified as a result of tabling, the word “**substantially**” should be dropped.

Example 3: The regulation-making authority must be “satisfied” of certain facts

Whereas the orders, notices and warrants referred to in the annexed Regulations are statutory instruments whose inspection or making of copies of is not otherwise provided for by law;

And whereas the Governor in Council **is satisfied that** the inspection of the orders, notices and warrants referred to in the annexed Regulations as provided in section 17 of the *Statutory Instruments Act* or the making of copies of those orders, notices and warrants as provided for in section 18 of that Act would result or be likely to result in injustice or undue hardship to any person or body affected or in serious and unwarranted detriment to the person or body in the matter or conduct of their affairs;

Therefore, His Excellency the Governor General in Council, on the recommendation of the Minister of Justice, pursuant to subparagraph 20(d)(iii) of the *Statutory Instruments Act*, hereby makes the annexed *Regulations Amending the Statutory Instruments Regulations*.

Example 4: Attestation of a fact

Whereas, the annexed Regulations **give effect, in part, to a public announcement made on December 3, 2001** known as Customs Notice CN-414;

PART 4: Drafting and Format Rules
CONDITIONS PRECEDENT

And whereas that Notice provides that the changes proposed to the *Accounting for Imported Goods and Payment of Duties Regulations* are to be effective on December 3, 2001;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Public Safety and Emergency Preparedness, pursuant to sections 3.5, 32, 33 and 35, subsections 164(1) and 166(1) and paragraph 167.1(b) of the *Customs Act*, hereby makes the annexed *Regulations Amending the Accounting for Imported Goods and Payment of Duties Regulations*.

Example 5: Prior Approval

Whereas the Governor in Council has, by the *Chicken Farmers of Canada Proclamation*, established Chicken Farmers of Canada (CFC) pursuant to subsection 16(1) of the *Farm Products Agencies Act*;

Whereas CFC has been authorized to implement a marketing plan pursuant to that Proclamation;

Whereas the process set out in the Operating Agreement, referred to in subsection 7(1) of the schedule to that Proclamation, for making changes to quota allocation has been followed;

Whereas the proposed *Regulations Amending the Canadian Chicken Marketing Quota Regulations*, are regulations of a class to which paragraph 7(1)(d) of that Act applies by reason of section 2 of the *Agencies' Orders and Regulations Approval Order*, and have been submitted to the National Farm Products Council pursuant to paragraph 22(1)(f) of that Act;

And whereas, pursuant to paragraph 7(1)(d) of that Act, the National Farm Products Council **has approved the proposed Regulations** after being satisfied that they are necessary for the implementation of the marketing plan that CFC is authorized to implement;

Therefore, Chicken Farmers of Canada, pursuant to paragraph 22(1)(f) of the *Farm Products Agencies Act* and subsection 6(1) of the schedule to the *Chicken Farmers of Canada Proclamation*, hereby makes the annexed *Regulations Amending the Canadian Chicken Marketing Quota Regulations*.

Example 6: Repeal of provisions whose enactment was subject to a condition precedent

In some cases, the repeal of a provision whose enactment was subject to a positive fact situation may have to be preceded by a “whereas” clause worded in the negative. In the following example, the Governor in Council enacted the provision because the Governor in Council was of the opinion that registration of the documents was not reasonably

PART 4: Drafting and Format Rules
CONDITIONS PRECEDENT

practicable given their number. Consequently, the provision may be repealed only if the Governor in Council is now of the opposite opinion.⁹⁰

Whereas the Governor in Council is of the opinion that it is no longer the case that the registration of standing orders made by the Commissioner of the Royal Canadian Mounted Police under subsection 21(2) of the *Royal Canadian Mounted Police Act* **is not reasonably practicable due to their number;**

Therefore, His Excellency the Governor General in Council, on the recommendation of the Minister of Justice, pursuant to paragraphs 20(a) to (c) of the *Statutory Instruments Act*, hereby makes the annexed *Regulations Amending the Statutory Instruments Regulations*.

Example 7: Requirements of the *User Fee Act*

Whereas the *User Fees Act* applies in respect of the fees fixed in the annexed Regulations;

And whereas the requirements of section 4 of that Act have been compiled with;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of Natural Resources, pursuant to paragraphs 5(b) and (c.2) of the *Explosives Act*, hereby makes the annexed *Explosives Fees Regulations*.

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⁹⁰ See subsection 31(4) of the *Interpretation Act*, which provides that the power to repeal, amend or vary regulations is subject to the same conditions as the power to make them.

CROSS-REFERENCES

(RENOIS)

GENERAL PRINCIPLES

In regulations, internal and external cross-references are indicated using the name of the provision followed by its number (or letter).

Examples:

Subsection 6(3) does not apply . . .

. . . the conditions referred to in paragraph 3(a) of the Act . . .

The document mentioned in subparagraph 12(2)(a)(ii) is not required . . .

In internal cross-references, there is no need to add the phrase “of these Regulations”⁹¹ unless the reference is located near a reference to another enactment, in which case the drafter should include that phrase to avoid confusion.

Example:

1. For the purposes of section 5 of the Act and subsection 4(2) of these Regulations, . . .

The same applies in respect of a schedule to a regulation. The phrase “of the schedule” is not needed for any internal cross-references in that schedule, but if there is a cross-reference in the schedule to a provision in the regulations, the phrase “of these Regulations” must be included in the cross-reference. However, the phrase “of the schedule” is needed if the reference is located near a reference to a provision of the regulations or to another enactment and there is a risk of confusion.

Example:

SCHEDULE

1. Performance of one or more of the passport services set out in items 2 to 17 of this schedule in the circumstance referred to in subsection 2(2) of these Regulations . . .

⁹¹ See subsection 41(2) of the *Interpretation Act*.

PART 4: Drafting and Format Rules
CROSS-REFERENCES

Complete references are not used within a section to refer to other portions of the section or within a subsection to refer to other portions of the subsection, and so forth.⁹²

Example:

4. (1)

(2) Despite subsection (1),

When a provision, statute or regulation has already been cited in a section or subsection, it is recommended that, if there is no possibility of confusion, the definite article or a demonstrative pronoun (“the”, “that”, “those”) be used to refer to the provision, statute or regulation within that same section or subsection. In the case of references to other provisions, the terms “preceding”, “following” or “hereafter” are not to be used. As a rule, two provisions of a regulation should not refer to each other; rather, the reference that is less useful to the comprehension of the text should be deleted.

Subsection 40(2) of the *Interpretation Act* provides that a “citation of or a reference to an enactment is deemed to be a citation of or reference to the enactment as amended”. Therefore, if a reference to an earlier version of the enactment is intended, it should be clearly identified as such.

Example:

7. (1) Payments authorized under section 28 of the Act, **as that section read on March 31, 1996**, in respect of the established programs, shall be made at the times and in the manner provided for in section 6.

Furthermore, it may sometimes be necessary to state that the referenced provision is to be read taking into account certain specified rules of interpretation. However, this practice should be used with caution because of the uncertainties and imprecisions that it can generate. The following two examples illustrate the degree of precision that is required.

Example 1:

10. For the purposes of the *Aircraft Operating Regulations*,

(a) the word “Minister” shall be read for the word “Administrator” wherever it appears in the *Federal Aviation Regulations* (U.S.)

Example 2:

3. An eligible exploration expense in relation to a mineral resource or hydrocarbons is

⁹² See subsection 41(3) of the *Interpretation Act*.

PART 4: Drafting and Format Rules
CROSS-REFERENCES

(a) any expense referred to in paragraph (1)(a) or paragraphs (2)(a) to (d), read without reference to the words “before February 20, 1990”

As a rule, regulations and Acts are referred to by their title.⁹³ The most frequent exception to this rule is the reference to “the Act” in regulations in which the word “Act” has been defined (generally to mean the enabling Act).

ADDITIONAL SOURCES

See the article “Cross-references” in *Legistics*

See Chapter 3 in the *Legislation Deskbook*, under the heading “3.3 Legislative Drafting Conventions”, where section 25 of the *Drafting Conventions of the Uniform Law Conference of Canada* is reproduced.

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⁹³ See subsection 40(1) of the *Interpretation Act*

PART 4: Drafting and Format Rules

DATES

DATES

(Version anglaise seulement)

The current practice is to write “April 30, 1999” rather than “the 30th day of April, 1999” or “April the 30th, 1999”.

As a rule, “after March 31 of each year” is preferable to “after March 31st of each year”.

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DEFINITIONS (*DÉFINITIONS*)

GENERAL PRINCIPLES

An authority to deal with a matter by regulation includes the authority to define any terms that are used in the regulation.

Words defined in the enabling statute should not be defined in the regulations because section 16 of the *Interpretation Act* states that “expressions used in the regulations have the same respective meanings as in the enactment conferring the power”; however, in rare cases when the circumstances require it, a statutory definition may be repeated in the regulation. A word that is defined in the enabling statute may be given a narrower meaning in the regulations if that meaning does not alter the scope of the enabling statute. A regulation cannot broaden a definition found in the enabling statute.

Definitions in regulations must not have the effect of modifying any requirements, rights, benefits or powers set out in the enabling statute, and, in particular, they must not modify the scope of an enabling authority. Therefore, a word used but not defined in the enabling statute should not, as a rule, be defined in the regulations. This would risk broadening the scope of the enabling statute and thus exceed the authority it confers.

A regulation cannot define a word for the purposes of the enabling statute unless the statute expressly provides for it.

Example:

- 19.** The Governor in Council may, by regulation,
- (a) **define** the expression “last port of landing” for the purposes of subsection 16(2); and . . .

Generally, the same term should not have different meanings within a regulatory scheme.

