



Orders in Council – An Overview

Simple Definition: *a legal instrument made by the Governor in Council on the advice of the federal cabinet.*

Online: [Orders in Council Website](http://www.pco-bcp.gc.ca/oic-ddc/welcome.asp?lang=EN)
(1990 – current) (<http://www.pco-bcp.gc.ca/oic-ddc/welcome.asp?lang=EN>)

Definitions:

Governor in Council (GIC): In the Canadian context, the Governor in Council is the Governor General.

Orders in Council: Are notices of an administrative decision made by the federal cabinet, signed by the Governor in Council (Governor General). Orders in Council are notices of appointments, regulations, or legislative orders related to and authorized by existing legislation.

Treasury Board (TB): a Committee of Cabinet responsible for considering and approving most submissions to Council.

Statutory Instrument: a regulation, order, commission or other instrument authorized by an Act of Parliament.

Instrument of Advice: a letter from the Prime Minister to the Governor General recommending certain actions (e.g. cabinet shuffles, prorogation of Parliament).

From: Privy Council Office -- Orders in Council Division
<http://www.pco-bcp.gc.ca/oic-ddc/about.asp?lang=EN>

Print:

Canada Gazette, Part 1.

(also available online at URL: <http://canadagazette.gc.ca/index-e.html>)

A thorough commentary on Orders in Council can be found in:

Canadian Official Publications, Olga B. Bishop, Permagon Press, 1981

p. 113-114.

“From the First Session of the First Parliament (1867-68) to the Second Session of the Twenty-seventh Parliament (1967-68 except for the years 1871, 1894, 1919 (2nd Session), 1940, 1950-51, 1956-57, 1959), the bound volumes of *Acts* contained not only the Acts passed by the Parliament of Canada but a number of other items bearing on the legislative process in Canada:”

(a) Acts passed by the Parliament of the United Kingdom relating to Canada:
1867-68, 1869, 1872-1874, 1876-1877, 1883-1892, 1894-1897, 1901-

- 1903, 1905, 1907-1910, 1912-1913, 1915-1919 (1st Session), 1920. The 1921 Acts contained an index to Imperial Acts, 1867-1921. In 1922 this index was repeated but added the year 1922.
- (b) Reserved Acts. These Acts had been reserved by the Governor General and were listed for the Session previous to the one in which they were published: 1869, 1870, 1878, 1879.
 - (c) **Orders in Council** of the Parliament of the United Kingdom affecting Canada: 1872-1873, 1875-1876, 1878-1900, 1902-1910, 1912-1913, 1915-1919.
 - (d) Treaties signed by the Parliament of the United Kingdom but which involved Canada: 1872, 1875-1879, 1881-1897, 1901.
 - (e) Imperial Proclamations and Regulations: 1875-1880.
 - (f) Imperial dispatches: 1881-1892, 1894-1900, 1902-1910, 1912-1913.
 - (g) Canadian **Orders in Council**: 1877-1918, 1919 (1st Session), 1920.
 - (h) Canadian Proclamations: 1893-1918, 1919 (1st Session), 1921 (Listed those from 1907-1921). Continued to publish Proclamations each year up to and including 1967-68 (except for 1940, 1950-51, 1956-57, and 1959).
 - (i) In 1921 a section entitled "Prefix to Statutes" was added. It included any amendments to Imperial Acts which had a bearing on Canada, treaties, etc. Although this section continued until 1967-68 by 1952 it consisted chiefly of Proclamations of Acts in force and other Proclamations. Since the First Session of the Twenty-eighth Parliament (1868-69) no preliminary material extraneous to the Acts has been included.

p. 125

Under the heading "OFFICIAL REVISED STATUTES"...

"At the time of the federation of the provinces in 1867 all Acts enforced at that time were to remain in force until amended or repealed. When the Statutes were revised in 1886 there were a number of such Acts of a public nature which had not been repealed and were not repealed in 1886. A separate volume containing these Acts was published in 1887³¹."

p. 127

[³¹ Canada. Laws, statutes, etc. *Acts of the legislatures of the provinces now comprised in the Dominion and of Canada, which are of a public nature and are not repealed by the Revised Statutes of Canada* for the reasons set forth in Schedule B to the said *Revised Statutes*. Ottawa: Brown Chamberlin, law printer to the Queen's Most Excellent Majesty, 1887. xv, 1171, 30 p.]

p. 144

Under the heading "*Annual Volumes*"

"Prior to 1939 there had been no systematic method of publishing **Orders in Council**. However, between 1877 and 1920 certain Orders had been published with the annual Statutes (see Chapter 8). A separate volume had been published in 1874 and a consolidation in 1889. Some **Orders in Council** also had been published in the *Canada Gazette*. At a meeting of the

Committee of the Privy Council held January 13th, 1940 a report was presented in which the Minister (of National Defence) recommended:

that he be authorized to undertake the compilation and publication of all Proclamations, and of all **Orders in Council** passed under the provisions of the War Measures Act... having the force of Statutes; that all such Orders in Council passed between August 25, 1939, and December 31, 1939, together with all Proclamations of the same period constitute the first volume.

The recommendation was accepted and the first volume was published in 1940. In 1942 the edition changed from a semi-annual to a quarterly edition. Volume one of the edition contained **Orders in Council** relating to foreign exchange control but beginning in 1940 the Foreign Exchange Control Board published its own orders. Consolidations of the Defence of Canada regulations were also printed separately. Two further editions were published between 1942 and 1946, the first covering the period from 1942 to 1945 and the second 1945 to 1946.

These publications had proved so successful that on December 30, 1946 *The Statutory Orders and Regulations Order 1947* made by **Order in Council** P.C. 5355 provided for the splitting of the *Canada Gazette* into two parts with Part I being entitled "General" and Part II *Statutory Orders and Regulations*. The first issue for 1947 was published on January 8. It retained the volume numbering of Part I. Thus this first issue is numbered volume eighty-one, number one. The entire first issue was devoted to the *Statutory Orders and Regulations Order 1947*. An "extra" was issued the same day to cover SOR/47-6 which incidentally was repeated in its proper sequencing of numbers in the issue for the twenty-second of January."

p. 145

Under the heading "*Consolidations*"

"Under the *Statutory Orders and Regulations Order 1949* every regulation-making authority was required to submit to the Clerk of the Privy Council copies or consolidations in English and a copy in French of all statutory orders under their administration which were in effect as of December 31, 1949 for compiling by the Clerk of the Privy Council and printing by the King's Printer of *Statutory Orders and Regulations Order 1949*.

Certain exemptions to the above were contained in the **Order in Council**. Ordinances made by the Commissioner of the Northwest Territory in Council; Commissioner of the Yukon Territory in Council; any rule or order made by a court of record; any order, or rule or regulation for the government or administration of the naval, military or air forces of Canada or the Royal Canadian Mounted Police were not to be included in the Consolidation."