



Treasury Board of Canada  
Secrétariat

Secrétariat du Conseil du Trésor  
du Canada

Canada

# **Cabinet Directive on Regulatory Management**

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# Cabinet Directive on Regulatory Management

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## Table of Contents

1. [Our Commitment to Canadians](#)
2. [Introduction](#)
3. [Scope of Application](#)
4. [Effective Date](#)
5. [The Life Cycle Approach to Regulating](#)
6. [Regulatory Impact Analysis](#)
  - A. [Consultation](#)
  - B. [Identifying and assessing public policy issues](#)
  - C. [Setting public policy objectives and expected outcomes](#)
  - D. [Selecting the appropriate mix of government instruments](#)
  - E. [Assessing legal implications and other Cabinet directions](#)
  - F. [Compliance with international obligations](#)
  - G. [Analyzing the benefits and costs of regulation](#)
  - H. [Recommending an option](#)
  - I. [Coordination](#)
  - J. [Cooperation](#)
    - [With provincial and territorial governments](#)
    - [With jurisdictions in other countries or with the international community](#)
  - K. [Planning for implementation, compliance, and enforcement](#)
    - [Implementation](#)
    - [Compliance and enforcement](#)
  - L. [Measuring, evaluating, and reviewing regulation](#)
    - [Measuring and reporting on performance](#)
    - [Evaluating regulatory programs](#)
    - [Reviewing regulatory frameworks](#)
7. [Regulatory Management](#)
  - M. ["One-for-One" Rule](#)
  - N. [Small business lens](#)
  - O. [Forward regulatory planning](#)
  - P. [Service performance](#)
  - Q. [Reporting](#)
  - R. [Review of the Directive](#)
8. [Roles and Responsibilities](#)
  - [Federal Departments and Agencies](#)
  - [Treasury Board Secretariat](#)
  - [Department of Justice](#)
  - [The Privy Council Office](#)
  - [The Department of Public Works and Government Services](#)
9. [References](#)
10. [Enquiries and Further Information](#)
11. [Appendix: International Trade Obligations Regarding Specific Requirements for the Design and Implementation of Technical Regulations, Conformity Assessment Procedures, and Sanitary and Phytosanitary Measures](#)

## 1. Our Commitment to Canadians

1. The Government of Canada is committed to protecting and advancing the public interest by working with Canadians and other governments to ensure that its regulatory activities result in the greatest overall benefit to current and future generations of Canadians.

2. When regulating, the government will:

- i. **Protect and advance the public interest** in health, safety, and security, the quality of the environment, and the social and economic well-being of Canadians, as expressed by Parliament in legislation;
- ii. **Advance the efficiency and effectiveness** of regulation by ascertaining that the benefits of regulation justify the costs, by focusing human and financial resources where they can do the most good, and by demonstrating tangible results for Canadians;

- iii. **Make decisions based on evidence** and on the best available knowledge and science in Canada and worldwide, while recognizing that the application of precaution may be necessary when there is an absence of full scientific certainty and a risk of serious or irreversible harm;
- iv. **Promote a fair and competitive market economy** that encourages entrepreneurship, investment, and innovation;
- v. **Monitor and control the administrative burden** (i.e., red tape) of regulations on business and be sensitive to the burden that regulations place on small business;
- vi. **Create accessible, understandable, and responsive** regulation through engagement, transparency, accountability, and public scrutiny; and
- vii. **Require timeliness, policy coherence, and minimal duplication** throughout the regulatory process by consulting, coordinating, and cooperating across the federal government, with other governments and jurisdictions in Canada and abroad, and with businesses and Canadians.

## 2. Introduction

3. Regulation is a key policy instrument used by government to enable economic activity and to protect the health, safety, security, and environment of Canadians.

4. Regulations are a form of law—they have binding legal effect and usually set out rules that apply generally, rather than to specific persons or situations. Often referred to as "delegated," "secondary," or "subordinate legislation," regulations are made by persons to whom or bodies to which Parliament has delegated authority, such as Cabinet (the Governor in Council), a minister, or an administrative agency. Authority to make regulations must be expressly delegated through enabling legislation.

