



# Cabinet Directive on Regulation

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# Cabinet Directive on Regulation

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From: Treasury Board of Canada Secretariat

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## 1.0 Purpose

The Cabinet Directive on Regulation (the directive) sets out the Government of Canada's expectations and requirements in the development, management, and review of federal regulations.

Under the Statutory Instruments Act, regulations are statutory instruments that are established pursuant to legislative powers conferred under an act of Parliament that may result in the imposition of legal sanctions if they are contravened.

They are used by government as an instrument for mandating or enabling particular behaviours or outcomes in order to achieve public policy objectives.

## 2.0 Scope of application

This directive applies to all regulations that are or will be registered as such under section 6 of the Statutory Instruments Act, made by or with the approval of the Governor in Council, the Treasury Board, or a minister of the Crown. Regulation-making authorities in respect of all other regulations are strongly encouraged to follow and apply this directive to the greatest extent possible.

## 3.0 Guiding principles of federal regulatory policy

It is the duty of the Government of Canada to respect Parliament and the authorities granted by Parliament, as expressed in legislation; and to ensure that regulations result in the greatest overall benefits to current and future generations of Canadians. In fulfilling this duty, departments and agencies are to be guided by four principles:

1. **Regulations protect and advance the public interest and support good government:** Regulations are justified by a clear rationale in terms of protecting the health, safety, security, social and economic well-being of Canadians, and the environment.

## 2. **The regulatory process is modern, open, and transparent:**

Regulations, and their related activities, are accessible and understandable, and are created, maintained, and reviewed in an open, transparent, and inclusive way that meaningfully engages the public and stakeholders, including Indigenous peoples, early on.

## 3. **Regulatory decision-making is evidence-based:** Proposals and decisions are based on evidence, robust analysis of costs and benefits, and the assessment of risk, while being open to public scrutiny.

## 4. **Regulations support a fair and competitive economy:** Regulations should aim to support and promote inclusive economic growth, entrepreneurship, and innovation for the benefit of Canadians and businesses. Opportunities for regulatory cooperation and the development of aligned regulations should be considered and implemented wherever possible.

# 4.0 The regulatory life cycle approach

## ▼ In this section

- 4.1 Consultations and engagement
  - 4.1.1 Stakeholder engagement
  - 4.1.2 The Crown's legal duty to consult
- 4.2 Regulatory cooperation and regulatory alignment
- 4.3 Coordination

The regulatory life cycle approach requires departments and agencies to examine and analyze regulations through all stages of their life cycle, including:

- the **development** of regulations (section 5.0)
- regulatory **management** (section 6.0)
- **review and results** (section 7.0)

During all stages of the regulatory life cycle, regulators must seek opportunities to:

- engage stakeholders, including Indigenous peoples
- pursue regulatory cooperation and regulatory alignment, where appropriate
- coordinate with all levels of government to minimize cumulative and unintended impacts of regulations on Canadians, business, and the economy

## **4.1 Consultations and engagement <sup>1</sup>**

### **4.1.1 Stakeholder engagement**

Departments and agencies are responsible for identifying stakeholders impacted by regulations, including Indigenous peoples, and meaningfully consulting and engaging with them throughout the development, management, and review of regulations. In doing so, they should follow the Government of Canada's policies and guidance for consultation and engagement. Departments and agencies should document comments received throughout the course of any consultations and make these available to the public upon request.

Departments and agencies should seek opportunities to use modern, digital, accessible and secure platforms and tools for consultation and engagement. Communication tools should support meaningful and inclusive consultation and engagement, with consideration given to any limitations on accessibility for stakeholders, including Indigenous peoples.

Departments and agencies must follow the requirements for digital government and communication as set out in Treasury Board policies: the Policy on Communication and Federal Identity, the Policy on Privacy Protection, and the Policy on Official Languages, as well as their related directives and guidelines.

### **4.1.2 The Crown's legal duty to consult**

Where proposed regulations have the potential to adversely impact potential or established Aboriginal or treaty rights of the Aboriginal peoples of Canada under section 35 of the Constitution Act, 1982, departments and agencies must satisfy the Crown's duty to consult and, where appropriate, accommodate those rights.