A term used in a regulation may be defined by reference to a definition in another regulation or statute. The disadvantage of defining a term in this manner is that the user will have to consult the other enactment. However, the advantage is that the definition does not have to be amended each time the term in the enactment referred to is amended, if consistency between the two is desired.⁹⁴

⁹⁴ See subsection 40(2) of the *Interpretation Act*.

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DEFINITIONS

Example:

(2) For the purposes of subsection (1), the expression “public service agencies” has the same meaning as in section 1 of the *Public Agents Firearms Regulations*.

ADDITIONAL SOURCES

Legistics

The article “**DEFINITIONS**” in Part 1 provides information on types of definitions, principles governing their use, their formal aspects and drafting and amending them, as well as alternatives to formal definition sections.

Legislation Deskbook

Definitions are discussed in Chapter 3 at the following locations:

- under the heading “3.3 Legislative Drafting Conventions”, where sections 5, 21 and 32 of the *Drafting Conventions of the Uniform Law Conference of Canada* are reproduced;
- under the heading “3.6 Ancillary Provisions”,
 - where the subsection “Definitions” discusses the function of definitions and rules for drafting them;
 - in the subsection “Commencement”, where the section on “Definitions” discusses rules applicable to amending legislation;
- under the heading “3.8 Amendments”, in the subsection “Definitions”, where various amending formulae for the amendment of definitions are suggested.

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DIVISION OF REGULATIONS

(ÉLÉMENTS DU RÈGLEMENT)

Regulations may be divided into parts, sections, subsections, paragraphs, subparagraphs, clauses and subclauses, and they often include schedules, tables and forms. In complex regulations, parts may be separated into divisions and subdivisions. Headings are used to indicate the subject matter of each part, division or subdivision, of a series of sections or even of a single section.

The breakdown of a section into subsections, paragraphs, subparagraphs, etc. should be identical in the English and French versions. This is known as parallelism. Achieving parallelism is not always easy. If parallelism issues arise, drafters should consult with jurilinguists and senior drafters to explore possible solutions. In the end, a compromise that does not affect the fundamental quality of the draft may be needed to achieve parallelism.

PARTS

Arabic numerals are now used instead of Roman numerals to designate parts. In amendments to older regulations that use Roman numerals, continue to use them for internal consistency, unless all the Roman numerals in the regulations are being changed to Arabic numerals. The same rule applies to schedules, tables and forms. (see **SCHEDULES TO REGULATIONS**)

Example: PART 1

Parts are used only when two or more separate matters are being dealt with in one regulation. However, definitions and general provisions that apply throughout the regulation should appear together at the beginning of the regulation, before the parts. Alternatively, they may be placed in Part 1, which must then clearly state that it contains definitions and general provisions applicable to the whole regulation. Definitions that apply to only one part may be placed at the beginning of that part, which must then clearly state that it contains definitions applicable to that part.

When a part is referred to in a provision, the first letter of the word is capitalized and is followed by an Arabic numeral (or Roman, if necessary for consistency with the existing text).

PART 4: Drafting and Format Rules
DIVISION OF REGULATIONS

Example:

8. For the purposes of Part 6,

DIVISIONS AND SUBDIVISIONS

Parts may be separated into divisions and subdivisions. Though used rarely, they can help organize a regulation with a very complex structure, such as the *Income Tax Regulations* and the *Export and Import of Hazardous Wastes Regulations*. Divisions are designated using Arabic numerals and are to be written using large and small capitals (e.g., DIVISION 1), while subdivisions are identified by lower-case italic letters with the first letter capitalized (e.g., Subdivision a).

SECTIONS AND SUBSECTIONS

Sections are the building blocks of regulations. Each section should express a complete idea.

Sections are numbered using Arabic numerals followed by a period except if the section number includes a decimal. They may be divided into subsections, which are also numbered using Arabic numerals, but in parentheses.

Example:

5. (1) A charge of \$88 is payable

(2) In addition to the charge,

Sections and subsections should be short and normally consist of a single sentence. However, they may contain more than one sentence if

- (a) the additional sentence is subordinate to the first or deals with the same idea;
- (b) making a separate subsection of the additional sentence would put undue emphasis on it; and
- (c) the section or subsection does not become too long.

Sections and subsections may in turn be divided into paragraphs, subparagraphs, clauses and subclauses.

PARAGRAPHS AND SUBPARAGRAPHS

Paragraphs are indicated by lower-case italic letters within parentheses: *(a)*, *(b)*, *(c)*, *(z.I)*, etc. In contrast, the French version has only closing parentheses: *a)*, *b)*, *c)*, *z.I)*, etc.

Subparagraphs are indicated by lower-case Roman numerals within parentheses: *(i)*, *(ii)*, *(iii)*, etc.

Paragraphs and subparagraphs do not form complete sentences in themselves. They are only part of the sentence that begins at the section or subsection in which they are placed, and add to that sentence.

Example:

602. When there is a two-way radiocommunication failure between the controlling air traffic control unit and a VFR aircraft while operating in Class B, Class C or Class D airspace, the pilot-in-command must

(a) leave the airspace

(i) when the airspace is a control zone, by landing at the aerodrome for which the control zone is established, and

(ii) in any other case, by the shortest route;

(b) when the aircraft is equipped with a transponder, set the transponder to code 7600; and

(c) inform an air traffic control unit as soon as possible of the actions taken under paragraph *(a)*.

“Sandwich clauses”, i.e. the continuation of the introductory wording of the subsection after the paragraphs are enumerated, should be avoided because the unsophisticated reader may see the “clause” as a continuation of the paragraph that precedes it. Also, the French version of the text does not use sandwich clauses.

CLAUSES AND SUBCLAUSES

Subparagraphs are occasionally further divided into clauses and subclauses. These are used infrequently. Before using them, consideration should be given, in the interests of readability, to dividing the section into more sections or subsections instead.

Clauses are indicated by upper-case letters within parentheses: *(A)*, *(B)*, *(C)*, etc. Subclauses are indicated by upper-case Roman numerals within parentheses: *(I)*, *(II)*, *(III)*, etc. Like

PART 4: Drafting and Format Rules
DIVISION OF REGULATIONS

paragraphs and subparagraphs, clauses and subclauses are not complete sentences in themselves.

HEADINGS

Headings help the reader navigate through the various topics dealt with in a regulation. Only those provisions that relate to a heading should be placed under it.

Headings, unlike marginal notes, are considered part of the regulations and may be used in interpreting them.⁹⁵

If a regulation is not divided into parts, the primary headings are in large capitals and the secondary headings are in large and small capitals. Third-level headings are in upper- and lower-case italics. If a fourth-level heading is required, it is in upper- and lower-case ordinary type, and if a fifth level is required, it is also in upper- and lower-case ordinary, but is placed flush left. (It is not necessary to amend headings in existing regulations that do not conform with these rules; the headings are changed automatically when the electronic version of the regulations is converted into EPIC for the purposes of creating consolidations to be used in Cyberlex and the Justice Internet site.)

Example:

OIL AND GAS

PROCEDURES FOR APPLYING FOR AND ISSUING LICENCES AND ORDERS

Application

Procedures

Exemption

Marginal note **10. (1)**

If a regulation is divided into parts, the primary heading is in full capitals, or upper case, and the secondary heading is in large and small capitals. A third-level heading is in upper- and lower-case italics. If a fourth level is required, it is in upper- and lower-case ordinary type, and if a fifth level is required, it is also in upper- and lower-case ordinary, but is placed flush left.

⁹⁵ See section 14 of the *Interpretation Act*.

PART 4: Drafting and Format Rules
DIVISION OF REGULATIONS

Example 1: Regulation divided into parts

PART 1

OIL AND GAS

GAS OTHER THAN PROPANE, BUTANES AND ETHANE

Procedures for Applying For and Issuing Licences and Orders

Application

Procedures

Marginal note **10. (1)**

Example 2: Regulation divided into parts, divisions and subdivisions

PART 1

OIL AND GAS

DIVISION 1

GAS OTHER THAN PROPANE, BUTANES AND ETHANE

Subdivision a

Application

Procedure

Exemption

Marginal note **10. (1)**

NOMENCLATURE

| | | |
|--------------|------------------------------------|-------------------|
| English name | Numerical/Alphabetical designation | French equivalent |
| Part | 1 | <i>partie</i> |

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DIVISION OF REGULATIONS

| English name | Numerical/Alphabetical designation | French equivalent |
|--------------|------------------------------------|----------------------|
| Division | 1 | <i>section</i> |
| Subdivision | a | <i>sous-section</i> |
| section | 12 | <i>article</i> |
| subsection | 12(1) | <i>paragraphe</i> |
| paragraph | 12(1)(a) | <i>alinéa</i> |
| subparagraph | 12(1)(a)(i) | <i>sous-alinéa</i> |
| clause | 12(1)(a)(i)(A) | <i>division</i> |
| subclause | 12(1)(a)(i)(A)(I) | <i>sous-division</i> |
| Schedule | 1 | <i>annexe</i> |

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PART 4: Drafting and Format Rules
“DUE TO”

“DUE TO”

(Version anglaise seulement)

“Due to” should not be used as an adverbial prepositional phrase. The adjective “due” should be accompanied by a form of the verb “to be”, either expressed or understood.

Thus, the following sentence should be avoided: “Due to the rain, the game was postponed.” The opening words should read: “Owing to the rain” or “Because of the rain”.

The following sentence is correct: “The postponement of the game was due to the rain.”

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ELLIPSES

(Version anglaise seulement)

The nature of the English language is such that elliptical expressions cannot be completely avoided, but in drafting legislation ellipses should be kept to an absolute minimum, for the reason that readers will not all supply the same missing words. A drafter who relies on absent words to convey the meaning of a provision is inviting ambiguity. Pronouns and verbs that are frequently omitted in ordinary speech or writing should be written into legislation.