5. Regulation is a necessary foundation of market economies. A robust and effective regulatory system provides consistency, fairness, and transparency, and supports innovation, productivity, and competition.

6. An effective regulatory system is not just for protective purposes. Regulation often is an enabler. For example, in the economic sphere, it establishes the rules for fair markets, reduces barriers to trade through alignment with trading partners, clarifies conditions for the use of new products, services, and technologies, and fosters new investment.

## 3. Scope of Application

7. **Federal departments, agencies, and entities:**<sup>1</sup> The Cabinet Directive on Regulatory Management applies to all federal departments, agencies, and entities over which the Cabinet has either general authority or a specific authority relating to regulation making, or both such authorities:

- i. Federal departments, agencies, and entities under the general authority of Cabinet include all of the public administration, including ministers, with the exception of certain federal entities that are created by statute and that have an existence, a mandate, and powers with substantial independence from the government.
- ii. Entities not under the general authority of Cabinet must comply with the Directive if the Governor in Council or the Treasury Board has a specific authority related to regulation making.
- iii. Entities not under the general authority of Cabinet and over which Cabinet does not have a specific authority should, as a matter of good regulatory practice, follow the Directive and apply its requirements as appropriate to their context.

8. **Instruments:** The Directive applies to all secondary legislation, that is, all prescriptive documents made by entities to which the Directive applies as set out in sections 7 (i), (ii) and (iii) and for which Parliament has delegated authority. These instruments include the following:

- i. All documents that are regulations under the Statutory Instruments Act;<sup>2</sup> and
- ii. All other documents made under the authority of an Act of Parliament that are of a legislative nature.

9. The Directive applies to all stages of the regulatory life cycle (i.e., planning, development, implementation, evaluation, and review), including regulatory management.

## 4. Effective Date

This Directive takes effect on the day the One-for-One legislation comes into force. The Directive updates and replaces the Cabinet Directive on Regulatory Management (dated October 2012).

## 5. The Life Cycle Approach to Regulating

11. The Cabinet Directive on Regulatory Management confirms a "life cycle" approach to regulation making. The life cycle approach recognizes that attention must be given not only to regulatory development and analysis but also to the implementation, evaluation, and review of regulations. As a result, the life cycle approach improves the effectiveness, efficiency, and accountability of the regulatory system to support the government's commitment to Canadians.

## 6. Regulatory Impact Analysis

12. In consultation with the Regulatory Affairs Sector of the Treasury Board Secretariat, departments and agencies will assess the impact of regulatory proposals at an early stage to determine where approval processes can be streamlined and where resources should be focused. The following factors will be considered in this assessment:

- i. Potential impact of the regulation on health and safety, security, the environment, and the social and economic well-being of Canadians;
- ii. Cost or savings to government, business, or Canadians, and the potential impact on the Canadian economy and its international competitiveness;
- iii. Potential impact on other federal departments or agencies, on other governments in Canada, and on Canada's foreign affairs;
- iv. Degree of interest, contention, and support among affected parties and among Canadians; and

v. Overall expected impact: Recognizing that regulatory impact analysis can be resource intensive, the Directive emphasizes the principle of proportionality—analysis should be focused where it is most needed. Therefore, at the earliest stages of regulatory design, departments and agencies must assess the regulatory proposal, in consultation with the Regulatory Affairs Sector of the Treasury Board Secretariat, to determine its overall expected impact (i.e., low, medium or high) and the particular analytical and other requirements to be met.

13. **Emergency situations:** When there is an immediate and serious risk to the health and safety of Canadians, their security, the environment, or the economy, an expedited process may be required. In these cases, departments and agencies will work with the Regulatory Affairs Sector of the Treasury Board Secretariat to proceed in a manner that most effectively protects the public interest.

14. **Regulatory Impact Analysis Statement (RIAS):** A statement summarizing the analysis undertaken to design a regulatory proposal under this Directive is to be published in the Canada Gazette in accordance with appropriate guidance from the Regulatory Affairs Sector of the Treasury Board Secretariat.