### **4.2 Regulatory cooperation and regulatory alignment**

Departments and agencies are to assess opportunities for cooperation with other jurisdictions, domestically and internationally, on regulations and associated regulatory activities. This includes examining alignment of regulatory approaches and outcomes with key trading partners, in order to reduce the regulatory burden on Canadian business, while maintaining or improving the health, safety, security, social and economic well-being of Canadians, and protecting the environment.

Regulatory cooperation is a process for finding efficiencies across jurisdictions, reducing unnecessary regulatory differences, and achieving domestic policy goals, while aiming to facilitate trade and investment, promote economic growth and job creation, and increase consumer choice. A central pillar of regulatory cooperation is the maintenance or enhancement of standards of public health and safety and environmental protection.

Regulatory alignment occurs when there is any agreement or arrangement, coordinated or otherwise, which reduces or eliminates differences between independent regulatory systems and regulatory activities, including inspections, certification, adoption of standards, and product and testing approvals.

## 4.3 Coordination

Departments and agencies are responsible for working with each other to coordinate regulatory efforts within the Government of Canada when engaging with stakeholders, including Indigenous peoples.

Departments and agencies should examine ways to:

- reduce regulatory duplication
- promote efficiencies
- share relevant information
- consider the cumulative impacts of regulations on stakeholders
- reduce reporting and other administrative burdens, where possible

## 5.0 Development of regulations

### ▼ In this section

- 5.1 Determination of regulatory approach
  - 5.1.1 Issue identification
  - 5.1.2 Instrument choice
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  - 5.1.4 Consultations prior to pre-publication
- 5.2 Regulatory Impact Analysis
  - 5.2.1 Analysis of benefits and costs
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  - 5.2.5 Regulatory cooperation
  - 5.2.6 Incorporation by reference
  - 5.2.7 Modern treaty implications
  - 5.2.8 International obligations
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- 5.4 Publication and consultation
  - 5.4.1 Pre-publication and consultation
  - 5.4.2 Exemption from pre-publication
  - 5.4.3 Final publication
- 5.5 Exceptional measures

At the beginning of the regulatory life cycle, departments and agencies determine the approach to address an issue, set objectives, undertake consultations with stakeholders, including Indigenous peoples, and analyze the risks, impacts, and costs and benefits of a regulatory proposal, in accordance with applicable policies, guidelines, and good regulatory practices.

## **5.1 Determination of regulatory approach**

### **5.1.1 Issue identification**

Departments and agencies are responsible for identifying public policy issues that are to be addressed. This includes outlining risks to health, safety, security, the economy, and the social and economic well-being of Canadians and the environment and demonstrating through the best available evidence and analysis that government intervention is needed.

Where there are threats of serious or irreversible damage or harm, lack of full scientific certainty must not be used as a reason for postponing cost-effective measures to prevent harm.

### **5.1.2 Instrument choice**

Departments and agencies are responsible for assessing the effectiveness and appropriateness of regulatory and non-regulatory instruments for achieving policy objectives. Departments and agencies should consult with potentially affected stakeholders, including Indigenous peoples, as part of the instrument choice exercise. Departments and agencies should also demonstrate that they have considered relevant domestic and international

best practices as part of the instrument choice exercise. Where relevant best practices exist, regulators should seek to identify opportunities to cooperate or align, in order to avoid or reduce duplication or unnecessary burden.

When appropriate, the results of an instrument choice exercise should be included as part of the Regulatory Impact Analysis Statement to demonstrate through evidence and analysis that a regulation is the best tool to achieve the desired public policy objectives. The instrument choice exercise should also begin to examine the costs and benefits of regulatory options to inform this decision.

Departments and agencies should seek to design outcome, or performance-based, regulations when appropriate, with a view to minimizing the amount of regulatory burden imposed on businesses and Canadians.