Examples:

“a person eligible to apply” (elliptical)

“a person who is eligible to apply” (complete)

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EXPLANATORY NOTE

(NOTE EXPLICATIVE)

The purpose of the explanatory note that accompanies a statutory instrument is to help the reader grasp the main points of the instrument by disclosing its subject matter and principal features. If an existing instrument is being amended, the explanatory note should indicate how the existing regime is being altered (e.g., whether fees are being increased or whether limits are being extended).

The note must not discuss the policy that prompted the instrument. It must confine itself to summarizing what the instrument accomplishes rather than state why it is being made, unless the explanation relates solely to mechanics and not to policy (e.g., the instrument is intended to correct an error).

When published in the *Canada Gazette*, the explanatory note appears after the instrument. In most cases, it consists of only one or two paragraphs, and its heading is in bold type.

An explanatory note is included only with instruments that are not subject to the Government's policy on the prepublication of draft regulations⁹⁶; i.e. that do not require a Regulatory Impact Analysis Statement (RIAS).⁹⁷ Those instruments are the following:

- statutory instruments and other documents that are designated “SI”; and
- regulations and orders (“SOR”s) made by some independent bodies such as the Canadian Radio-television and Telecommunications Commission (CRTC), the Copyright Board and Canadian Marketing Agencies such as the Canadian Turkey Marketing Agency. (Contact Treasury Board Secretariat, Regulatory Affairs Division to determine if a particular body is exempt from publishing a RIAS.)

Those bodies may, however, choose to follow the Government's policy on the prepublication of draft regulations, in which case the explanatory note is replaced by a RIAS.

An explanatory note is not included if the instrument is self-explanatory, such as an order designating a minister for the purposes of an Act or an order transferring responsibility for the administration of an Act. However, an order fixing the date on which an Act comes into force is an exception. In that case, the note should set out what the Act accomplishes, thus informing the public of the type of measure coming into effect. The summary of the Act should be used for this purpose.

⁹⁶ For details on this policy, see **PUBLICATION**, item 6 in Part 2.

⁹⁷ See **REGULATORY IMPACT ANALYSIS STATEMENT (RIAS)**.

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EXPLANATORY NOTE

The explanatory note is not part of the instrument and includes a mention to that effect. Nevertheless, it is examined by the appropriate regulations section together with the instrument to which it relates, and is stamped at the end of the examination process.

Below are some examples of explanatory notes:

Example 1: Remission order

EXPLANATORY NOTE

(This note is not part of the Order.)

The Order remits \$3,150 of the goods and services tax (GST), representing a rebate to which David Derksen and Nita Derksen became disentitled as a result of failing to apply for the rebate in a timely manner owing to circumstances beyond their control.

Example 2: Amending order

EXPLANATORY NOTE

(This note is not part of the Order.)

The *Gallantry Awards Order* provides gratuities and annuities to members of the armed forces who have been personally decorated with the Victoria Cross, the Military Cross and other important medals for gallantry or heroism in war.

The amendments

(a) increase the annuity payable to holders of the Victoria Cross or the George Cross from \$300 to \$3,000, in line with a recent similar increase passed by the Government of Great Britain; and

(b) transfer the responsibility for paying the benefits to the Minister of Veterans Affairs from the Canadian Pension Commission.

Examples 3 and 4: Order fixing the coming into force of an Act or certain provisions

EXPLANATORY NOTE

(This note is not part of the Order.)

The *Library and Archives of Canada Act* creates the Library and Archives of Canada as the successor to the National Library and the National Archives of Canada and provides for the appointment of its head, the Librarian and Archivist of Canada.

The Act provides for functions and powers of the Librarian and Archivist that are a modernization of the present functions and powers of the National Librarian and National Archivist of Canada and integrates their formerly distinct missions. The regime

PART 4: Drafting and Format Rules
EXPLANATORY NOTE

for legal deposit of publications has also been updated to provide for the deposit of electronic publications. A new power to preserve the documentary heritage of Canada as found on the Internet has also been introduced.

EXPLANATORY NOTE

(This note is not part of the Order.)

The Order brings into force certain provisions of *An Act to amend the Canadian Forces Superannuation Act and to make consequential amendments to other Acts* on May 3, 2004. Those provisions amend certain provisions of the *Royal Canadian Mounted Police Superannuation Act* with respect to lock-in requirements and on-going housekeeping changes.

Example 5: Amending order

EXPLANATORY NOTE

(This note is not part of the Order.)

The amendment sets out December 31, 2006 as the date on which the Order ceases to have effect.

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FEES AND TAXES

(DROITS ET TAXES)

Fees⁹⁸ are imposed to recover from users the administrative costs of providing a particular government program. Taxes are imposed to generate revenue for government expenditures in general.

The distinction between a fee and a tax is important. The authority to impose a fee does not include the power to impose what is essentially a tax. If an amount charged is not linked to a valid regulatory scheme, or will result in revenues that far exceed program costs, it will likely be considered to be a tax.⁹⁹

Enabling authority

As a rule, a regulation cannot impose fees unless there is express authority to do so in the enabling statute. In some circumstances, a wide regulation-making power may be interpreted as impliedly authorizing the imposition of fees so long as that interpretation is supported by the scheme and purposes of the Act. However, any regulation imposing fees in the absence of express authority risks being declared *ultra vires* by the courts. A tax cannot be imposed by regulation unless authorized by the enabling statute in express and unambiguous language.¹⁰⁰

The power to impose a fee includes the authority to impose the legal obligation to pay the fee¹⁰¹ and the power to establish categories of users.¹⁰²

If the authority to set fees is not found in enabling legislation, such authority may be found in sections 19 to 19.3 of the *Financial Administration Act*.

User Fees Act

While the *User Fees Act* does not authorize or prevent the imposition of fees, it does, however, impose requirements that regulating authorities must meet before they can fix or increase user fees.

⁹⁸ “Fees”, for the purposes of this article, includes “charges”, “rates” and “tolls”.

⁹⁹ *Westbank First Nation v. British Columbia Hydro and Power Authority*, [1999] 3 S.C.R. 134.

¹⁰⁰ *The King v. National Fisheries Co. Ltd.*, [1931] Ex. C.R. 75 at p.83; *Ontario English Catholic Teachers Association v. Ontario (Attorney General)* [2001] S.C.C. 15; P. Salembier, *Regulatory Law and Practice in Canada* (Lexis Nexis Canada Inc, 2004) p. 328.

¹⁰¹ *Pan American World Airways v. The Queen*, [1981] 2 S.C.R. 565.

¹⁰² *Aerlinite Aireann Teoranta v. Canada*, [1987] 3 F.C. 383.

PART 4: Drafting and Format Rules
FEES AND TAXES

Drafting

Fees and taxes may be specified in the body of a regulation or in a schedule. If they are set out in a schedule, there must be a provision in the body of the regulation referring to the schedule.

The drafter may use formulas for the purpose of specifying a fee or tax.¹⁰³

Example of a formula:

12. (1) Every owner of a lot located in Banff National Park, Yoho National Park or Waterton Lakes National Park shall pay the garbage collection and disposal charge determined by the formula

$$A \times B/12 \times C/D$$

where

A is the aggregate of the volume values of the units on the lot,

B is the number of months in the year during which the owner is permitted to occupy the lot under the lease, permit or licence of occupation for that lot,

C is the total operating and maintenance cost incurred in respect of the park, and

D is the total volume value for the park.

Further Reading

- “Policy on Service Standards for External Fees”: www.tbs-ct.gc.ca/pubs_pol/opepubs/TB_H/CRP_e.asp
- P. Salembier, *Regulatory Law and Practice in Canada* (Lexis Nexis Canada Inc., 2004) p.p. 328-335.

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¹⁰³ The Standing Joint Committee on the Scrutiny of Regulations (“SJC”) argues that formulas may only be used where the authority includes the power to regulate “the manner of determining” a fee or tax.

FINES AND IMPRISONMENT

(AMENDES ET PEINES)

Regulations that provide for fines or imprisonment for a breach of their provisions are invalid unless there is express authority in the enabling Act to enact provisions respecting fines or imprisonment.¹⁰⁴

“Punishment” is the generic word that should be used to denote all forms of punishment imposed or recoverable by criminal proceedings; e.g., fines, penalties, imprisonment or forfeiture.

Headings with respect to offence provisions should read “Offence and Punishment”. “Penalties” or “Offence and Penalties” should not be used.

For pecuniary punishments recoverable by criminal proceedings, the word “fine”, not “penalty”, should be used.

“Penalty” should not be used with respect to pecuniary punishment unless it is in addition to a fine (i.e., the words “fine” and “penalty” are used together) or it is recoverable by civil proceedings.

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¹⁰⁴ P. Salembier, *Regulatory Law and Practice in Canada*, Lexis Nexis Canada Inc. 2004, p. 327

FOOTNOTES

(NOTES EN BAS DE PAGE)

The following are footnoted:

(a) the title of a statute or of a regulation (order, rule, etc.) when cited in prepublication notices, orders in council or other executive orders or in the amending clauses of a regulation. The footnote includes a reference to every amendment to the title.

(b) a provision of an Act or regulation referred to in a prepublication notice, order in council or executive order if that provision has been amended.¹⁰⁵ The footnote sets out the latest amendment to the provision.

As a rule, references to statutes are indicated using the 1985 Revision alphanumeric designation or the year and chapter number (e.g., R.S., c. F-11; S.C. 1998, c. 1; see **CITATION OF STATUTES**), while references to registered regulations or statutory instruments are indicated using their registration number or the chapter of the 1978 Consolidation (e.g., SOR/97-434; SI/98-14; C.R.C., c. 1246).