## **(A) Consultation**

15. Departments and agencies are responsible for identifying interested and affected parties, and for providing them with opportunities to take part in open, meaningful, and balanced consultations at all stages of the regulatory process. When undertaking consultations, departments and agencies are to:

- i. Inform and engage Canadians on the nature and implications of the public policy issue based on available evidence, science, or knowledge;
- ii. Include Canadians in developing policy objectives;
- iii. Set out the process and timelines clearly so that affected parties can organize and provide input; and
- iv. Provide timely feedback to Canadians and affected parties on the outcome of the consultations and on the priorities considered in decision making.

16. Departments and agencies are also to work with First Nations, Inuit, and Métis communities and peoples; with national, regional, and local Aboriginal organizations; and with Aboriginal governments and ensure that all obligations in relation to rights protected by section 35 of the Constitution Act, 1982, are met.

17. Departments and agencies are to publish proposals in the Canada Gazette, Part I, to allow for a public comment period, and to then take the comments received into consideration. The standard comment period is 30 days, but it can vary based on legislative requirements, international obligations, and other considerations.

18. A minimum comment period of 75 days is required for proposals for new and changed technical regulations that may affect international trade.

19. Publishing proposed regulations in the Canada Gazette is not a substitute for meaningful consultations on the development of regulatory proposals.

20. Cabinet may exempt proposals from publication in Part I of the Canada Gazette. An exemption may not be possible in cases where prepublication is required by statute.

## **(B) Identifying and assessing public policy issues**

21. Departments and agencies are responsible for assessing public policy issues, including potential risks, and demonstrating through the best available evidence and knowledge that government intervention is needed.

22. When assessing and documenting public policy issues, departments and agencies are to:

- i. Analyze the public policy issue, its causes, and its context, including its urgency and immediate and long-term impacts;
- ii. Review, wherever possible, relevant evidence-based assessments, analyses, standards, peer-reviewed publications, and the classification systems of provincial and territorial governments, other countries or jurisdictions, or international organizations;
- iii. Explain fully to decision makers and Canadians the nature of the issue, how its impacts have changed over time, and why government intervention is needed; and
- iv. Describe the scientific and empirical evidence, uncertainties, ethical considerations, and public views of the public policy issue.

23. When there is a risk of serious or irreversible harm, the government recognizes that the absence of full scientific certainty shall not be used as a reason for postponing decisions to protect the health and safety of Canadians, the environment, or the conservation of natural resources. For guidance on the application of precaution, departments and agencies should consult A Framework for the Application of Precaution in Science based Decision Making about Risk.

## **(C) Setting public policy objectives and expected outcomes**

24. Once policy issues have been assessed and it is determined that government intervention is required, departments and agencies are responsible for setting public policy objectives that outline tangible outcomes for Canadians. Departments and agencies are to:

- i. Set measurable objectives that address the public policy issue and its causes;
- ii. Establish linkages to enabling legislation and government priorities to ensure relevance and consistency.

## **(D) Selecting the appropriate mix of government instruments**

25. Departments and agencies are responsible for assessing the effectiveness and appropriateness of regulatory and non-regulatory instruments for achieving policy objectives.

26. Departments and agencies are to:

- i. Identify the institutions and parties that should be involved in addressing the public policy issue;
- ii. Identify the appropriate instrument or mix of instruments, including regulatory and non-regulatory measures, and justify their application before submitting a regulatory proposal;
- iii. Consider potential alternatives to regulation, including voluntary standards, information disclosure, and guidelines, and whether outcome or performance based approaches would be suitable;

- iv. Engage small businesses in alternative approaches to compliance (including costs);
- v. Demonstrate that the regulatory response is designed to address policy objectives;
- vi. Demonstrate that the regulatory response is proportional to the degree and type of risk;
- vii. Demonstrate that the regulatory response will not unduly affect areas that it was not designed to address;
- viii. Specify, particularly for technical regulations, regulatory requirements in terms of their performance rather than their design or descriptive characteristics; and
- ix. Make use of all or parts of relevant national or international standards, guidelines, and recommendations as a basis for technical regulations and for conformity assessment procedures when they fulfill intended policy objectives.