Outcome, or performance-based, regulations specify the desired result that a regulation intends to achieve, rather than a prescriptive description of compliance. This type of regulation increases flexibility for regulated parties as well as departments and agencies, and requires the regulated communities to focus on achieving specific and measurable outcomes.

### **5.1.3 Forward Regulatory Plan**

Departments and agencies should provide advance notice to stakeholders, including Indigenous peoples, on upcoming regulatory changes over a period of 24 months so that they can engage in regulatory development and plan for future regulatory changes at the earliest opportunity. Stakeholders should be given the opportunity to provide comments to departments and agencies on their Forward Regulatory Plans, once published, to inform the government on whether the regulatory priorities reflect the issues they face. Initial consultation on instrument choice should occur before a proposed regulatory change is formally incorporated into a Forward Regulatory Plan.

Forward Regulatory Plans must be updated on an annual basis to outline departments' and agencies' plans for new regulations, regulatory amendments, repeals, and stock reviews. Regulatory proposals should be included in a Forward Regulatory Plan before being pre-published in the Canada Gazette, Part I.

#### **5.1.4 Consultations prior to pre-publication**

During the development of a regulatory proposal, departments and agencies are to consult when appropriate and engage stakeholders that may be affected, including Indigenous peoples and trading partners. Departments and agencies are responsible for determining the size and scope of the consultations or engagement. Publication in the Canada Gazette, Part I (that is, pre-publication), is not a substitute for early consultation.

Departments and agencies should not postpone pre-publishing a proposal in the Canada Gazette, Part I, in the absence of a unanimity of views among stakeholders. Rather, engagement with stakeholders, including Indigenous peoples, on a regulatory proposal should be viewed as an ongoing dialogue, with consultations before pre-publication identified as an important, but not the sole, tool to seek stakeholder input.

## **5.2 Regulatory Impact Analysis**

Departments and agencies must conduct a Regulatory Impact Analysis (RIA) on all regulatory proposals, to support stakeholder engagement and evidence-based decision-making. In conducting a RIA, departments and agencies will comply with relevant acts, regulations, and Treasury Board policies, and adhere to guidance, tools, and directives, and are to engage with the Regulatory Affairs Sector at the Treasury Board of Canada Secretariat.

RIA is the systematic approach to the identification and critical assessment of the potential positive and negative effects and implications of a regulatory proposal for consideration by the public, stakeholders and the Cabinet. It is an important element of evidence-based decision-making.

RIA must examine potential positive and negative effects of a regulatory proposal on the health, safety, security, social and economic well-being of Canadians, businesses, and on the environment. RIA should include qualitative and quantitative analysis that is proportional to the expected impact of a regulatory proposal. Regulators must demonstrate that the benefits to Canadians outweigh the costs.

Departments and agencies must conduct an early assessment, known as a triage, of a regulatory proposal to determine its expected impact level and the appropriate mix of analytical requirements of the following elements:

<b>Stakeholders</b>	<b>Examples of impacts considered</b>
Canadians	<ul style="list-style-type: none"><li>• Impacts on well-being (health, safety and security; ability to make informed choices)</li><li>• Impacts on consumers (cost of living, prices, quality and variety of goods available)</li><li>• Income</li><li>• Employment opportunities</li></ul>
Businesses	<ul style="list-style-type: none"><li>• Costs of complying with regulatory requirements (including administrative burden)</li><li>• Changes in profit and revenue</li><li>• Business opportunities, growth and innovation</li><li>• Business sustainability</li></ul>

Stakeholders	Examples of impacts considered
Government	<ul style="list-style-type: none"> <li>• Costs to implement and administer regulatory programs (compliance and enforcement, outreach, data management, responding to events)</li> <li>• Costs and benefits for other levels of government (provincial, territorial, Indigenous, municipal)</li> <li>• Impacts on government revenue</li> </ul>

### 5.2.1 Analysis of benefits and costs

Departments and agencies are to examine the potential positive and negative impacts of a proposed regulation and its feasible alternative options on Canadians, business, governments and the environment, and identify how impacts are distributed across the various parties. When it is not possible to quantify the benefits or costs, a rigorous qualitative analysis of costs or benefits in support of the regulatory proposal is required.