PREPUBLICATION NOTICES AND ORDERS IN COUNCIL OR OTHER EXECUTIVE ORDERS

In prepublication notices and orders in council or other executive orders, including “whereas” clauses, the footnote indicator is a lower-case letter in superscript placed at the end of the cited material, before the punctuation.

Example 1: Prepublication notice

Notice is hereby given, pursuant to subsection 34(3) of the *Canadian Transportation Accident Investigation and Safety Board Act*^a, that the Canadian Transportation Accident Investigation and Safety Board, pursuant to sections 31 and 34^b of that Act, proposes to make the annexed *Canadian Transportation Accident Investigation and Safety Board Regulations*.

Interested persons may make representations with respect to the proposed Regulations within 90 days after the date of publication of this notice. All such representations must cite the *Canada Gazette*, Part I, and the date of publication of this notice, and be

¹⁰⁵ Drafting Advisory No. 2002-1

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FOOTNOTES

addressed to the Chairman, Canadian Transportation Accident Investigation and Safety Board, P.O. Box 9120, Alta Vista Terminal, Ottawa, Ontario K1G 3T8.

^a S.C. 1989, c. 3

^b S.C. 1998, c. 20, s. 21

Example 2: Order in council

Her Excellency the Governor General in Council, on the recommendation of the Minister of Labour, pursuant to sections 125 to 125.2^a, 126^b and 157^c of the *Canada Labour Code*^d, hereby makes the annexed *Regulations Amending the Canada Occupational Safety and Health Regulations*.

^a S.C. 2000, c. 20, ss. 5 to 7

^b S.C. 2000, c. 20, s. 8

^c S.C. 2000, c. 20, s. 20(1)

^d R.S., c. L-2

Example 3: Executive order with “whereas” clauses

Whereas the Governor in Council has, by the *Chicken Farmers of Canada Proclamation*^a, established Chicken Farmers of Canada (“CFC”) pursuant to subsection 16(1)^b of the *Farm Products Agencies Act*^c;

Whereas CFC has been empowered to implement a marketing plan pursuant to that Proclamation;

Whereas the process set out in the Operating Agreement, referred to in subsection 7(1)^d of the schedule to that Proclamation, for making changes to quota allocation has been followed;

Whereas the proposed *Regulations Amending the Canadian Chicken Marketing Quota Regulations* are regulations of a class to which paragraph 7(1)(d)^e of that Act applies by reason of section 2 of the *Agencies' Orders and Regulations Approval Order*^f, and have been submitted to the National Farm Products Council pursuant to paragraph 22(1)(f) of that Act;

And whereas, pursuant to paragraph 7(1)(d)^e of that Act, the National Farm Products Council has approved the proposed Regulations after being satisfied that they are

necessary for the implementation of the marketing plan that CFC is authorized to implement;

Therefore, Chicken Farmers of Canada, pursuant to paragraph 22(1)(f) of the *Farm Products Agencies Act*^c and subsection 6(1)^d of the schedule to the *Chicken Farmers of Canada Proclamation*^a, hereby makes the annexed *Regulations Amending the Canadian Chicken Marketing Quota Regulations*.

^a SOR/79-158; SOR/98-244

^b S.C. 1993, c. 3, par. 13(b)

^c S.C. 1993, c. 3, s. 2

^d SOR/2002-1

^e S.C. 1993, c. 3, s. 7(2)

^f C.R.C., c. 648

AMENDING CLAUSES

In amending regulations, the first time that the regulations being amended are referred to in the amending clauses, they should be footnoted. The footnote indicator is an Arabic numeral in superscript placed at the end of the cited material, before the punctuation. It should set out the regulations original SOR or SI number or, if the regulations are included in the most recent consolidation, their C.R.C. number.

Examples:

1. Paragraphs 3(1)(a) to (k) of the *Canadian Egg Marketing Levies Order*¹ are replaced by the following: . . .

¹ SOR/2003-75

1. Paragraph B.02.130(b) of the *Food and Drug Regulations*¹ is amended by adding the following after subparagraph (vi): . . .

¹ C.R.C., c. 870

1. The *Animals of the Family Bovidae and Their Products Importation Prohibition Regulations No. 2*¹ are repealed.

¹ SOR/2004-90

If the title of the regulations has been amended since the making or the consolidation of the regulations, a reference to the SOR number of the enactment that amended the title is added.

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FOOTNOTES

Example:

1. The *Import Control List*¹ is amended by adding the following in numerical order: . . .

¹ C.R.C., c. 604; SOR/89-251

In those rare situations in which the regulations are not registered or published in the *Canada Gazette*, Part II, the footnote indicates the P.C. number and the date on which the regulations were made or approved, if they were made or approved by the Governor in Council, or the date of the making of the regulations in any other case.

Example:

1. Section 17 of the *Canadian Forces Tactical Operations Regulations*¹ is replaced by the following: . . .

¹ P.C. 1997-214, January 15, 1997

If a new regulation or an amending regulation contains a consequential amendment or a repeal provision, the regulation referred to in the consequential amendment or in the repeal provision should be footnoted.

Examples:

40. Paragraph 2(2)(b) of the *Export of Substances Under the Rotterdam Convention Regulations*¹ is replaced by the following: . . .

41. The *Export and Import of Hazardous Wastes Regulations*² are repealed.

¹ SOR/2002-317

² SOR/92-637

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“GREATER OR LESSER OF X AND Y”

(Version anglaise seulement)

When a provision refers to “the greater of”, “the greatest of”, or “the lesser of”, “the least of”, two or more alternative amounts, use “and” rather than “or” to link the amounts.

Examples:

. . . the greater of X and Y

. . . the greatest of X, Y and Z

5. The fee payable is the lesser of

(a) . . . , and

(b) . . .

The above examples also apply to the use of the words “later”, “latest”, “earlier”, “earliest”, etc.

When paragraphs must be read together in order to make clear the meaning of the provision, a comma, rather than a semicolon, is the correct punctuation to use at the end of each paragraph (except the last).

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INTERNATIONAL SYSTEM OF UNITS (SI)

(SYSTÈME INTERNATIONAL D'UNITÉS (SI))

When a number written in figures is used to express a measurement, the SI (metric) symbol of the unit must follow the figures. If the symbol is not commonly known, the name of the unit may be written in parentheses after the symbol.

Example:

15 μ V (microvolts)

SI symbols are printed in accordance with the Canadian Metric Practice Guide.

They are written in lower-case letters (e.g. m for metre) unless the name of the unit is derived from a proper name, in which case the symbol is written in upper case letters (e.g. A for ampere).

They remain unaltered in the plural (i.e. do not add an “s”).

They are written without periods (except at the end of a sentence).

They are placed after the numerical value in the expression for a quantity, with a space between the numerical value and the first letter of the symbol.

Example:

32 m **not** 32m

However, when the first character of the expression is not a letter, there is no space.

Examples:

75°12'45" **not** 75° 12' 45"
32°C **not** 32 °C

When a number is expressed in letters or when no number is involved, the name of the metric measure is written out.

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INTERNATIONAL SYSTEM OF UNITS (SI)

Examples:

two metres

The form shall set out the number of kilometres between points A and B.

A single SI unit should be used to designate a quantity.

Example:

7.65 m **not** 7 m 65 cm

An SI symbol should not be used to start a sentence.

SI symbols are the same in French and English.

| <i>Quantity</i> | <i>Name</i> | <i>Symbol</i> |
|------------------------|--------------------|----------------------|
| Length | metre | m |
| | kilometre | km |
| | centimetre | cm |
| | millimetre | mm |
| Area | square metre | m ² |
| | square kilometre | km ² |
| | square centimetre | cm ² |
| | square millimetre | mm ² |
| | hectare | ha |
| Volume | cubic metre | m ³ |
| | cubic decimetre | dm ³ |
| | cubic centimetre | cm ³ |

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INTERNATIONAL SYSTEM OF UNITS (SI)

| | | |
|-------------|-----------------------|--------------------|
| | cubic millimetre | mm ³ |
| | litre | l, L or <i>l</i> * |
| | millilitre | ml, mL or m/ |
| Mass | kilogram | kg |
| | gram | g |
| | milligram | mg |
| | tonne ** | t |
| Plane Angle | degree | ° |
| | minute | ' |
| | second | " |
| Velocity | metre per second | m/s |
| | kilometre per hour | km/h |
| | centimetre per second | cm/s |
| | millimetre per second | mm/s |
| Pressure | pascal | Pa |
| Temperature | celsius | °C |
| | Kelvin | K |
| Force | newton | N |

* These alternatives are mentioned in the *Weights and Measures Act*, Schedule I, Part IV. The international symbol for litre is the lowercase l, but the uppercase letter or the italic form of the lowercase l is sometimes used to avoid confusion with the number 1.

** The term “tonne” is used here to refer to a metric ton, as opposed to an imperial ton equal to 2,240 pounds.

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INTERNATIONAL SYSTEM OF UNITS (SI)

Note: For additional information on the use of SI symbols, see the publication by the Canadian Standards Association, *Canadian Metric Practice Guide*, National Standard of Canada CAN/CSA-Z234.1-00. See also the schedules to the *Weights and Measures Act*, R.S. 1985, c. W-6.