## **(E) Assessing legal implications and other Cabinet directions**

27. When designing regulations, departments and agencies are responsible, with assistance from the Department of Justice, for assessing the legal implications of the proposal and for ensuring that it is legally sound.

28. Departments and agencies are therefore expected to take measures to ensure that regulations are:

- i. Authorized by enabling legislation or other law;
- ii. Consistent with the Constitution Act, 1867, with the Constitution Act, 1982 (including the Canadian Charter of Rights and Freedoms and with particular note of any obligations relating to Aboriginal and treaty rights arising out of section 35), and with the Canadian Bill of Rights, 1960; and
- iii. Well drafted and able to operate effectively with other related laws, particularly legislation of general application from Cabinet (including the Treasury Board), such as the following:
  - i. Statutory Instruments Act;
  - ii. User Fees Act; and
  - iii. Financial Administration Act.

29. When regulating, departments and agencies are responsible for ensuring that relevant directions from Cabinet and the Treasury Board are followed, including the following:

- Cabinet Directive on Law-making;
- Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposals;
- A Framework for the Application of Precaution in Science-based Decision Making about Risk;
- A Framework for Science and Technology Advice: Principles and Guidelines for the Effective Use of Science and Technology Advice in Government Decision Making; and
- Policy on Service Standards for External Fees.

## **(F) Compliance with international obligations**

30. Departments and agencies are to respect Canada's international obligations in areas such as human rights, health, safety, security, international trade, and the environment. They are also to implement provisions related to these obligations at all stages of regulatory activity, including consultation and notification, as applicable.

31. To ensure the compliance of regulatory proposals, departments and agencies should seek the advice and assistance of:

- i. The Legal Bureau of the Department of Foreign Affairs and International Trade, which is responsible for the negotiation, creation, and interpretation of Canada's international legal obligations, and which provides advice concerning the interpretation and application of such obligations for regulation;
- ii. The Department of Foreign Affairs and International Trade, which coordinates the implementation of Canada's international trade obligations, including the implementation of the World Trade Organization (WTO) Agreement and the North American Free Trade Agreement (NAFTA);
- iii. The Department of Justice, with its specialized sections, and its departmental legal services units that advise departments and agencies on legal matters, including the consistency of regulatory proposals with Canada's international obligations; and
- iv. The Trade Law Bureau of the Department of Foreign Affairs and International Trade and the Department of Justice, which provides advice on Canada's international trade obligations.

32. For more information on requirements related to Canada's international trade obligations for the design and implementation of technical regulations, conformity assessment procedures, and sanitary and phytosanitary measures, see the appendix to this document.

## **(G) Analyzing the benefits and costs of regulation**

33. When determining whether and how to regulate, departments and agencies are responsible for assessing the benefits and costs of regulatory and non regulatory measures, including government inaction.

34. This analysis should include quantitative measures and, when it is not possible to quantify benefits and costs, qualitative measures.

35. When assessing options to maximize net benefits, departments and agencies are to:

- i. Identify and assess the potential positive and negative economic, environmental, and social impacts on Canadians, business (including small business), and government of the proposed regulation and its feasible alternatives; and
- ii. Identify how the positive and negative impacts may be distributed across various affected parties, sectors of the economy, and regions of Canada.

36. Detailed requirements for complying with this Directive with respect to analyzing the benefits and costs of regulation, including certain analytical parameters and reporting standards, are set out in guidance from the Regulatory Affairs Sector of the Treasury Board Secretariat. This guidance includes the Triage Statement, the Regulatory Impact Analysis Statement Template and the Canadian Cost-Benefit Analysis Guide for Regulatory Proposals.

## **(H) Recommending an option**

37. When developing the option that maximizes net benefits, departments and agencies are to:

- i. Limit the cumulative administrative burden and impose the least possible cost on Canadians and businesses that is necessary to achieve the intended policy objectives;
- ii. Demonstrate that the recommended option minimizes the regulatory burden on small businesses without compromising risk protection;
- iii. Provide a justification for the recommended option where other less burdensome options for small businesses exist;
- iv. Ensure that regulatory restrictions on competition are fair, limited, and proportionate to what is necessary to achieve the intended policy objectives;
- v. Prevent or mitigate adverse impacts and enhance the positive impacts of regulation on the health, safety, security, and environment of Canadians, as well as on trade, investment, and competitiveness;
- vi. Identify the scope and nature of residual adverse environmental effects after mitigation and enhancement strategies have been considered; and
- vii. Identify necessary follow-up measures to track environmental effects over time.

