
§ 13.16. Approval as to form and legality.

(a) *Attorney General.* Section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732-204(b)) provides that the Attorney General shall review for form and legality proposed rules and regulations of Commonwealth agencies as defined in section 102 of the Commonwealth Attorneys Act (71 P. S. § 732-102) before they are deposited with the Bureau as required by section 207 of the act (45 P. S. § 1207). Section 204(b) of the Commonwealth Attorneys Act provides that if the Attorney General determines that a rule or regulation is in improper form, not statutorily authorized or unconstitutional, he shall notify, in writing, within 30 days after submission the agency affected. The Office of General Counsel and the General Assembly through the Offices of the Secretary of the Senate and the Chief Clerk of the House of Representatives of the reasons for the determination. The Commonwealth agency may revise a rule or regulation to meet the objections of the Attorney General and submit the revised version for his review. If the agency disagrees with the objection, it may promulgate the rule or regulation with or without revisions and shall publish with it a copy of the Attorney General's objections, the Attorney General may appeal the decision of the agency by filing a petition for review with the Commonwealth Court in the manner provided for appeals from final orders of government agencies under 42 Pa.C.S. § 763 (relating to direct appeals from government agencies) and may include in the petition a request for a stay or supersedeas of the implementation of the rule or regulation which upon a proper showing shall be granted. If a rule or regulation has been submitted to the Attorney General and he has not approved it or objected to it within 30 days after submission, the rule or regulation shall be deemed to have been approved.

(b) *General Counsel.* Section 301(10) of the Commonwealth Attorneys Act (71 P. S. § 732-301(10)) provides that the General Counsel shall review and approve for form and legality proposed rules and regulations of executive agencies as defined in § 102 of the Commonwealth Attorneys Act (71 P. S. § 732-102) before they are deposited with the Bureau as required by section 207 of the act (45 P. S. § 1207).

(c) *Counsel for independent agencies.* Section 402(5) of the Commonwealth Attorneys Act (71 P. S. § 732-402(5)) provides that each counsel for an independent agency as defined in § 102 of the Commonwealth Attorneys Act shall review and approve for form and legality proposed rules and regulations of the independent agency before they are deposited with the Bureau as required by section 207 of the act.

(d) *Forms.* Two endorsements are required for documents under this section. In the case of executive agency documents, they shall be made by the Office of Attorney General and the Office of General Counsel. In the case of independent agency documents, they shall be made by the Office of Attorney General and the counsel for independent agency. Endorsements shall be in the following form:

“Copy approved as to form and legality.”

which shall be followed by the name of the Office of Attorney General and the name of the Office of General Counsel or the counsel for the independent agency and the signatures of the persons endorsing in ink.

(e) *Designation.* The Office of Attorney General, the Office of General Counsel and the counsel for independent agencies shall designate, in writing, to the Bureau of names of persons authorized by them to certify documents as to form and legality.

(f) *Lack of approval by Attorney General.* If the Attorney General declines to certify a document under section 204(b) of the Commonwealth Attorneys Act and the Commonwealth agency chooses

to promulgate the document, the Commonwealth agency shall deposit for publication a copy of the objections of the Attorney General with the document. If a document has been submitted to the Attorney General and he has not approved or objected to it within 30 days after submission, the Commonwealth agency shall deposit a statement to that effect, including appropriate dates.

Source

The provisions of this § 13.16 adopted January 14, 1972, 2 Pa.B. 59.

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