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ITALICS

(ITALIQUE)

Italics are used to draw attention to certain words or phrases or to set them apart from the rest of the text. In federal regulations, the following should be italicized:

- the titles of publications (e.g., the *Canada Gazette*), statutes — long and short titles — (e.g., *An Act respecting divorce and corollary relief*; the *Divorce Act*), regulations (e.g., the *Pensioners Training Regulations*), and standards (e.g., Canadian Standards Association Standard CAN/CSA-Z76.1-M90, *Recloseable Child-Resistant Packages*), but not the titles of agreements, conventions or treaties, which should be written in ordinary type
- certain headings (see **DIVISION OF REGULATIONS**)
- in schedules, the references that are placed immediately under the heading “SCHEDULE” — including parentheses (see **SCHEDULES TO REGULATIONS**)
- all foreign words and phrases not set off by quotation marks and not considered part of the English language, including Latin expressions and the scientific names of drugs, plants, fish and animals, but excluding names of institutions, companies, organizations, etc. (e.g., *ex parte*, *prunus*, *Crédit commercial de France*)
- the French equivalent of a defined term that appears in parentheses at the end of a definition, including the word “*ou*” in a combined definition such as “(vol affrété avec *réservation anticipée ou VARA*)” (Note that the parentheses are not in italics.)
- in a list (usually found in a schedule), the French equivalent of a listed word (see, for example, the schedules to R.S. 1985, c. F-11)

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LATIN EXPRESSIONS

(EXPRESSIONS LATINES)

Special effort was made in the Revised Statutes of Canada, 1985 to eliminate the use of Latin in statutes. Expressions in Latin and other foreign languages should also be avoided in regulations, wherever possible. They can almost always be replaced by an English expression, as demonstrated by the following examples:

mutatis mutandis with any modifications that the circumstances require

e.g. such as; for example

prima facie . . . is, in the absence of evidence to the contrary, proof . . . ; is
evidence¹⁰⁶

However, this general rule does not apply to Latin words and expressions that have been accepted in the English language; for example, “quota”, “quorum”, “maximum” and “minimum”. Other exceptions to the rule are *ex parte* and *in camera*, both to be written in italics.

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¹⁰⁶ See subsection 25(1) of the *Interpretation Act* and Elmer A. Driedger, *The Composition of Legislation*, 2nd ed. (Ottawa: Department of Justice, 1976) at 268-269.

MARGINAL NOTES (NOTES MARGINALES)

Marginal notes may be included in regulations, just as they are in legislation. However, they are optional, and a regulation-making authority may decide not to use them.

As the term indicates, marginal notes are shown in the margin of the text, using the same format as in the Acts, that is, in small upper- and lower-case letters. They should be clear, simple and short, and serve as an indicator of the contents of the provision, not as a restatement of the text. If marginal notes are used, they must appear next to every section and subsection and each definition in a definition section of a regulation with more than one definition.

Marginal notes in regulations generally follow the same format rules as those in the Acts, with one exception: marginal notes in a regulation, contrary to those set out in an Act, may be amended without having to amend the corresponding provision¹⁰⁷. For further information on marginal notes, please consult the article entitled “MARGINAL NOTES” in section 3.5 of the *Legislation Deskbook*.

Generally, marginal notes should not be used in amending regulations if the regulation being amended does not contain such notes, in order to maintain internal consistency. However, it may be appropriate to include them if a part or a large portion of the regulation is being replaced.

For suggestions on marginal notes to coming-into-force provisions, see **COMING-INTO-FORCE PROVISIONS**.

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¹⁰⁷ Example: SOR/2005-385, s. 15(2)

MATHEMATICAL FORMULAS

(FORMULES MATHÉMATIQUES)

If a provision contains a calculation, it may be useful to use a mathematical formula so that the provision is not overly cumbersome and the message is clear. Formulas are commonly used in regulations such as the *Income Tax Regulations* that deal with fiscal matters.

Here are some examples of provisions containing mathematical formulas:

Example 1:

35. (1) Subject to subsection (2), a grant shall not be made under section 34 to a qualifying student if it would cause the aggregate of all grants made under that section by an appropriate authority or other body to exceed, for a loan year, an amount determined by the formula

$$(A \times B)/C$$

where

A is the estimated number of all persons, on the first day of the previous loan year, who were living in the province, who had attained 18 years of age and who had not attained 25 years of age, as determined by the Minister after consultation with the Chief Statistician of Canada;

B is the amount set by the Minister for the current loan year, in consultation with the Minister of Finance; and

C is the estimated number of all persons, on the first day of the previous loan year, who live in a province to which section 14 of the Act does not apply, who had attained 18 years of age and who had not attained 25 years of age, as determined by the Minister after consultation with the Chief Statistician of Canada.

Note: Mathematical signs other than the oblique stroke are preceded and followed by spaces. The descriptions of the elements are listed in the order in which the elements appear in the formula.

Example 2:

(5) The family supplement is the amount, rounded off to the nearest dollar, determined by the formula

PART 4: Drafting and Format Rules
MATHEMATICAL FORMULAS

$$A - \frac{(A \times B)}{5\,000}$$

where

A is equal to the percentage set out in subsection (7) multiplied by 12/52 of the amount of the child tax benefit referred to in subsection (3); and

B is

(a) the amount, not greater than \$5,000, by which the adjusted income, for the base taxation year in which the month that includes the Sunday of the relevant week falls, of the person in receipt of the child tax benefit exceeds \$20,921, if the adjusted income exceeds that amount, and

(b) zero, if the adjusted income is less than \$20,921.

Example 3:

“Tier I province” means, for the 12-month period beginning on April 1 of a calendar year, a province in respect of which the result of

$$A/B + C/D$$

expressed as a percentage, is less than 17%, as calculated on April 1 of that year on the basis of the immediately preceding calendar year,

where

A is the total number of persons granted landing as investors in that province in that calendar year on the basis of an immigrant visa naming that province as the province of destination for the investor;

B is the total number of persons granted landing as investors in Canada in that calendar year;

C is the amount of investments made in that province by all persons granted landing as investors in that calendar year; and

D is the amount of investments made in Canada by all persons granted landing as investors in that calendar year.

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MISCELLANEOUS AMENDMENT REGULATIONS

(RÈGLEMENT CORRECTIF)

Miscellaneous amendment regulations are used to correct errors, omissions and inconsistencies in regulations in an expeditious way. The process can be used at any time and has the following advantages:

- it allows the use of a simplified RIAS (Regulatory Impact Analysis Statement);
- it does not require the signature of the minister or the head of the agency on the RIAS;
- it does not require a communications plan; and
- it does not require prepublication (unless this is required by the enabling Act).

CRITERIA

Miscellaneous amendment regulations can be used only to make the following minor corrections that have no policy implications (i.e., non-substantive changes):

- the repeal of spent provisions or regulations;
- errors in format, syntax, spelling and punctuation;
- typographical errors, archaisms, anomalies and renumbering;
- inconsistencies between the English and French versions.

Miscellaneous amendment regulations may also include changes requested by the Standing Joint Committee for the Scrutiny of Regulations, whether or not they have policy implications (i.e. they can include substantive changes).

FORMAT

Miscellaneous amendment regulations follow the same format as any amending regulations. The only difference is in the title (see **TITLES** in this article).

If a miscellaneous amendment regulation amends more than one regulation, the regulation-making authority must be the same for all the regulations being amended. For example, if some of the regulations being amended are made by the Governor in Council and others by the minister, two miscellaneous amendment regulations are required.

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MISCELLANEOUS AMENDMENT REGULATIONS

Note that when several regulations are being amended or repealed, they are set out in the amending regulation in the order of their original publication (e.g., C.R.C., c. 534; C.R.C., c. 1054; SOR/81-221; SOR/90-1038; and SOR/96-117), and are grouped under their enabling Acts if they are made under more than one Act. The Acts that are listed as headings are set out in English alphabetical order, in accordance with the *Table of Public Statutes and Responsible Ministers*. However, if one enabling Act has many more amendments than the other Acts that are being amended, it is preferable that this Act be placed first in the list, rather than being placed in alphabetical order.

If some of the instruments being amended are designated “SI” and others “SOR”, two separate instruments are required: one to amend the SIs and the other to amend the SORs.

It is possible to combine, however, in one miscellaneous amendment regulation, regulations that are required by the enabling Act to be republished in the *Canada Gazette*, Part I, with regulations that are not subject to such a requirement. In such a case, a “whereas” clause is inserted in the executive order that is published in the *Canada Gazette*, Part II, to reflect the fact that the relevant regulations were republished in accordance with the enabling Act (see Example 6).

TITLES

Below are the titles to be used for miscellaneous amendment regulations. When orders or rules are being amended, the title of the miscellaneous instrument is “Order [Rules] Amending Certain Orders [Rules] Made . . .”.

REGULATIONS MADE UNDER A SINGLE ACT

1. Amendment of one regulation:

REGULATIONS AMENDING THE MEAT INSPECTION REGULATIONS
(MISCELLANEOUS PROGRAM)

2. Amendment of two or more regulations:

REGULATIONS AMENDING CERTAIN REGULATIONS ADMINISTERED AND
ENFORCED BY THE CANADIAN FOOD INSPECTION AGENCY
(MISCELLANEOUS PROGRAM)

REGULATIONS AMENDING CERTAIN REGULATIONS (INSTRUMENTS*) MADE
UNDER THE MEAT INSPECTION ACT (MISCELLANEOUS PROGRAM)

* For example, when both orders and regulations are amended.