## **(I) Coordination**

38. Departments and agencies are responsible for working together to develop and implement regulations to maximize effectiveness and minimize the cumulative and unintended impacts on Canadians and the economy. To do so, departments and agencies are to:

- i. Identify and consult with other federal departments and agencies that have a specific interest in the proposed regulation;
- ii. Identify similar or related regulatory requirements—either existing or proposed—in the area being regulated;
- iii. Assess these requirements to minimize cumulative impacts and develop complementary and cooperative approaches whenever possible; and
- iv. Coordinate the implementation and management of regulation to minimize complexity and duplication.

## **(J) Cooperation**

### **With provincial and territorial governments**

39. Departments and agencies are responsible for cooperating with provincial and territorial governments in the development and implementation of regulations. Departments and agencies are to:

- i. Involve provincial and territorial counterparts in federal regulatory initiatives;
- ii. Identify and assess similar or related provincial and territorial requirements, and work with relevant jurisdictions to manage any cumulative impacts and minimize duplication and conflicting requirements;
- iii. Comply with the Government of Canada's intergovernmental agreements, such as the Agreement on Internal Trade;
- iv. Develop cooperative arrangements such as the mutual recognition of requirements, the adoption of consensus based standards, consistency in reporting requirements, and collaborative compliance and enforcement strategies whenever possible; and
- v. Establish national standards or common conformity assessment procedures to support and facilitate internal trade whenever possible.

### **With jurisdictions in other countries or with the international community**

40. Departments and agencies are to take advantage of opportunities for cooperation, either bilaterally or through multilateral fora, by:

- i. Reviewing and influencing international best practices, sharing knowledge, adopting or contributing to the development and updating of international standards and conformity assessment procedures, and developing and pursuing compatible approaches with international counterparts;
- ii. Limiting the number of specific Canadian regulatory requirements or approaches to instances when they are warranted by specific Canadian circumstances and when they result over time in the greatest overall benefit to Canadians;
- iii. Identifying the rationale for their approach, particularly when specific Canadian requirements are proposed; and
- iv. Minimizing regulatory differences with key trading partners (e.g., the United States) including through regulatory alignment, mutual recognition, and the development of compatible approaches.

## **(K) Planning for implementation, compliance, and enforcement**

### **Implementation**

41. Departments and agencies are responsible for putting in place the processes to implement regulatory programs and to manage related human and financial resources effectively, including:

- i. Publishing service standards, including timelines for approval processes set out in regulations, setting transparent program objectives, and identifying requirements for approval processes;
- ii. Taking advantage of opportunities for coordinating implementation and delivery with other departments and agencies, and with other governments in Canada that regulate in the same sector;
- iii. Planning and providing for the necessary human and financial resources that the recommended option would require, including compliance and enforcement activities;
- iv. Ensuring that those charged with carrying out regulatory responsibilities have the necessary resources, skills, and abilities; and
- v. Providing reasonable time frames between the publication of new requirements and their coming into force, to allow sufficient time for businesses and Canadians to make the necessary adjustments.

### **Compliance and enforcement**

42. Departments and agencies are responsible for promoting regulatory effectiveness by developing and implementing compliance and enforcement strategies. These strategies are to:

- i. Be developed in consultation with affected parties, including those that must administer the regulation or comply with it;
- ii. Use an appropriate range of compliance and enforcement tools; and
- iii. Provide timelines and processes for assessing and reviewing compliance activities.

## **(L) Measuring, evaluating, and reviewing regulation**

43. Departments and agencies are responsible for ensuring that regulation continually meets its initial policy objectives and for reviewing regulatory frameworks on an ongoing basis.