In the regulatory context, cost-benefit analysis (CBA) is a structured approach to identifying and considering the economic, environmental, and social effects of a regulatory proposal. CBA identifies and measures the positive and negative impact of regulatory proposals so that decision-makers can determine the best course of action.

### 5.2.2 Effects on the environment

Departments and agencies are to undertake a strategic environmental assessment of important effects, positive or negative, for each regulatory proposal when appropriate and in accordance with the Cabinet Directive on Strategic Environmental and Economic Assessment.

A strategic environmental assessment involves examining the scope and nature of:

- the effects on the environment
- the effects on greenhouse gas emissions
- the current and projected impacts of climate change on the proposal
- the effects on Canada's climate resilience
- any planned mitigation measures to reduce or eliminate adverse effects or opportunities for enhancement

This helps inform the public that environmental factors have been appropriately considered when decisions are made.

### **5.2.3 Gender-based analysis plus (GBA+)**

Departments and agencies are to undertake an assessment of social and economic impacts of each regulatory proposal on diverse groups of Canadians, in accordance with the Government of Canada's commitment to implementing GBA+.

GBA+ is an analytical tool used to help identify the impacts of government initiatives on diverse groups of women, men, and gender-diverse people. The "plus" acknowledges that GBA goes beyond sex and gender differences to consider multiple identity factors that intersect to make people who they are (such as race, ethnicity, religion, age, and mental or physical disability).

### **5.2.4 Minimizing burden on business**

Departments and agencies are to comply with the One-for-One Rule and identify and estimate the cost of administrative burden impacts of regulatory proposals on Canadian businesses, as set out in the Red Tape Reduction Act and the Red Tape Reduction Regulations, with a view to

minimizing this burden to the greatest extent possible without compromising the health, safety and security of Canadians, the environment or the economy.

Departments and agencies are to also consider the impact of proposed regulations, specifically on small businesses to ensure that small businesses do not unnecessarily bear a disproportionate burden when complying with regulations.

### **5.2.5 Regulatory cooperation**

Departments and agencies are to examine the regulatory systems of relevant jurisdictions, such as those of domestic partners or key trading partners, particularly those with whom Canada has a coordinated regulatory cooperation arrangement, to identify potential areas for alignment or cooperation. This assessment should also include a review of work undertaken by international standard development organizations for possible incorporation by reference. Where differences in approaches are required, departments and agencies must provide a rationale for a Canada-specific approach.

A coordinated regulatory cooperation arrangement is one between Canada and another jurisdiction or group of jurisdictions that has been formalized in a free trade agreement or through some other mechanism, such as a memorandum of understanding or an agreement between leaders. A coordinated regulatory cooperation arrangement will generally have established procedures, such as terms of reference.

### **5.2.6 Incorporation by reference**

Incorporation by reference can be an effective tool in achieving regulatory outcomes. Departments and agencies should take into account potential opportunities for incorporation by reference of internationally accepted standards and/or regulations or other appropriate instruments.

Departments and agencies should explain in the Regulatory Impact Analysis Statement why the technique is being used and how it achieves their regulatory objectives.

When using this technique, departments and agencies must ensure that incorporated documents are accessible, as required by the Statutory Instruments Act, and are easily understood. Departments and agencies must also ensure that constitutional language obligations are respected, by incorporating material in both official languages, and that unilingual incorporation is used only when there is a legitimate reason to do so.

Departments and agencies must regularly review incorporated material to ensure that these obligations are met and that the documents are up to date.

### **5.2.7 Modern treaty implications**

Pursuant to the Cabinet Directive on the Federal Approach to Modern Treaty Implementation, departments and agencies must undertake an Assessment of Modern Treaty Implications (AMTI). The law-making authorities and rights of modern treaty partners and self-governing Indigenous groups must be respected when developing and implementing a regulatory proposal. The Government of Canada must also ensure that it meets its obligations under modern treaties and self-government agreements. In the event that modern treaty implications are identified, departments and agencies should engage with implicated modern treaty partners and self-governing Indigenous groups on the findings of the AMTI.