REGULATIONS AMENDING CERTAIN REGULATIONS MADE UNDER THE
CUSTOMS ACT (TARIFF SIMPLIFICATION — MISCELLANEOUS PROGRAM)

3. Repeal of one regulation:

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REGULATIONS REPEALING THE TIMBER CARGO REGULATIONS
(MISCELLANEOUS PROGRAM)

4. Repeal of two or more regulations:

REGULATIONS REPEALING CERTAIN REGULATIONS MADE UNDER THE
CUSTOMS ACT (MISCELLANEOUS PROGRAM)

5. Amendment and repeal of two or more regulations:

REGULATIONS AMENDING AND REPEALING CERTAIN REGULATIONS MADE
UNDER THE CUSTOMS ACT (MISCELLANEOUS PROGRAM 2002-2)

REGULATIONS MADE UNDER TWO OR MORE ACTS

**1. Amendment of two or more regulations made under two or more Acts for which a
single department is responsible:**

REGULATIONS AMENDING CERTAIN DEPARTMENT OF HEALTH
REGULATIONS (MISCELLANEOUS PROGRAM)

**2. Repeal of two or more regulations made under two or more Acts for which a
single department is responsible:**

REGULATIONS REPEALING CERTAIN DEPARTMENT OF TRANSPORT
REGULATIONS (MISCELLANEOUS PROGRAM)

**3. Amendment and repeal of two or more regulations made under two or more Acts
for which a single department is responsible:**

REGULATIONS AMENDING AND REPEALING CERTAIN DEPARTMENT OF
FINANCE REGULATIONS (MISCELLANEOUS PROGRAM)

EXAMPLES

The following are some examples of miscellaneous amendment regulations. (The footnotes have been eliminated in these examples.)

Example 1: Amendment of two or more regulations made under a single Act

Whereas the proposed *Regulations Amending Certain Regulations Made under the Customs Act (Miscellaneous Program)* make no material substantive change in the existing regulations and are therefore, by virtue of paragraph 164(4)(d) of the *Customs Act*, not required to be published under subsection 164(3) of that Act;

Therefore, His Excellency the Governor General in Council, on the recommendation of the Minister of National Revenue, pursuant to subsections 32(1) and (2), paragraph 74(3)(b), subsections 75(1) and 97.2(1), paragraph 164(1)(i) and

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subsections 164(1.1) and (1.2) of the *Customs Act*, hereby makes the annexed *Regulations Amending Certain Regulations Made under the Customs Act (Miscellaneous Program)*.

REGULATIONS AMENDING CERTAIN REGULATIONS MADE UNDER THE
CUSTOMS ACT (MISCELLANEOUS PROGRAM)

REFUND DUTIES REGULATIONS

1. The portion of section 21.1 of the *Refund of Duties Regulations* before paragraph (a) is replaced by the following:

21.1 This Part applies to the granting of a refund under paragraph 74(1)(c.1) of the Act of duties paid on goods.

2. Paragraph 21.3(b) of the Regulations is replaced by the following:

(b) the duties payable on the goods as a result of the goods being eligible for preferential tariff treatment under NAFTA or preferential tariff treatment under CCFTA, as the case may be.

EXPORTERS' AND PRODUCERS' RECORDS REGULATIONS

3. The definition "advance ruling" in section 1 of the *Exporters' and Producers' Records Regulations* is replaced by the following:

"advance ruling" means an advance ruling referred to in Article 509 of NAFTA, Article 5.8 of CIFTA or Article E-09 of CCFTA. (*décision anticipée*)

CIFTA TARIFF ITEM NO. 9827.00.00 ACCOUNTING REGULATIONS

4. The title of the *CIFTA Tariff Item No. 9827.00.00 Accounting Regulations* is replaced by the following:

CIFTA AND CCFTA TARIFF ITEM NO. 9827.00.00 ACCOUNTING REGULATIONS

5. Paragraph 2(b) of the Regulations is replaced by the following:

(b) proof of exportation of the goods to Chile or to Israel or another CIFTA beneficiary.

COMING INTO FORCE

6. These Regulations come into force on the day on which they are registered.

Example 2: Amendment and repeal of two or more instruments (orders and regulations) designated "SOR"

His Excellency the Governor General in Council, on the recommendation of the Minister of Industry, pursuant to section 6 of the *Radiocommunication Act*, hereby makes the

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annexed *Regulations Amending and Repealing Certain Instruments Made under the Radiocommunication Act (Miscellaneous Program)*.

REGULATIONS AMENDING AND REPEALING CERTAIN INSTRUMENTS MADE
UNDER THE RADIOCOMMUNICATION ACT (MISCELLANEOUS PROGRAM)

PRIVATE RECEIVING ANTENNAE CONSTRUCTION ORDER

- 1. The *Private Receiving Antennae Construction Order* is repealed.**

RADIOCOMMUNICATION REGULATIONS

- 2. The heading before section 72 of the *Radiocommunication Regulations* is replaced by the following:**

FIXED STATION COMMUNICATION WITH A STATION NOT OTHERWISE DESCRIBED

- 3. Items 7 and 8 of Schedule II to the Regulations are repealed.**

COMING INTO FORCE

- 4. These Regulations come into force on the day on which they are registered.**

Example 3: Regulation amending a single regulation

The Minister of Agriculture and Agri-Food, pursuant to subsection 204(9) of the *Criminal Code*, hereby makes the annexed *Regulations Amending the Pari-Mutuel Betting Supervision Regulations (Miscellaneous Program)*.

Ottawa, , 1997

Lyle Vanciel
Minister of Agriculture and Agri-Food

REGULATIONS AMENDING THE PARI-MUTUEL BETTING SUPERVISION
REGULATIONS (MISCELLANEOUS PROGRAM)

AMENDMENT

- 1. Paragraph 103(1)(h) of the *Pari-Mutuel Betting Supervision Regulations* is replaced by the following:**

(h) the amount of the deduction from each dollar bet authorized under a provincial enactment;

COMING INTO FORCE

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2. These Regulations come into force on the day on which they are registered.

Example 4: Order repealing two or more orders

Her Excellency the Governor General in Council, on the recommendation of the Minister of Indian Affairs and Northern Development, pursuant to paragraphs 13(b) and 23(a) of the *Territorial Lands Act*, hereby makes the annexed *Order Repealing Certain Orders Made under the Territorial Lands Act (Miscellaneous Program) No. 2*.

ORDER REPEALING CERTAIN ORDERS MADE UNDER THE TERRITORIAL
LANDS ACT (MISCELLANEOUS PROGRAM) NO. 2

REPEALS

1. The following Orders are repealed:

- (a) Order in Council P.C. 2003-225, dated February 20, 2003;
- (b) *Order Respecting the Withdrawal from Disposal of Certain Lands in the Yukon Territory (Kluane First Nation, Y.T.)*;
- (c) *Order Respecting the Withdrawal from Disposal of Certain Lands in the Yukon Territory (Kwanlin Dun First Nation, Y.T.)*;
- (d) *Order Respecting the Withdrawal from Disposal of Certain Lands in the Yukon Territory (Liard First Nation, Y.T.)*; and
- (e) Order Respecting the Withdrawal from Disposal of Certain Lands in the Yukon Territory (White River First Nation, Y.T.).

COMING INTO FORCE

2. This Order comes into force on the day on which it is registered.

Example 5: Regulation amending two or more regulations made under two or more Acts

His Excellency the Governor General in Council, on the recommendation of the Minister of Agriculture and Agri-Food, hereby makes the annexed *Regulations Amending and Repealing Certain Canadian Food Inspection Agency Regulations (Miscellaneous Program)*, pursuant to

- (a) section 32 of the *Canada Agricultural Products Act*;
- (b) section 5 of the *Feeds Act*; and
- (c) subsection 5(1) of the *Fertilizers Act*.

REGULATIONS AMENDING AND REPEALING CERTAIN CANADIAN FOOD
INSPECTION AGENCY REGULATIONS (MISCELLANEOUS PROGRAM)

CANADA AGRICULTURE PRODUCTS ACT

EGG REGULATIONS

1. The definition “Regional Director General” in section 2 of the *Egg Regulations* is replaced by the following:

“Regional Director General” means the person designated as a Regional Director General by the President of the Agency. (*directeur général régional*)

2. Paragraph 24(2)(a) of the Regulations is replaced by the following:

(a) if the eggs are of Canadian origin, mark the container with a stamp approved by the Agency; and

FRESH FRUIT AND VEGETABLE REGULATIONS

3. Paragraph 29(2)(c) of the *Fresh Fruit and Vegetable Regulations* is replaced by the following:

(c) a release permit issued by an inspector, in a form established by the Agency, if an inspection cannot be performed within the time referred to in paragraph 40(1)(a) or (b).

MAPLE PRODUCTS REGULATIONS

4. The definition “Regional Director General” in section 2 of the *Maple Products Regulations* is replaced by the following:

“Regional Director General” means the person designated as a Regional Director General by the President of the Agency. (*directeur général régional*)

5. Paragraph 19(2)(b) of the Regulations is replaced by the following:

(b) authorization in writing is obtained from the Regional Director General for each shipment before it enters Canada and, on entry into Canada, the shipment is subjected to any inspection or analysis that under these Regulations is necessary to determine whether the product complies with these Regulations.

AGRICULTURAL STANDARDS INSPECTORS REGULATIONS

6. The *Agricultural Standards Inspectors Regulations* are repealed.

FEEDS ACT

FEEDS REGULATIONS, 1983

7. Subsection 2(1) of the *Feeds Regulations, 1983* is amended by adding the following in alphabetical order:

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“Agency” means the Canadian Food Inspection Agency established by section 3 of the *Canadian Food Inspection Agency Act*. (*Agence*)

8. Paragraph 5(2)(g) of the Regulations is amended by adding the word “and” at the end of subparagraph (v) and by repealing subparagraph (vi).