### **Measuring performance**

44. Departments and agencies are to:

- i. Select and develop performance measures for regulatory programs consistent with and in support of the Treasury Board Management, Resources and Results Structures Policy (MRRS) and the Directive on the Evaluation Function and Policy on Evaluation;
- ii. Use performance measurement data on an ongoing basis to adjust regulatory design, choice of performance instruments, and compliance plans as needed; and
- iii. Take measures to ensure that monitoring and reporting activities are effective while imposing the least possible burden on Government, business, and Canadians.

### **Evaluating regulatory programs**

45. Departments and agencies are to evaluate their regulatory programs according to the requirements established by Treasury Board to demonstrate results for Canadians.

### **Reviewing regulatory frameworks**

46. Departments and agencies are to regularly assess the results of performance measurement and evaluation to identify regulatory frameworks in need of review. Once identified, departments and agencies are to examine the regulation with a focus on:

- i. The effectiveness of the current regulation in meeting the policy objective;
- ii. The current instrument selection, level of intervention, and degree of prescriptiveness;
- iii. The clarity and accessibility of the regulation to users; and
- iv. The overall impact on competitiveness, including trade, investment, and innovation.

47. Planning, setting of priorities and timelines, and the measuring and reporting of outcomes of regulatory review should be determined by departments and agencies in collaboration with affected parties.

## **7. Regulatory Management**

### **(M) "One-for-One" Rule**

48. Departments and agencies are responsible for meeting the requirements of the One-for-One legislation.

### **(N) Small business lens**

51. Departments and agencies are responsible for applying a "small business lens" when designing regulations and for being sensitive and responsive to the burden that regulations place on small business. More specifically, as stated in Section 6 (D) 26 (iv), (G) 35 (i), (H) 37 (ii) and (iii) of this Directive, departments and agencies are to:

- i. Engage small businesses in alternative approaches to compliance, including costs, when selecting the appropriate mix of government instruments;
- ii. When assessing options to maximize net benefits, identify and assess the potential positive and negative impacts on small businesses;
- iii. Demonstrate that the recommended option minimizes the regulatory burden on small businesses without compromising risk protection; and
- iv. Provide a justification for the recommended option when other less burdensome options exist for small businesses.

### **(O) Forward regulatory planning**

52. Departments and agencies are responsible for providing advance public notice of regulatory proposals coming forward. This will contribute to a predictable regulatory environment for business, Canadians, and key trading partners. Each year, departments and agencies are to publish on their websites forward regulatory plans that, at a minimum, do the following:

- i. Identify and describe expected regulatory changes;
- ii. Provide information on planned consultations; and
- iii. Provide departmental contacts for further information.

### **(P) Service performance**



53. Departments and agencies are responsible for maintaining high levels of professionalism in their interactions with affected Canadians, including businesses, and for providing them with clear and timely decisions.

54. Departments and agencies will therefore develop and publish services standards that, at a minimum, address the timeliness of decision making. They will also report publicly on performance against those standards, particularly for regulatory authorizations (e.g., licensing, permits, certifications).

55. Departments and agencies will also clarify information requirements and the process to be followed, including the process for complaints about poor service.

## **(Q) Reporting**

56. The Treasury Board Secretariat will periodically prepare public reports on progress on the government's regulatory priorities.

## **(R) Review of the Directive**

57. The Directive will be reviewed within five years of its coming into force:

- i. The Regulatory Affairs Sector of the Treasury Board Secretariat will work with departments and agencies to monitor the implementation of the Directive.
- ii. Departments and agencies are expected to submit a report to the Regulatory Affairs Sector annually on how they have met the commitments and directions set out in the Directive.
- iii. It is expected that the review of the Directive will include the involvement of interested Canadians.

# **8. Roles and Responsibilities**

## **Federal Departments and Agencies**

58. Federal departments and agencies are to:

- i. Comply with this Directive and its operational requirements and guidance, as listed on the [Treasury Board Secretariat's Regulatory Affairs](#) website, at all stages of the regulatory life cycle. Updated requirements and guidance will be developed as necessary and will be made available to departments and agencies.
- ii. Develop regulatory plans for the coming year(s); and
- iii. Report publicly on plans, priorities, performance, and regulatory reviews in accordance with Treasury Board reporting guidelines.

