

# COMMONWEALTH DOCUMENTS LAW

Act of July 31, 1968 (P.L. 769, No. 240)

(45 P.S. §§ 1102, et seq.)

## § 1102. Definitions

The following words and terms shall have the following meanings, unless the context clearly indicates otherwise:

- (1) “**Adjudication**” means any order, decree, decision, determination or ruling by an agency affecting personal or property rights, privileges, immunities, duties, liabilities or obligations of any or all of the parties to the proceeding in which the adjudication is made.
- (2) “**Administrative regulation**” means any regulation except a proclamation, executive order, executive directive or other similar document promulgated by the Governor, and the term includes a regulation which may be promulgated by an agency only with the approval of the Governor.
- (3) “**Agency**” means the Governor or any department, departmental administrative board or commission, officer, independent board or commission, authority or other agency of this Commonwealth now in existence or hereafter created, but shall not include the Senate or House of Representatives of this Commonwealth or any court, political subdivision, municipal or other local authority, or any officer or agency of any such court, political subdivision or local authority.
- (4) “**Agency text**” means the text of a document as issued, prescribed or promulgated by the issuing, prescribing or promulgating agency.
- (5) “**Bulletin**” means the Pennsylvania Bulletin established by this act.
- (6) “**Bureau**” means the Legislative Reference Bureau. The powers conferred by this act upon the bureau shall be exercised by the Director of the Legislative Reference Bureau, or, in his absence, by the Assistant Director thereof.
- (7) “**Code**” means the code established by this act.
- (8) “**Department**” means the Department of Property and Supplies. [FN1]

(9) **“Document”** means any proclamation, executive order, executive directive or similar instrument promulgated by the Governor, and any other order, regulation, rule, statement of policy, adjudication, certificate, license, permit, notice or similar instrument issued, prescribed or promulgated by or under the authority of this Commonwealth. The term shall also include any home rule charter heretofore or hereafter adopted by the electors of any part of this Commonwealth.

(10) **“Joint committee”** means the Joint Committee on Documents created by this act.

(11) **“Official text”** means the text of a document issued, prescribed or promulgated by an agency as published by authority of this act which has become in the manner provided by this act the only valid and enforceable text of such document.

(12) **“Regulation”** means any rule or regulation, or order in the nature of a rule or regulation, promulgated by an agency under statutory authority in the administration of any statute administered by or relating to the agency, or prescribing the practice or procedure before such agency.

(13) **“Statement of policy”** means any document, except an adjudication or a regulation, promulgated by an agency which sets forth substantive or procedural personal or property rights, privileges, immunities, duties, liabilities or obligations of the public or any part thereof, and includes, without limiting the generality of the foregoing, any document interpreting or implementing any act of Assembly enforced or administered by such agency.

[FN1] Now Department of General Services. See 1975, July 22, P.L. 75, No. 45. § 21.

## **§ 1201. Notice of proposed rule making**

Except as provided in section 204 [FN1] an agency shall give, in the manner provided in section 405 [FN2] (relating to additional contents of temporary supplements) public notice of its intention to promulgate, amend or repeal any administrative regulation. Such notice shall include:

(1) The text of the proposed administrative regulation, except any portions thereof omitted pursuant to section 407 [FN3] (relating to matter not required to be published), prepared in such a manner as to indicate the words to be added or deleted from the presently effective text thereof, if any.

(2) A statement of the statutory or other authority under which the administrative regulation or change [FN4] therein is proposed to be promulgated.

- (3) A brief explanation of the proposed administrative regulation or change therein.
- (4) A request for written comments by any interested person concerning the proposed administrative regulation or change therein.
- (5) Any other statement required by law.

[FN1] 45 P.S. § 1204.

[FN2] 45 P.S. § 1405 (repealed; see, now, 45 Pa.C.S.A. § 501 et seq.).

[FN3] 45 P.S. § 1407 (repealed; see, now, 45 Pa.C.S.A. § 501 et seq.).

[FN4] “charge” in original.