### **5.2.8 International obligations**

Canada's international commitments in areas such as human rights, health, safety, security, international trade and the environment may need to be implemented by regulation, or may have implications for regulatory development, such as international consultation or notification



requirements. Departments and agencies must ensure that Canada's international commitments are met when carrying out their regulatory activities.

### **5.2.9 Implementation**

Departments and agencies must plan for the implementation of the regulatory proposal as part of their analysis. This could include the examination of the following factors:

- implications for other jurisdictions (domestic and international)
- timing
- infrastructure requirements (for example, information management and information technology)
- fund sources
- compliance promotion and outreach
- training
- up-to-date guidance, technical documents, and enforcement plans

This analysis could also include consideration of evaluation metrics.

## **5.3 Regulatory Impact Analysis Statement Requirements**

Departments and agencies are to develop a Regulatory Impact Analysis Statement (RIAS) in accordance with the guidelines set out in the Policy on Regulatory Development.

A RIAS is a clear, non-technical synthesis of expected impacts, based on a Regulatory Impact Assessment of a proposed regulation. It is published in the Canada Gazette with the regulatory text.

## **5.4 Publication and consultation**

### **5.4.1 Pre-publication and consultation**

Departments and agencies are to submit a regulatory proposal to be considered by the Treasury Board (Governor in Council), or the relevant regulation-making authority, for pre-publication in the Canada Gazette, Part I. Pre-publication of a regulation must include the draft regulatory text as well as a RIAS.

The standard comment period following pre-publication is 30 days unless otherwise prescribed by legislative requirements and international obligations.

A minimum comment period of 70 days may be required for consultations on proposals for new and amended technical regulations that may have a significant effect on international trade, consistent with Canada's obligations under the World Trade Organization's Technical Barriers to Trade Agreement.

#### **5.4.2 Exemption from pre-publication**

Exemptions from pre-publication requirements may be granted by the Treasury Board (Governor in Council), or the relevant regulation-making authority, when there is no statutory requirement to pre-publish. In cases where a regulatory proposal is not pre-published, a brief rationale for the exemption must be included in the final RIAS, as a best practice.

Departments and agencies must consult with the Regulatory Affairs Sector at the Treasury Board of Canada Secretariat if they are considering seeking an exemption.

#### **5.4.3 Final publication**

In accordance with the Statutory Instruments Act, all approved regulations must be published in the Canada Gazette, Part II, after they are made and registered except where they are exempted under section 15 of the Statutory Instruments Regulations (C.R.C., c. 1509). A RIAS must be included along with all published regulations.

## 5.5 Exceptional measures

Exemptions from certain regulatory development requirements can be granted by the Treasury Board (Governor in Council), Cabinet or the relevant regulation-making authority in cases of:

- serious and immediate risk to:
  - the health and safety of Canadians
  - their security
  - the environment
  - the economy
- internal government reorganizations
- other exceptional circumstances

Departments and agencies must consult with the Regulatory Affairs Sector at the Treasury Board of Canada Secretariat if they are considering seeking an exemption for an exceptional measure.

## 6.0 Regulatory management

### ▼ In this section

- [6.1 Enhancing predictability](#)
- [6.2 Compliance and enforcement](#)

Departments and agencies are responsible for the ongoing management of regulations and their associated programs and activities in order to improve the effectiveness of regulatory programs in setting and meeting their objectives.

Regulatory program activities may include:

- compliance and enforcement
- inspections and licensing
- compliance promotion activities and outreach

- data gathering
- measuring performance
- providing clear and transparent information and service to Canadians on regulations and regulatory and legal responsibilities

To encourage compliance with regulations, it is important for departments and agencies to provide the public and regulated communities with all relevant information on what is expected of them in a format that is easy to understand. Departments and agencies are expected to ensure that there are no contradictions between guidance or technical documents and the regulations, and that all current guidance documents are consistent with existing regulations.