59. When drafting enabling legislation, departments and agencies are to ensure that subordinate legislative instruments, including regulations, are subject to the requirements of the Statutory Instruments Act. Regulations and other such instruments should not be exempted from these requirements except in exceptional circumstances, when approved by Cabinet. (Requirements governing legislative instruments are set out in the Cabinet Directive on Law-making.)

## **Treasury Board Secretariat**

60. The Regulatory Affairs Sector of the Treasury Board Secretariat is responsible for ensuring that the analysis (on policy and regulatory proposals made or approved by the Governor in Council or Treasury Board) that is provided by departments, agencies, and entities to which this Directive applies is consistent with the commitments and directions set out in this Directive and that the analysis effectively supports Ministerial decision making.

61. The Regulatory Affairs Sector is expected to:

- i. Provide advice and guidance to departments and agencies concerning the development of regulatory proposals and compliance with the Directive;
- ii. Work with departments and agencies to provide ministers and the Cabinet committee responsible for Governor in Council decisions with the necessary information to make decisions on the issues before them;
- iii. Review regulatory proposals, challenge departments and agencies on the quality of regulatory analyses, and advise them when the directions set out in the Directive have not been met;
- iv. Promote regulatory reform and be a source of expertise on regulatory analysis, management, and governance;
- v. Assess the effectiveness of the Directive and its implementation.

62. The Regulatory Affairs Sector will work with other sectors in the Treasury Board Secretariat to:

- i. Confirm that regulatory proposals appropriately address resource management; and
- ii. Formulate advice and guidance to departments and agencies on other government management policies relevant to their regulatory activities.

## **Department of Justice**

63. The Department of Justice provides legal advice to departments and agencies on the legality of proposals for enabling and subordinate legislation, and the legal requirements of the regulatory process.

64. In doing so, the Department of Justice provides drafting services to departments and agencies and, under the Statutory Instruments Act, examines all proposed regulations to ensure that they:

- i. Have the necessary legal authorization to be made;
- ii. Are consistent with the Canadian Charter of Rights and Freedoms and the Canadian Bill of Rights, 1960;
- iii. Are not an unusual or unexpected use of the enabling authority; and
- iv. Are drafted in accordance with established standards.

65. The Department of Justice also provides departments and agencies with legal tools and advice on the appropriate use of government instruments, regulatory techniques, international standards, and compliance and enforcement techniques.

66. The Department of Justice and the Legal Bureau of the Department of Foreign Affairs and International Trade are responsible for advising on the effect of Canada's international legal obligations, including their implementation in domestic law. The Trade Law Bureau, of the Department of Justice and the Department of Foreign Affairs and International Trade, is responsible for advising departments and agencies on Canada's trade law obligations.

## **The Privy Council Office**

67. The role of the Privy Council Office is to assess memoranda to Cabinet and legislative proposals with regard to instrument selection, regulatory implications, and consistency with this Directive and with the Cabinet Directive on Law-making. It is also responsible for informing and involving the Regulatory Affairs Sector of the Treasury Board Secretariat when policy proposals may have a regulatory aspect.

68. Under the Statutory Instruments Act, the Privy Council Office also has a number of responsibilities in the regulatory process:

- i. (Examination) Together with the Department of Justice, the Privy Council Office examines regulations for any issues with respect to paragraphs 58(i) to (iv) of the Statutory Instruments Act and advises the regulation-making authority.
- ii. (Registration) Within seven (7) days after making a regulation, the regulation-making authority transmits copies of the regulation in both official languages to the Privy Council Office, which then registers them. The Privy Council Office can refuse registration if it deems that certain sections of the Statutory Instruments Act were not followed.
- iii. (Coming into force) As normally regulations come into force the day they are registered or later as specified in the regulation, a justification must be provided to the Privy Council Office for those that are expressed to come into force earlier than the day of registration.
- iv. (Quarterly consolidated index of regulations) The Privy Council Office prepares a quarterly consolidated index of all regulations and amendments to regulations in force at any time after the end of the preceding calendar year.
- v. (Revisions and consolidation) The Privy Council Office, after consultation with the Deputy Minister of Justice, can ask regulation-making authorities to revise or consolidate regulations.

