

Ontario Regulatory Policy

Purpose

Ontario is creating more open and responsive ways for government to work with business to deliver results, while protecting the public interest. This is an essential ingredient of Ontario's economic prosperity and recognizes the need to use 21st century tools and methods to regulate in a globalized business environment.

The purpose of this document is to set out the overall policy under which Ontario regulations will be developed and implemented. This policy sets out:

- the scope of regulation to which this policy applies;
- the principles on which Ontario regulatory development and implementation are based;
- regulatory impact assessment requirements; and
- transparency and consultation requirements for proposed regulations.

This policy provides best practice guidelines for ministries and shall not be interpreted as legally binding. It is not intended to create any legal obligations or rights or causes of action.

Scope

This policy applies to regulations that affect business made or approved by the Lieutenant Governor-in-Council or by a Minister that are subject to Part III of the *Legislation Act, 2006*. A regulation that affects business includes, but is not limited to, a measure that has one or more of the following effects:

- The measure changes the cost of compliance.
- The measure affects the efficiency of a business.
- The measure affects competition among the economic viability of businesses.
- The measure affects the ability of a business to maintain or create jobs.
- The measure affects the market access of goods, services, persons or investment from other Canadian jurisdictions and/or from jurisdictions outside of Canada.
- The measure affects the ability of a business to innovate.

Proposed regulatory amendments or new regulations that are considered to affect business are required to be posted for consultation purposes on the government's [Regulatory Registry](http://www.ontariocanada.com/registry) for a mandatory 45-day minimum time period. The Regulatory Registry is a website (www.ontariocanada.com/registry) where businesses can find out about Ontario government regulatory proposals and approved regulations that affect business. The Regulatory Registry is linked to the Twice Annual Effective Dates

initiative where regulations affecting business come into effect on January 1st and July 1st of each year.

Principles

The development and implementation of regulations by the Ontario Government are guided by general principles of good regulatory governance, including:

i) Regulations respond to a clearly identified need for regulation.

Regulations must be justified by a solid business case, serve clearly stated public policy goals and be effective in achieving those goals. The problem to be solved must be clearly articulated and alternatives to making a regulation must be carefully considered before developing or amending a regulation.

ii) Regulations are developed and implemented in a transparent manner.

The public and businesses affected by regulations must be afforded timely and meaningful opportunity to provide input and comments on proposed regulations.

iii) Regulations are designed to be least trade restrictive.

Regulations must not be prepared or applied in a way that creates unnecessary obstacles to international or internal trade. For this purpose, regulations must be non-discriminatory and not be more trade-restrictive than necessary to fulfil a legitimate public policy objective, such as environmental protection, health and occupational health and safety, consumer protection, public safety, etc., taking into account the risks that non-fulfilment of this objective would create.

iv) Regulations are based on assessed risks, costs and benefits and minimize impacts on a fair, competitive and innovative market economy.

A clear assessment of the total costs and benefits, including those to business, the public and government administration, are critical to make judgements about the reasonableness and practicality of a regulation. The assessment of costs and benefits must be based on the risks posed in the absence of regulation (that is, be based on a clearly identified need) and take into account the overall impact on the competitiveness of those subject to regulation.

v) Differences and duplication of regulation is minimized, where appropriate.

Regulatory differences among jurisdictions, especially within Canada, may compromise competitiveness, increase the burden on business and lead to barriers to international and internal trade. Enhanced communications and coordination with other governments within Canada and internationally reduces unnecessary overlapping or conflicting regulations.

vi) *Regulations must be results-based, where appropriate and to the extent practicable.*

Performance-based regulations set the standard or objective that must be met, rather than the specific means of achieving the standard or objective. Where appropriate and to the extent possible, focusing on outcomes provides greater flexibility for achieving compliance, promotes more efficiency and effectiveness of regulation and reduces the burden on those subject to regulation.

vii) *Regulations are timely and reviewed on a routine basis and are not maintained if the need giving rise to their adoption no longer exists.*

Many regulations must be reviewed on a regular basis to determine whether the need for them continues to exist. New technologies, changes in the industrial composition of the economy, developments in supply chain management practices and the reform and development of international product, environmental or other standards all give rise to the need to reassess existing regulations to ensure that they remain appropriate and effective.

viii) *Regulations are made easily accessible and written in language that can be easily understood by the public and business.*

Transparent regulatory procedures ensure that the public interest is not subordinate to those of regulated entities and stakeholders. Posting of regulatory proposals and final regulations to the Regulatory Registry ensures that the public as well as domestic and foreign businesses can easily identify all the requirements applicable to them.

ix) *Regulations are introduced in a predictable manner.*

Regulations impacting business generally come into effect twice a year: either on January 1st or July 1st. Having regulations come into force on two fixed dates per year gives business greater predictability, encourages greater compliance and helps them to plan.

Regulatory Impact Assessment

Regulatory impact assessments are widely used in many places to measure the benefits and costs of new or amended regulations. These tests allow decision-makers to correlate the need for a regulation with the regulatory instrument being proposed, to set out the assessed risks, costs and benefits of regulatory proposals, to compare the effectiveness of non-regulatory alternatives, and to assess the impact on a range of economic factors, including trade, investment and labour mobility. A pragmatic and realistic approach dictates that the resources invested in regulatory impact assessment increase with the potential impact of the regulation.

Proposed Ontario regulations must be accompanied by a regulatory impact assessment that addresses, at a minimum, the impact on the access of persons, goods, services and investments from other jurisdictions, including jurisdictions within Canada.

Mandatory Review

To ensure Ontario maintains a lean and relevant regulatory environment, all new or amended regulations filed after January 1, 2014 which impose a significant burden on business stakeholders will be subject to a mandatory review within 10 years of filing, or another reasonable timeline in particular circumstances (e.g. coordination with broader program reviews, coordination with other jurisdictions, use-life of required equipment, etc.).

Ministries will also aim to revisit all lower-impact regulations filed after January 1, 2014, at least once every 10-15 years.

Reviews will be conducted by ministries and will be appropriate to the scope and content of the regulation under review.

Transparency and Consultation

Final regulations are to be promptly published or otherwise made available to the public.

Proposed regulations that may have an impact on business are required to be posted on the Regulatory Registry with a minimum public comment period of 45 days. For those proposed regulations that may have a significant effect on the access of persons, goods, services or investments, the posting on the Regulatory Registry shall include a summary of the proposed regulatory measure, and where possible, the draft regulatory text. Written comments received are to be taken into account in finalizing the regulation.

Exceptions to the requirement to post proposed regulations for consultation purposes on the Regulatory Registry include those that:

- Concern an emergency declared under the [Emergency Management and Civil Protection Act](#) or that require extraordinary measures on an urgent basis, for example, urgent public or animal health and safety issue, disaster relief, environmental spills and clean up.
- Are financially sensitive, that is, they concern program expenditures or contain financial information that could hurt or prejudice individuals, businesses or the government if made public prematurely, such as Budget or tax-related regulations (regulatory requirements relating to administrative processes and formalities attached to the collection of fiscal revenues, including fees and royalties, by government should not be considered financially sensitive).
- Involve privacy issues, that is, would disclose personal information or could create an unfair competitive advantage if released.
- Are French translations of an existing English regulation, or are removing a form or other graphic material from the regulation.
- Implement a provision of a legally binding contract.

- Correct errors in an existing regulation.
- Involve situations where, as a consequence of a legislative requirement, publication would adversely affect the administration or operation of a government program.

However, ministries are expected to post the approved regulations on the Regulatory Registry as soon as practicable.

July 2014.