## **6.1 Enhancing predictability**

Departments and agencies are responsible for developing, publishing, and reviewing service standards for high-volume regulatory transactions that promote the timeliness of decision-making and provide Canadians with clear information on expectations for interactions and service.

Departments and agencies are also responsible for developing and publishing guidelines for the public to help clarify regulatory requirements for stakeholders and improve information-sharing between the regulator and regulated stakeholders.

## **6.2 Compliance and enforcement**

Departments and agencies are responsible for promoting the effectiveness of their regulations through the development and implementation of compliance and enforcement strategies and programs. These strategies and programs should:

- consider the use of risk-based approaches in the design and enforcement of compliance strategies

- ensure that resources are allocated to address the most significant risks
- avoid duplication by coordinating with federal departments and agencies, as well as with other levels of governments, where appropriate
- engage with the regulated communities on a proactive basis, with a view to improving compliance rates, as appropriate
- provide clear and up-to-date guidance on compliance with regulations

## 7.0 Review and results

### ▼ In this section

- [7.1 Reviews of regulatory programs](#)
- [7.2 Reviews of the regulatory stock](#)
- [7.3 Standing Joint Committee for the Scrutiny of Regulations](#)

The final stage in the regulatory life cycle is the review and assessment of the results of a regulation. Regulations are only one instrument within a program, and as such, a review of the effectiveness of a regulation in contributing to results cannot be viewed in isolation from the full program's objectives and results.

Reviewing both regulatory programs and the regulatory stock allows departments and agencies to consider impacts and burden on impacted stakeholders, while ensuring that the health, safety, security, social and economic well-being of Canadians and the environment remains protected.

### 7.1 Reviews of regulatory programs

Departments and agencies are responsible for evaluating the performance of their regulatory programs and are required to adhere to the Treasury Board Policy on Results and the Treasury Board Policy on Internal Audit.

Outcomes of a review of a regulatory program could inform the review of the regulatory stock.

## **7.2 Reviews of the regulatory stock**

Departments and agencies must undertake a regular review of their existing regulatory stock, which should include technical guidance and other associated policies, in order to ensure that the regulations continue to be appropriate and effective, and achieve their intended policy objectives.

While undertaking a review, departments and agencies shall examine regulations, with a view to:

- removing obsolete or spent regulations from the stock as soon as practical
- determining the effectiveness of the regulations in achieving their stated objectives
- mitigating unintended impacts, such as barriers to trade or innovation
- ensuring that references to technical standards are accurate and, where appropriate, incorporate the latest version
- demonstrating that the regulatory objectives have been achieved in a cost-effective manner
- identifying new opportunities to reduce regulatory burdens on stakeholders, including through the identification of regulatory cooperation opportunities
- minimizing impacts on small business
- instituting other changes, as appropriate, to strengthen policy objectives and performance
- amending regulations to resolve enforcement issues identified through implementation

Review plans for a department or agency's regulatory stock, as well as planned amendments to regulations identified as part of review processes, should be published on an annual basis in Forward Regulatory Plans. Results

of a review should inform future regulatory development, thereby continuing the regulatory life cycle.

Departments and agencies are responsible for establishing timelines to undertake a regular review of stock. The President of the Treasury Board has the authority to require departments and agencies to undertake specific reviews or participate in centrally led reviews.

### **7.3 Standing Joint Committee for the Scrutiny of Regulations**

Departments and agencies must respond to issues raised by the Standing Joint Committee for the Scrutiny of Regulations (SJCSR) in a timely manner. Communications with the SJCSR should be responsive and constructive. Actions agreed to by departments or agencies should be implemented in a timely manner.

The SJCSR represents Parliament's principal method of review of the use of its legislative powers. The SJCSR scrutinizes all regulations to ensure that they respect the enabling powers conferred on a regulation-making authority in an act of Parliament and for other matters, including drafting. Every statutory instrument, including regulations, is permanently referred to the SJCSR for review.

## **8.0 Supporting policies**

The President of the Treasury Board has the authority to establish policy requirements in support of this directive. The Secretary of the Treasury Board has the authority to update references to relevant acts, regulations, policies, guides, and tools, which are referred to in this directive.