## **The Department of Public Works and Government Services**

69. The Canada Gazette Directorate of the Department of Public Works and Government Services is responsible for publishing the Canada Gazette. The Canada Gazette is the official newspaper of the Government of Canada for formal public notices, official appointments, proposed regulations, regulations, and public Acts of Parliament. It is published under the authority of the Statutory Instruments Act and the Statutory Instruments Regulations.

70. The Canada Gazette serves as a consultative tool between the Government of Canada and Canadians. It gives Canadians the opportunity to provide their comments on the proposed regulations published in the Canada Gazette, Part I. Anyone who may be affected by the proposed regulations can also request background information from the issuing department.

71. The Canada Gazette Directorate is responsible for ensuring a rigorous publication process and to ensure that strict deadlines are met for the publication of laws, regulations, and other statutory instruments.

## **9. References**

72. This Directive is supported by guidelines, forms and other tools for government officials with regard to the regulatory process and associated requirements. The most recent versions are available on the [Treasury Board Secretariat's Regulatory Affairs](#) website.

## **10. Enquiries and Further Information**

73. For more information, please contact [Treasury Board Secretariat Public Enquiries](#), or visit the [Secretariat's Regulatory Affairs](#) website.

## **11. Appendix: International Trade Obligations Regarding Specific Requirements for the Design and Implementation of Technical Regulations, Conformity Assessment Procedures, and Sanitary and Phytosanitary Measures**

74. The Cabinet Directive on Regulatory Management establishes the responsibility of departments and agencies to seek advice and comply with Canada's international trade obligations. This appendix draws attention to certain specific requirements applicable to technical regulations, conformity assessment procedures, and sanitary and phytosanitary measures contained in international agreements to which Canada is a party, including the World Trade Organization (WTO) Agreement on Technical Barriers to Trade, the WTO Agreement on the Application of Sanitary and Phytosanitary Measures, and Chapter Seven ("Sanitary and Phytosanitary Measures") and Chapter Nine ("Technical Barriers to Trade") of the North American Free Trade Agreement.

75. In particular, with respect to technical regulations, conformity assessment procedures, and sanitary and phytosanitary measures that may affect trade, departments, and agencies are to:

- i. Specify, where possible, technical regulatory requirements in terms of performance rather than design or descriptive characteristics;
- ii. Consider accepting as equivalent the technical regulations and conformity assessment procedures of other countries, even if different, provided they achieve the intended regulatory objective and offer an equivalent level of assurance of conformity with domestic technical regulations and standards;
- iii. Ensure that technical regulations and conformity assessment procedures treat products from one jurisdiction no less favourably than like products from other jurisdictions;
- iv. Ensure that sanitary and phytosanitary measures are based on scientific principles and evidence, that they do not arbitrarily or unjustifiably discriminate against other jurisdictions where identical or similar conditions prevail, and that they are based on international standards, guidelines, or recommendations

where they exist;

- v. Accept the sanitary and phytosanitary measures of other countries as equivalent, even if different, provided they achieve Canada's appropriate level of sanitary or phytosanitary protection;
- vi. Use available international standards, guidelines, and recommendations as a basis for technical regulations and for conformity assessment procedures where they achieve the intended regulatory objective;
- vii. Treat regulatees and products from one jurisdiction no less favourably than those from other jurisdictions when assessing conformity to technical regulatory requirements, providing they are in comparable situations;
- viii. Have in place a process to review complaints concerning conformity assessment procedures and must take corrective action when justified; and
- ix. Publish proposals for new or changed technical regulations, conformity assessment procedures, and sanitary and phytosanitary measures that may affect international trade for a comment period of at least 75 days and take into account the comments received.

## Footnotes

1 "Federal departments, agencies, and entities" and "ministers" to which the Directive applies will be referred to hereafter as "departments and agencies."

2 Neither an exemption from any requirement of the Statutory Instruments Act (such as registration, examination or publication) nor an entire exemption from that act exempts a document of a legislative nature from the Directive.

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