

CHAPTER 5. EFFECT OF PUBLICATION

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| Sec. | |
| 5.1. | Official text of published documents. |
| 5.2. | Certification of official text. |
| 5.3. | Effective date of documents required to be published. |
| 5.4. | Constructive notice. |
| 5.5. | Presumptions created. |
| 5.6. | Reasonable notice of hearing. |
| 5.7. | Additional notice unnecessary. |
| 5.8. | Judicial notice. |

Authority

The provisions of this Chapter 5 issued under 45 Pa.C.S. §§ 506—507 and 901—907, unless otherwise noted.

Source

The provisions of this Chapter 5 adopted by JCD Order No. 4, dated July 8, 1969, unless otherwise noted.

§ 5.1. Official text of published documents.

(a) Under 45 Pa.C.S. § 901 (relating to official text of published documents), the official text, as published as provided in this part, of a document required or authorized to be published under this part, shall from the date of the publication be the only valid and enforceable text of the document regardless of a discrepancy between the official text and the agency text of the document; that thereafter an amendment to the document shall be drawn as an amendment to the official text thereof; that if an agency discovers a discrepancy between the agency text and the official text of a document, the agency shall forthwith deposit, without regard to the requirements of §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations) with the Bureau an appropriate corrective amendment to the official text; that the agency may specify that the amendment shall be effective as of the effective date of the defective official text; that only persons who have had actual knowledge of the discrepancy shall be affected by the amendment prior to the publication of the official text thereof in the manner prescribed in this part; and that the purpose of the requirement is to permit the public to rely absolutely upon the correctness of the text of a regulation, statement of policy or other document as published under this part by declaring the published text to be the only legal evidence of the valid and enforceable text of the regulation, statement of policy or other document.

(b) The provisions of 45 Pa.C.S. §§ 722 and 901 (relating to deposit of documents required; and official text of published documents), provide that notwithstanding 45 Pa.C.S. § 901, the text of any home rule charter, amendment or repeal, as published as provided in this part, shall from the date of the publication be prima facie evidence of the text approved by the electors.

Source

The provisions of § 5.1(b) added by JCD Order No. 8, dated November 10, 1970, 1 Pa.B. 480. Immediately preceding text appears at serial page (0074).

§ 5.2. Certification of official text.

(a) Under 45 Pa.C.S. § 902 (relating to certification of official text) a title or portion thereof of the *Code* and *Pennsylvania Code Reporter* shall contain a certificate by the Director of the Bureau that the title or part or *Pennsylvania Code Reporter* contains administrative regulations issued prior to July 1, 1969, or documents required by this part to be codified in the *Code* issued prior to the closing date of the permanent supplement, as the case may be, by the agency to which the title or part relates, and that the certificate shall be conclusive evidence of the fact.

(b) The Director of the Bureau will cause each printed page of the *Code* and a subsequent amendment to a page to be designated by a sequential and distinctive serial number; will collate sets of the pages in ascending sequence according to the serial numbers; and will cause the sets to be bound permanently into volumes of convenient size. Copies of the permanently bound pages will be deposited by the Director as follows:

- (1) Two copies to the State Law Library.
- (2) One copy to the Allegheny County Law Library.
- (3) One copy to the Jenkins Law Library.
- (4) Two copies to the Legislative Reference Bureau.
- (5) Two copies to the Pennsylvania Historical and Museum Commission for preservation in the Commonwealth Archives.
- (6) One copy to the Commonwealth Court Law Library.
- (7) One copy to a law school situated in this Commonwealth which makes a written request to the Legislative Reference Bureau.

Source

The provisions of this § 5.2 amended by JCD Order No. 5, dated December 2, 1969; amended June 12, 1980, effective June 14, 1980, 10 Pa.B. 2395; amended January 22, 1988, effective January 23, 1988, 18 Pa.B. 332. Immediately preceding text appears at serial page (113422).

§ 5.3. Effective date of documents required to be published.

Under 45 Pa.C.S. § 903 (relating to effective date of documents) no document required under this part to be published except certain judicial documents under 45 Pa.C.S. § 903(b), may be valid as against a person who has not had actual knowledge thereof until the publication has been effected; that publication shall be deemed to have been effected upon the deposit of the *Bulletin* or the *Pennsylvania Code Reporter* containing the document in the United States mail for distribution; and that the issue date of the *Bulletin* and of the permanent supplement to the *Code* is the day of the deposit.

Cross References

This section cited in 1 Pa. Code § 13.74 (relating to effectiveness prior to publication).

§ 5.4. Constructive notice.

Under 45 Pa.C.S. § 904 (relating to constructive notice) unless otherwise specifically provided by statute the publication under this part of any document required or authorized by this part to be so published shall, except in cases where notice by publication is insufficient in statute, be sufficient to give notice of the contents of the document to a person subject thereto or affected thereby.

§ 5.5. Presumptions created.

Under 45 Pa.C.S. § 905 (relating to presumptions created) the publication of a document under this part shall create a rebuttable presumption:

- (1) That it was issued, prescribed or promulgated.
- (2) That it was approved as to legality, if so required by section 205 of the act (45 P. S. § 1205).
- (3) That requirements of the act and of this part applicable to the document have been complied with.

§ 5.6. Reasonable notice of hearing.

Under 45 Pa.C.S. § 906 (relating to reasonable notice of hearing) whenever notice of hearing or of opportunity to be heard is required or authorized to be given by the Commonwealth government by or under a statute or may otherwise properly be given, the notice, except in cases where notice by publication is insufficient in statute, shall be deemed to have been given to persons residing within this Commonwealth, and to persons owning or having an interest in a property situated within the limits thereof, if the notice shall be published in the *Bulletin* at the time that the period between the date of publication as specified in 45 Pa.C.S. § 903(a) (relating to effective date of documents) and the date fixed in the notice for the hearing or for the termination of the opportunity to be heard may be:

- (1) Not less than the time specifically prescribed for the publication of the notice by the appropriate statute.
- (2) Not less than 15 days when no time for publication is specifically prescribed by statute without prejudice, however, to the effectiveness of a notice of less than 15 days where the shorter period is reasonable.

Cross References

This section cited in 1 Pa. Code § 13.3 (relating to agency action or proceedings invalid in absence of notice required by Joint Committee).

§ 5.7. Additional notice unnecessary.

Under 45 Pa.C.S. § 907 (relating to additional notice unnecessary), except with respect to the time specifically prescribed for the publication of notice, the publication by the Commonwealth government of a notice in the manner prescribed by the act shall constitute full compliance with law notwithstanding any inconsistent provision of a statute.

§ 5.8. Judicial notice.

Under 45 Pa.C.S. § 506 (relating to judicial notice) the contents of the *Code*, the *Pennsylvania Code Reporter* and of the *Bulletin* shall be judicially noticed.

[Next page is 7-1.]