FERTILIZERS ACT

FERTILIZERS REGULATIONS

9. Subsection 2(1) of the *Fertilizers Regulations* is amended by adding the following in alphabetical order:

“Agency” means the Canadian Food Inspection Agency established by section 3 of the *Canadian Food Inspection Agency Act*. (*Agence*)

COMING INTO FORCE

10. These Regulations come into force on the day on which they are registered.

Example 6: Regulation amending certain regulations subject to statutory prepublication

Whereas, pursuant to section 30 of the *Transportation of Dangerous Goods Act, 1992*, a copy of the proposed *Regulations Amending the Transportation of Dangerous Goods Regulations (Miscellaneous Program)*, substantially in the form set out in section 2 of the annexed *Regulations Amending Certain Department of Transport Regulations (Miscellaneous Program)*, was published in the *Canada Gazette*, Part I, on September 20, 1997, and a reasonable opportunity was thereby given to interested persons to make representations to the Minister of Transport with respect to the proposed Regulations;

Therefore, His Excellency the Governor General in Council, on the recommendation of the Minister of Transport, hereby makes the annexed *Regulations Amending Certain Department of Transport Regulations (Miscellaneous Program)*, pursuant to

(a) sections 5 and 11 of the *Motor Vehicle Safety Act*; and

(b) paragraph 27(1)(h) of the *Transportation of Dangerous Goods Act, 1992*.

**REGULATIONS AMENDING CERTAIN DEPARTMENT OF TRANSPORT
REGULATIONS (MISCELLANEOUS PROGRAM)**

MOTOR VEHICLE SAFETY ACT

MOTOR VEHICLE SAFETY REGULATIONS

1. Subsection 1201(1) of Schedule VI to the *Motor Vehicle Safety Regulations* is replaced by the following:

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1201. (1) Every snowmobile other than a competition snowmobile shall be constructed so that it conforms to the requirements set out in the *SCCC/10 Safety Standards for Snowmobile Product Certification*, published by the Snowmobile Safety and Certification Committee, Inc. (1640 Haslett Road, Suite 170, Haslett, Michigan 48840, U.S.A), dated June 8, 1994, other than the labelling requirements of Figures 4 to 7, and in the *SSCC/10 Supplement, Detailed Standards and Testing Specifications and Procedures*, dated June 8, 1994, when tested in accordance with the tests referred to in those Standards and that Supplement.

TRANSPORTATION OF DANGEROUS GOODS ACT, 1992

TRANSPORTATION OF DANGEROUS GOODS REGULATIONS

2. The portion of subsection 7.33.1(6) of the *Transportation of Dangerous Goods Regulations* before paragraph (a) is replaced by the following:

(6) A tank referred to in subsection (5) is considered to have been tested in accordance with subsection 178.341-7 of clause 5.6 of CSA Preliminary Standard B620-1987, *Highway Tanks and Portable Tanks for the Transportation of Dangerous Goods*, dated October 1987 and amended February 1992, for the purposes of paragraph (5)(b), if the tank was tested at the time of manufacture

COMING INTO FORCE

3. These Regulations come into force on the day on which they are registered.

Example 7: Order amending a schedule to an Act

Whereas, pursuant to subsection 332(1) of the *Canadian Environmental Protection Act, 1999*, the Minister of the Environment published in the *Canada Gazette*, Part I, on September 29, 2001, a copy of the proposed *Order Amending Schedule 1 to the Canadian Environmental Protection Act, 1999 (Miscellaneous Program)*, substantially in the annexed form, and persons were given an opportunity to file comments with respect to the Order or to file a notice of objection requesting that a board of review be established and stating the reasons for the objection;

And whereas, pursuant to subsection 90(1) of that Act, the Governor in Council is satisfied that the substances set out in the annexed Order are toxic substances;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Minister of the Environment and the Minister of Health, pursuant to subsection 90(1) of the *Canadian Environmental Protection Act, 1999*, hereby makes the annexed *Order Amending Schedule 1 to the Canadian Environmental Protection Act, 1999 (Miscellaneous Program)*.

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ORDER AMENDING SCHEDULE 1 TO THE CANADIAN ENVIRONMENTAL
PROTECTION ACT, 1999 (MISCELLANEOUS PROGRAM)

AMENDMENTS

1. Item 2 of Schedule 1 to the *Canadian Environmental Protection Act, 1999* is replaced by the following:

2. Dodecachloropentacyclo [5.3.0.0^{2,6}.0^{3,9}.0^{4,8}] decane (Mirex)

2. Item 29 of Schedule 1 to the Act is replaced by the following:

29. Benzidine and benzidine dihydrochloride, that have the molecular formula C₁₂H₁₂N₂ and C₁₂H₁₂N₂ • 2HCl, respectively

COMING INTO FORCE

3. This Order comes into force on the day on which it is registered.

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NOTICE OF PREPUBLICATION

(AVIS DE PUBLICATION PRÉALABLE)

Most proposed regulations are prepublished in the *Canada Gazette*, Part I.

They are prepublished either under the Government policy on prepublication (“administrative prepublication”) or under a requirement of the enabling Act (“statutory prepublication”). A notice of prepublication accompanies every proposed regulation that is prepublished.

Notices of prepublication are examined and stamped (See PUBLICATION, item 6 in Part 2), together with the regulations, by the appropriate regulations section.

Prepublication notices generally follow a standard format. Their content, however, is left to the discretion of the regulation-making authority. In the past, a paragraph was sometimes included with regard to the disclosure of representations under the *Access to Information Act*. The inclusion of that paragraph is now discouraged because it could be misleading as to the effect of that Act.

The period within which representations may be made is usually 30 days, unless it is specified in the enabling Act. The period for technical regulations affecting trade should be at least 75 days in order to allow Canada to fulfil its obligation of notification under various trade agreements, such as the World Trade Organization’s Agreement on Technical Barriers to Trade and its Agreement on the Application of Sanitary and Phytosanitary Measures. In some cases, the Treasury Board may approve an exemption from administrative prepublication or may allow a shorter administrative prepublication period, such as 15 days rather than 30 days.

Notices of prepublication relating to regulations to be made by the Governor in Council are signed by the Assistant Clerk of the Privy Council. In the case of regulations to be made by a Minister or another regulation-making authority, the notice of prepublication is signed by that Minister or that authority, except that if the approval of the Governor in Council is required, the Assistant Clerk of the Privy Council signs the notice.

References in the French version of notices of prepublication to the time period within which representations may be made should appear in letters rather than numbers.¹⁰⁸ (See Guide fédéral de jurilinguistique législative française, **REPRÉSENTATION DES NOMBRES**)

¹⁰⁸ Drafting Advisory N°. 1999-1

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If clients wish to provide their telephone and fax numbers and e-mail address, they should indicate them as shown in Examples 3 and 4.

Example 1: *Fisheries Act* – Administrative prepublication

Notice is hereby given that the Governor in Council, pursuant to section 43^a of the *Fisheries Act*^b, proposes to make the annexed *Regulations Amending the Atlantic Fishery Regulations, 1985*.

Interested persons may make representations with respect to the proposed Regulations within 30 days after the date of publication of this notice. All such representations must cite the *Canada Gazette*, Part I, and the date of publication of this notice, and be addressed to Rick Young, Maritimes Region, Fisheries and Oceans Canada, P.O. Box 1035, 176 Portland Street, Dartmouth, Nova Scotia B2Y 4T3 (tel.: 902-426-2473; fax: 902-426-5010).

Ottawa, April 4, 2007

Mary O'Neill
Assistant Clerk of the Privy Council

^a S.C. 1991, c. 1, s. 12

^b R.S., c. F-14

Example 2: *Nuclear Safety and Control Act* – Administrative prepublication

Notice is hereby given that the Canadian Nuclear Safety Commission, pursuant to subsection 44(1)^a of the *Nuclear Safety and Control Act*^b and subject to the approval of the Governor in Council, proposes to make the annexed *Regulations Amending the Nuclear Security Regulations*.

Interested persons may make representations with respect to the proposed Regulations within 60 days after the date of publication of this notice. All such representations must cite the *Canada Gazette*, Part I, and the date of publication of this notice, and be addressed to Mark Dallaire, Director of Regulatory Affairs Division, Canadian Nuclear Safety Commission, P.O. Box 1046, Station B, 280 Slater Street, Ottawa, Ontario K1P 5S9.

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NOTICE OF PREPUBLICATION

Ottawa, May 30, 2007

Mary O'Neill
Assistant Clerk of the Privy Council

^a S.C. 2001, c. 34, s. 61

^b S.C. 1997, c. 9

[Note: In Example 2, the words “and subject to the approval of the Governor in Council” are optional.]

Example 3: *Canadian Environmental Assessment Act* – Administrative prepublication

Notice is hereby given that the Minister of the Environment proposes, pursuant to paragraph 58(1)(i)^a of the *Canadian Environmental Assessment Act*^b, to make the annexed *Regulations Amending the Comprehensive Study List Regulations*.

Interested persons may make representations with respect to the proposed Regulations within 30 days after the date of publication of this notice. All such representations must cite the *Canada Gazette*, Part I, and the date of publication of this notice, and be addressed to John D. Smith, Director, Legislative and Regulatory Affairs, Canadian Environmental Assessment Agency, 160 Elgin Street, 22nd Floor, Ottawa, Ontario K1A 0H3 (tel.: 613-948-1942; fax: 613-957-0897; e-mail: john.smith@ceaa-acee.gc.ca).

Ottawa, March 11, 2005

Stéphane Dion
Minister of the Environment

^a S.C. 2003, c. 9, s. 28(1)

^b S.C. 1992, c. 37

Example 4: *Aeronautics Act* – Statutory prepublication

Notice is hereby given, pursuant to section 5.5^a of the *Aeronautics Act*^b, that the Governor in Council, pursuant to section 5.4^c of that Act, proposes to make the annexed *Region of Waterloo International Airport Zoning Regulations*.

