

Bennion on Statute Law

Part 1 - Statutory Texts

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Official Publication of Statutory Texts

The state has an obvious duty to promulgate its laws. In this chapter we briefly trace the history of this in Britain, and then go on to describe the present system (including that relating to Community law). We are concerned only with the basic texts. Publication of indexes and other aids is part of the story of *processing*, and is dealt with in chapter 23.

Historical

In early times, as we have seen (p 16), there was no official system of publishing Acts of Parliament. Indeed it was not until the close of the Middle Ages that it became possible to distinguish statutes from other forms of law. From the end of the fifteenth century, unofficial printed collections began to appear. As Sir William Holdsworth has said:

Lawyers were dependent for their knowledge of the contents of the Statute Book upon judicial dicta, books of authority and the work of private persons . . . In the absence of official publications, the learning of the bar and the enterprise of the law publisher employed upon the Statute Book and the reports, have exercised a very real censorship upon the sources of English law (Holdsworth 1924, II, p 427).

The earliest and most authoritative of the printed texts of public Acts are found in the series known as *Sessional Volumes of Statutes*, which go back to 1483 and were printed until 1793 in Gothic 'black-letter' type. (Since 1940 the volumes have been published by Her Majesty's Stationery Office (HMSO) on an annual basis, rather than one tied to parliamentary sessions.) In 1796 it was ordered that the printed statutes should be distributed throughout the realm as speedily as possible after enactment.

The first official collection of statutes was published by the Record Commission in the early nineteenth century under the title *Statutes of the Realm*. The first edition of *Statutes Revised*, consisting of 18 volumes, was completed in 1885. The second edition was published by instalments between 1888 and 1929. It amounted to 24 volumes. Sir Granville Ram, who superintended the preparation of the third

edition, was determined that it should all appear at the same time. He achieved this aim, and the 32 volumes were published together in 1950. They are likely to be the final edition of this particular series.

Statutory instruments Annual editions of what were then called Statutory Rules and Orders began to be published officially in 1891. Since 1948 these annual editions have continued under the title *Statutory Instruments*. The instruments in force at the end of 1948 were published in a collected edition of 25 volumes under the title *Statutory Rules and Orders and Statutory Instruments Revised to December 31, 1948*.

Present position

Acts of Parliament As they are passed, these are published singly by HMSO. As mentioned above, the Acts (in the form in which they are passed) are also published in annual volumes.

Where authorised by a 'printing clause' in an Act which has been amended, the Act is thereafter published in the amended form. This may involve constant reprinting (see, eg the House of Commons Disqualification Act 1975, where the printing clause is s 5(2)). Printing clauses are disliked by drafters as they are held to lead to deceptive versions of Acts. The purist prefers his Act to appear as it was when originally enacted. It is contended that a reprint of the Act as amended makes it look as if amendments subsequently made were speaking from the date of first enactment. (In fact this need not be so if suitable annotations are included.) A list of current Acts with printing clauses is given under the entry ACT OF PARLIAMENT in the *Index to the Statutes* (see p 326 below).

Single copies of past Acts, where not available from HMSO, can be obtained from the Record Office, House of Lords. This applies to all Acts passed after 1497. The Acts can also be personally inspected at the Record Office.

A new official collected edition of public Acts, begun in 1972, was completed in 1981. It is called *Statutes in Force*. The Acts are arranged under 131 Titles and printed as currently amended. Each Act forms a separate booklet, a number of detachable booklets being held together in each volume. The plan is that 'heavily-amended' Acts are reprinted in amended form, the new booklet being substituted for the old. The snag is that almost every Act, within a year or two after its passing, becomes *lightly* amended. The system guarantees that users will have few Acts in up-to-date form, though an annual supplement specifying amendments is issued.

Statutory instruments All instruments of general effect, and the more important local instruments, are published by HMSO as they are

made. The position as to annual volumes and the 1948 collected edition has been described (p 79).

Commonwealth legislation As described above (p 66), the rest of the Commonwealth enjoys a superior system. In Canada for example the latest revision (the sixth since Confederation) dates from 1985. (For an account of this, see *Revised Statutes of Canada 1985*, Appendices, p v. For the titles under which it is arranged see *Revised Statutes of Canada 1985*, Vol I, pp iii-ix). Delegated legislation in Canada was last consolidated in 1978. (For an account, see *Consolidated Regulations of Canada 1978*, Table of Contents and Schedule, p 5.) The history of the statute law revision system in Canada is admirably described in *Private Law in Canada* by Clarence Smith and Kerby.

Community law The Treaties have been published by HMSO, and also by the Commission itself. Regulations, and some other instruments, are published in the 'L' (Legislation) series of the *Official Journal of the European Communities*, which usually appears daily. Copies and collected editions are sold by HMSO, and subscriptions are arranged by the Office for Official Publications of the European Communities in Luxembourg.

Statutory Publications Office This government office, now located at 28 Broadway, London SW1, is responsible under the Statute Law Committee for a number of publications relating to statute law. These include *Statutes in Force*, the annual volumes of statutory instruments, and various tables and indexes relating to legislation (described in chapter 23). It is typical of the haphazard British way that no one organisation is responsible for all aspects of statutory publication. Until 1886, the Queen's Printer of Acts of Parliament had the monopoly of the publication of Acts, and did not serve merely as an agent of the Crown. Since that year, HMSO has been the publisher of Acts. The Controller of that Office is now by letters patent known as the Queen's Printer. Such antique arrangements are not easily rationalised.