# 9.0 Coming into force

This directive will come into force on September 1, 2018 , and replaces the Cabinet Directive on Regulatory Management, dated April 1, 2012 .

## Appendix: roles and responsibilities

### ▼ In this section

- [Governor in Council](#)
- [Departments and agencies](#)
- [Treasury Board of Canada Secretariat](#)
- [Privy Council Office](#)
- [Department of Justice Canada](#)
- [Public Services and Procurement Canada](#)

### Governor in Council

Governor General in Council, or Governor in Council, means the Governor General of Canada acting by and with the advice of, or by and with the advice and consent of, or in conjunction with the King's Privy Council for Canada.

Since December 2003, advice to the Governor General on behalf of the King's Privy Council has been provided by the Treasury Board.

Treasury Board ministers consider the regulatory submission and decide whether to recommend that the Governor General make the regulations as presented in their final form.

### Departments and agencies

Federal departments and agencies must comply with this directive and its related policies and guidance at all stages of the regulatory life cycle.



When drafting enabling legislation, departments and agencies are to ensure that subordinate legislative instruments are subject to the requirements of the Statutory Instruments Act. Regulations should be exempted from those requirements only in exceptional circumstances, when approved by Cabinet. Seeking to obtain an exemption from the Statutory Instruments Act in order to avoid the requirements of the Cabinet Directive on Regulation is not justified.

Requirements governing legislative instruments are set out in the Cabinet Directive on Law-Making.

## **Treasury Board of Canada Secretariat**

The Treasury Board of Canada Secretariat (TBS) is responsible for supporting ministerial decision-making and oversight. TBS is expected to:

- provide advice and guidance to departments and agencies concerning the development of regulatory proposals and compliance with this directive
- 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
- 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
- promote policy coherence among new proposals, existing policies, and the government's policy agenda
- be the source of expertise on good regulatory practices
- assess the effectiveness of the directive and its implementation

TBS is responsible for stakeholder education and awareness of the regulatory process and good regulatory practices. It will also maintain current policies, guidance, and tools in support of the implementation of the Cabinet Directive on Regulation.

## Privy Council Office

The role of the Privy Council Office (PCO) 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. Under the Statutory Instruments Act, the Orders in Council Division of PCO also has a number of responsibilities in the regulatory process:

- **Examination:** Together with the Department of Justice Canada, PCO examines regulations for any issues and advises the regulation-making authority.
- **Registration:** Within seven days after making a regulation, the regulation-making authority transmits copies of the regulation in both official languages to PCO, which then registers them. PCO can refuse registration if it considers that certain sections of the Statutory Instruments Act were not followed.
- **Coming into force:** Regulations ordinarily come into force the day they are registered or later, if specified in the regulation. A justification must be provided to PCO for those regulations that are expressed to come into force earlier than the day of registration.
- **Quarterly consolidated index of regulations:** PCO 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.
- **Revisions and consolidation:** After consultation with the Deputy Minister of Justice, PCO can ask regulation-making authorities to revise or consolidate regulations.

## Department of Justice Canada

The Department of Justice Canada provides legal advice to departments and agencies on the legality of proposals for enabling and subordinate legislation as well as the legal requirements of the regulatory process. In

doing so, the Department of Justice Canada provides drafting services to departments and agencies and, under the Statutory Instruments Act, examines all proposed regulations to ascertain whether they:

- have the necessary legal authority to be made
- are inconsistent with the Canadian Charter of Rights and Freedoms and the Canadian Bill of Rights, 1960
- do not constitute an unusual or unexpected use of the enabling authority
- are drafted in accordance with established standards

The Department of Justice Canada 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.

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

## **Public Services and Procurement Canada**

The Canada Gazette Directorate of Public Services and Procurement Canada is responsible for publishing the Canada Gazette, 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.

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

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## Footnotes

- 1 Stakeholder engagement provides opportunities to ensure that the issues and concerns of stakeholders and regulators are consistently understood and considered.
-