Interested persons may make representations concerning the proposed Regulations to the Minister of Transport within 60 days after the date of publication of this notice. All such representations must cite the *Canada Gazette*, Part I, and the date of publication of this notice, and be sent to David Bayliss, Regional Manager, Aerodrome Safety,

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Transport Canada, 4900 Yonge Street, Suite 400, Toronto, Ontario M2N 6A5 (tel.: 416-952-0248; fax: 416-952-0050; e-mail: baylisd@tc.gc.ca).

Ottawa, May 2, 2007

Mary O'Neill
Assistant Clerk of the Privy Council

^a R.S., c. 33 (1st Supp.), s. 1

^b R.S., c. A-2

^c S.C. 1992, c. 4, s. 10

Example 5: *Pilotage Act* – Statutory prepublication

Notice is hereby given, pursuant to subsection 34(1)^a of the *Pilotage Act*^b, that the Great Lakes Pilotage Authority, pursuant to subsection 33(1)^c of that Act, proposes to make the annexed *Regulations Amending the Great Lakes Pilotage Tariff Regulations*.

Interested persons who have reason to believe that any charge in the proposed Regulations is prejudicial to the public interest, including the public interest that is consistent with the national transportation policy set out in section 5 of the *Canada Transportation Act*^d, may file a notice of objection setting out the grounds for the objection with the Canadian Transportation Agency within 30 days after the date of publication of this notice. The notice of objection must cite the *Canada Gazette*, Part I, and the date of publication of this notice, and be sent to the Canadian Transportation Agency, Ottawa, Ontario K1A 0N9.

Cornwall, May 10, 2005

Robert F. Lemire
Chief Executive Officer
Great Lakes Pilotage Authority

^a S.C. 1998, c. 10, s. 150

^b R.S., c. P-14

^c S.C., 1998, c. 10, s. 149

^d S.C. 1996, c. 10

Example 6: *Canadian Environmental Protection Act, 1999* – Statutory prepublication

Notice is hereby given, pursuant to subsection 332(1)^a of the *Canadian Environmental Protection Act, 1999*^b, that the Governor in Council proposes, pursuant to subsection

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93(1) of that Act, to make the annexed *Regulations Amending the Prohibition of Certain Toxic Substances Regulations, 2007 (2-Methoxyethanol, Pentachlorobenzene and Tetrachlorobenzenes)*.

Any person may, within 60 days after the date of publication of this notice, file with the Minister of the Environment comments with respect to the proposed Regulations or a notice of objection requesting that a board of review be established under section 333 of that Act and stating the reasons for the objection. All comments and notices must cite the *Canada Gazette*, Part I, and the date of publication of this notice, and be sent to the Director, Chemicals Control Branch, Environmental Protection Service, Department of the Environment, Ottawa, Ontario K1A 0H3.

A person who provides the Minister of the Environment with information may also submit a request for confidentiality under section 313 of that Act.

Ottawa, June 27, 2007

Mary O'Neill
Assistant Clerk of the Privy Council

^a S.C. 2004, c. 15, s. 31

^b S.C. 1999, c. 33

Example 7: *Canada Post Corporation Act* – Statutory prepublication

Notice is hereby given, pursuant to subsection 20(1) of the *Canada Post Corporation Act*^a, that the Canada Post Corporation, pursuant to subsection 19(1)^b of that Act, proposes to make the annexed *Regulations Amending the International Letter-post Items Regulations*.

Interested persons may make representations with respect to the proposed Regulations within 60 days after the date of publication of this notice. All such representations must cite the *Canada Gazette*, Part I, and the date of publication of this notice, and be addressed to the Honourable Alfonso Gagliano, Minister of Public Works and Government Services, Centre Block, Room 435-S, House of Commons, Ottawa, Ontario K1A 0A6.

Canada Post Corporation

^a R.S., c. C-10

^b S.C. 1992, c. 1, s. 34

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NOTICE OF PREPUBLICATION

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NUMBERING (NUMÉROTATION)

In regulations, **sections** are numbered using consecutive Arabic numerals in boldface that are followed by a period, except when the section number already contains a period, for example **3.1**. When a regulation contains two or more parts, divisions or subdivisions, the numbering of sections does not begin again at “1” but follows the last number in the previous part, division or subdivision. The other provisions are numbered or lettered as follows:

- **Subsections** are indicated by using Arabic numerals in parentheses.
- **Paragraphs** are indicated by using italicized lower-case letters in parentheses.
- **Subparagraphs** are indicated by using lower-case Roman numerals in parentheses.
- **Clauses** are indicated by using upper-case letters in parentheses.
- **Subclauses** are indicated by using upper-case Roman numerals in parentheses.
- **Sub-subclauses** are indicated by using Arabic numerals.

Example:

1. (1)
 (2) . . . :
 (a) . . . ;
 (b) . . . :
 (i) . . . ,
 (ii) . . . :
 (A) . . . ,
 (B) . . . :
 (I) . . . ,
 (II) . . . :
 1 . . . ,
 2 . . . ,
 (III) . . . ,
 (C) . . . ,
 (iii) . . . ,
 (c)
 (3)
 2.

The provisions of a regulation should not be renumbered when the regulation is amended because there may be too many cross-references in that regulation or in other regulations or

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NUMBERING

orders. Renumbering could create confusion as to which provision is intended by the reference.

A decimal numbering system is used when new sections, subsections, paragraphs, etc. are added to a regulation. Subsections inserted between subsections (4) and (5) would be numbered (4.1), (4.2), (4.3), etc. Paragraphs inserted between paragraphs (b) and (c) would be designated (b.1), (b.2), etc. To insert a section before section 1, it is necessary to add the new provision before section 1 and then renumber section 1 as 1.1. However, it is possible to insert a (0.1) subsection before subsection (1).

The following are examples using the decimal numbering system:

To add more than 9 sections between sections 5 and 6:

5.
5.01
5.02
[. . .]
5.1
5.11
5.12
[. . .]
6.

Or

5.
5.1
5.11
5.12
[. . .]
5.19
5.2
5.21
5.22
[. . .]
6.0

Note: Although zero is not inserted after 5.1, that number represents 5.10.

To add sections between sections 3.1 and 3.2:

3.
3.1
--- 3.11
--- 3.12

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NUMBERING

3.2

To add sections between sections 3.1 and 3.11:

3.1

--- 3.101

--- 3.102

--- 3.103

--- 3.104

3.11

To add sections before section 3.1 and between sections 3.103 and 3.104 and after section 3.11:

3.

--- 3.01

--- 3.02

--- 3.03

3.1

3.101

3.102

3.103

--- 3.1031

--- 3.10311

--- 3.1032

3.104

3.11

--- 3.111

--- 3.112

3.2

To add paragraphs after paragraph (z) (the letter, period and number are italicized):

(z)

(z.1)

(z.2)

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NUMBERING

Notes:

In the rare case that an existing regulation has paragraphs following paragraph (z) and designated as (aa), (bb), etc., the same system is to be used in the amendments, unless paragraphs are being inserted between paragraph (z) and paragraph (aa). In that case, the alphanumeric system should be used, for example z.1.

Items in **schedules** are also identified using Arabic numerals, which may or may not be in boldface (see SCHEDULES TO REGULATIONS).

Specific rules apply to the **numbering of parts, divisions and subdivisions** in regulations (see DIVISION OF REGULATIONS).

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PART 4: Drafting and Format Rules
NUMBERS

NUMBERS

*(Version anglaise seulement. Voir le Guide fédéral de jurlinguistique législative française,
REPRÉSENTATION DES NOMBRES.)*

Numbers 10 and up are expressed in figures; numbers under 10 are written out. This applies to cardinal and ordinal numbers.

There are three exceptions to this rule:

- at the beginning of a sentence, numbers are always written out;
- when a number is used with a unit of measure or proportion represented by a symbol or abbreviation (e.g., \$, %, kg, m), figures are always used; and
- when there is a series of numbers, one of which is 10 or more, figures are always used.

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ORDERS IN COUNCIL AND OTHER EXECUTIVE ORDERS

(DÉCRETS ET AUTRES FORMULES D'ÉDICTION)

The executive order is the formal means by which the regulation-making authority expresses its decision; it serves to announce the decision to make regulations and therefore precedes the regulations. It is called an order in council if it is made by the Governor in Council on the recommendation of a minister. Executive orders include orders made by a minister.

On the subject of orders in council, Dussault and Borgeat state the following:

They are the manifestation of official government decisions; as such, they are of a decision-making nature and are not normative. Thus, when the government makes or approves a regulation . . . it makes a decision to act, which, in its written formulation, assumes the form of an Order-in-Council. The fact of approving or making a regulation is a decision to change the existing legal order which, by itself, has nothing normative about it Therefore, it is important to distinguish the Order-in-Council mandating the instrument from the instrument itself.¹⁰⁹

For that reason, the executive order of a regulation is limited to announcing the decision that is being made.

Executive orders must specify the provision of the Act that constitutes the statutory authority for the regulations being made and, if the making of the regulations is subject to conditions, fulfilment of the conditions is recited in the order (See **CONDITIONS PRECEDENT**).

When citing the action that the Governor in Council or the Minister is taking, make certain that it is the action set out in the enabling provision, e.g. “making”, “approving” or “confirming”.

Below are some examples of orders in council and other executive orders:¹¹⁰

¹⁰⁹ René Dussault and Louis Borgeat, *Administrative Law: A Treatise, Vol. 1, 2nd ed.* (Toronto: Carswell, 1986) at 327. See also Pierre Issalys & Denis Lemieux, *L'action gouvernemental: précis de droit des institutions administratives*, 3rd ed. (Cowansville, Qc. : Yvon Blais, 2009) at 320-322.

¹¹⁰ For the titles of amending or repealing regulations or of miscellaneous regulations, see **AMENDING REGULATIONS, MISCELLANEOUS AMENDMENT REGULATIONS and TITLES OF REGULATIONS**.