### **§ 1202. Adoption of regulations**

Before taking action upon any administrative regulation or change therein the agency shall review and consider any written comments submitted pursuant to section 201 [FN1] and may hold such public hearings as seem appropriate. If the act of Assembly or other authority under which a regulation is proposed to be promulgated, amended or repealed requires the holding of public hearings or establishes other procedures in addition to those prescribed by this Article II, [FN2] the agency shall hold public hearings or comply with such other procedures as are not inconsistent with the provisions of this act. The agency text of any administrative regulation or change therein as finally adopted may contain such modifications to the proposed text as published pursuant to section 201 as do not enlarge its original purpose, but modifications which enlarge the original purpose of a proposal as published under section 201 shall be republished thereunder prior to final adoption by the agency.

[FN1] 45 P.S. § 1201.

[FN2] 45 P.S. § 1201 et seq.

### **§ 1203. Effective date of regulations**

Except as otherwise provided by regulations promulgated by the joint committee, the effective date specified in any administrative regulation or change therein subject to the provisions of sections 201 and 202 [FN1] shall be not less than thirty days after the notice of proposed rule making required thereby has been given unless:

- (1) The administrative regulation -- (i) grants or recognizes exemption or relieves restriction; or (ii) interprets a self-executing act of Assembly or administrative regulation; or

(2) The agency for good cause finds (and incorporates the finding and the reasons therefor in the order adopting the administrative regulation or change therein) that the deferral of the effective date of the administrative regulation or change therein beyond the date specified in the said order is impracticable or contrary to the public interest.

[FN1] 45 P.S. §§ 1201, 1202.

### **§ 1204. Omission of notice of proposed rule making**

Except as otherwise provided by regulations promulgated by the joint committee, an agency may omit or modify the procedures specified in sections 201 and 202, [FN1] if:

(1) The administrative regulation or change therein relates to: (i) military affairs; (ii) agency organization, management or personnel; (iii) agency procedure or practice; (iv) Commonwealth property, loans, grants, benefits or contracts; or (v) the interpretation of a self-executing act of Assembly or administrative regulation; or

(2) All persons subject to the administrative regulation or change therein are named therein and are either personally served with notice of the proposed promulgation, amendment or repeal or otherwise have actual notice thereof in accordance with law; or

(3) The agency for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in the order adopting the administrative regulation or change therein) that the procedures specified in sections 201 and 202 are in the circumstances impracticable, unnecessary, or contrary to the public interest.

[FN1] 45 P.S. §§ 1201, 1202.

### **§ 1205. Approval as to legality**

All administrative regulations and changes therein shall be approved as to legality by the Department of Justice before they are deposited with the Legislative Reference Bureau pursuant to section 207. [FN1] In the event the Department of Justice shall rule illegal all or part of any administrative regulations or changes therein, adopted by an agency which is by law independent of the policy supervision and control of the Governor, and such agency or party before such agency supporting such regulations or changes therein shall disagree with the ruling of the Department of Justice, such agency or such party may appeal from the determination of the department to the Commonwealth Court, whereupon the court shall direct the department to approve those parts of the administrative regulations or changes therein ruled illegal which the court finds to be legal. In all other cases the decision of the Department of Justice shall be final and shall not be subject to any form of judicial review at the instance of the agency, or any supporting party, but nothing in this section shall affect the right of any person adversely affected

by a regulation or change therein to obtain a determination of the validity thereof in any appropriate proceeding.

[FN1] 45 P.S. § 1207.

**§ 1206. Format of regulations and other documents**

The agency text of all regulations and other documents, required or authorized to be deposited with the Legislative Reference Bureau by this act shall be prepared in such form and format as may be prescribed by regulations promulgated by the joint committee. Such regulations shall require that every administrative regulation or change therein indicate expressly the statutory or other authority under which it is promulgated.

**§ 1207. Deposit of agency text of regulations required**

The agency text of all administrative and other regulations, and changes therein, certified by the executive officer, chairman or secretary of the agency, shall be deposited with the Legislative Reference Bureau in the manner required by section 409. [FN1]

[FN1] 45 P.S. § 1409 (repealed; see, now, 45 Pa.C.S.A. § 501 et seq.).

**§ 1208. Unfiled regulations invalid**

An administrative regulation or change therein promulgated after the effective date of this act shall not be valid for any purpose until filed by [FN1] the Legislative Reference Bureau, as provided in section 409. [FN2]

[FN1] So in original.

[FN2] 45 P.S. § 1409 (repealed; see, now, 45 Pa.C.S.A. § 501 et seq.).