

# **Stakeholder Engagement: Webinar**

Part I: The Regulatory Development Process for the  
Government of Canada

Part II: Making Technical Regulations Under the  
Accessible Canada Act

Winter 2019  
Accessibility Secretariat, ISSD, ESDC

# Purpose of this Presentation

- Introduce you to the regulatory development process for the Government of Canada.
- Engage you on how technical regulations under the Accessible Canada Act will be made.

# **Part I:**

# **The Regulatory Development Process for the Government of Canada**

# What are Regulations?

- **Regulations...**
  - Are rules that guide behaviour.
  - Apply generally to groups of people and organizations.
  - Are laws that can be enforced.
- **Regulations can be a mix of rules that:**
  - Give rights to do things.
  - Prohibit against doing things.
- **Regulations can have different levels of detail.**
  - Some regulations are very precise and tell people exactly what to do.
  - Some regulations are performance-based and set goals that people need to meet.

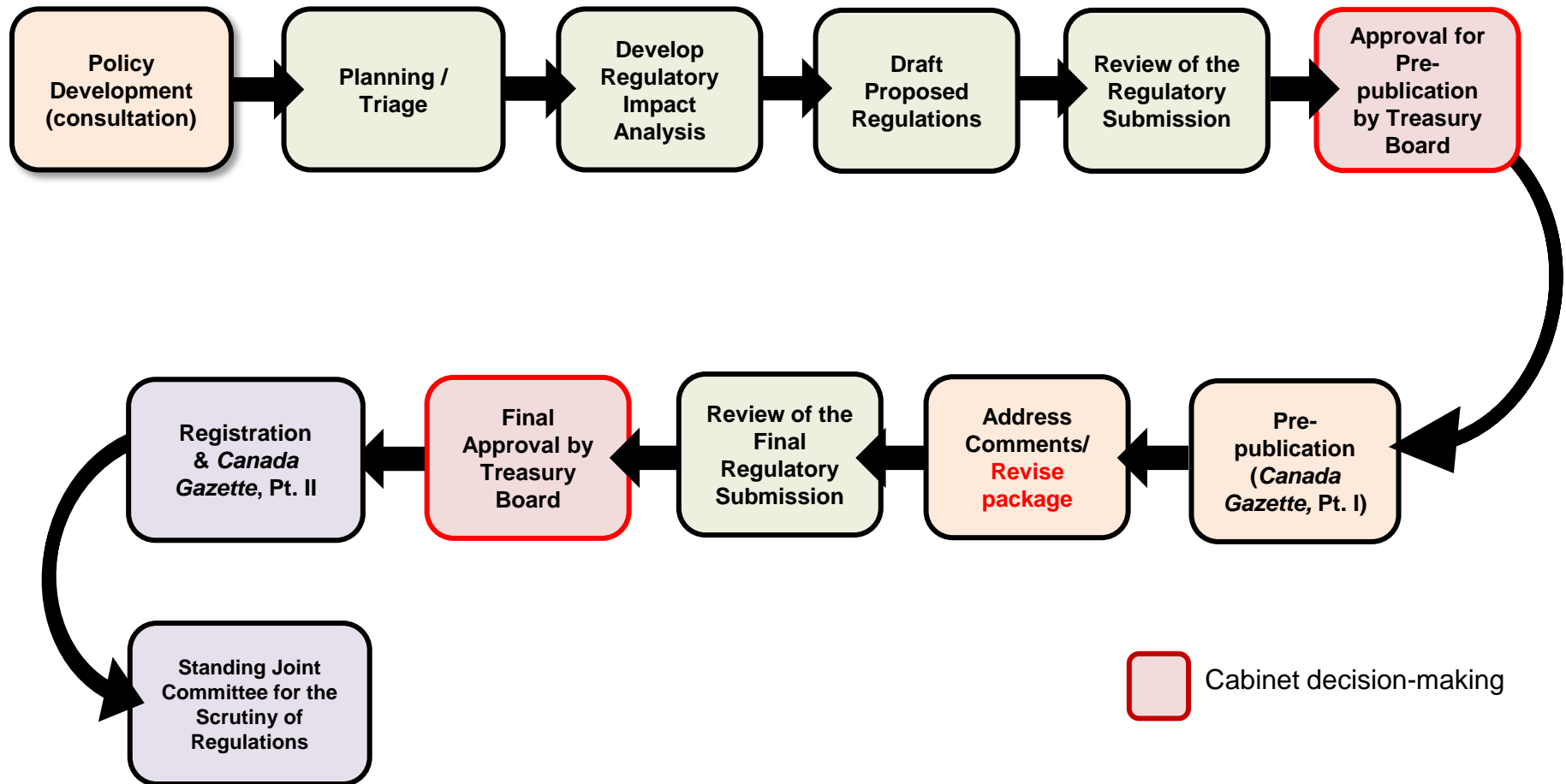
# Legislation vs. Regulation

- **Legislation...**
  - Is passed by Parliament
  - Provides the legal framework for making regulations.
  - Sets out:
    - Who is allowed to make regulations.
    - Who is allowed to enforce the regulations.
    - Who the regulations apply to.
- **Regulations...**
  - Are made by:
    - The Governor in Council (i.e., Treasury Board).
    - A minister.
    - An agency or other body of government.
  - Are made via a process internal to Government and are not passed by Parliament.
  - Are legal texts that contain the actual rules.

# The Development of Regulations

- Having the authority to make a regulation does not justify making a regulation; other solutions must be assessed.
- If regulation is determined to be the best option, the regulation-maker follows a thorough process of planning, analysis and public consultation.
- This process is detailed in the Treasury Board Secretariat's (TBS) Cabinet Directive on Regulation (CDR).
- The CDR sets out the principles for making federal regulations (e.g., protect and advance the public interest and support good government; support a fair and competitive economy).
- By following all of the steps set out in the CDR for regulatory development, it takes a minimum of 24 months to make a regulation.

# Regulatory Development Process



# Policy Development

- **The first step in making regulations requires developing policy.**
- **This means thinking about:**
  - The approach to address an issue.
  - Which objectives need to be set.
  - How stakeholders, including Indigenous peoples, will be consulted.
  - The social benefits, risks and cost.



# Consultations and Engagement

- **When making regulations, the Government is responsible for consulting and engaging with impacted stakeholders.**
- **Engagement with stakeholders typically occurs in two stages:**
  - Pre-consultation:
    - Takes place during the policy development phase.
    - Involves representative stakeholders.
    - Is an informal exchange of ideas that helps inform the regulations.
  - Formal consultation:
    - Takes place after draft regulations have been published in *Canada Gazette*, Part I.
    - Open to the Canadian public at large.
    - Feedback is provided and informs the final draft regulations.
    - Required under the CDR.

# Planning / Triage Statement

- **Regulation-makers are required to conduct an early assessment of their regulatory proposal. This is called a triage statement.**
- **The triage statement determines the expected impact level of the proposed regulations on:**
  - Canadians (including persons with disabilities).
  - Businesses.
  - Government.

# Regulatory Impact Analysis

- **Regulatory Impact Analysis (RIA) is required for all regulatory proposals.**
- **The RIA:**
  - Provides rationale for the proposed regulations.
  - Examines social benefits, risks and costs, including administrative burden.
  - Summarizes the results of consultation.
  - Discusses implementation.
- **The RIA is written in clear, non-technical language and gets published in the *Canada Gazette* with the actual regulatory text.**
- **The main objective of the RIA is to demonstrate that the benefits of the proposed regulations outweigh the costs.**

# Draft Proposed Regulations

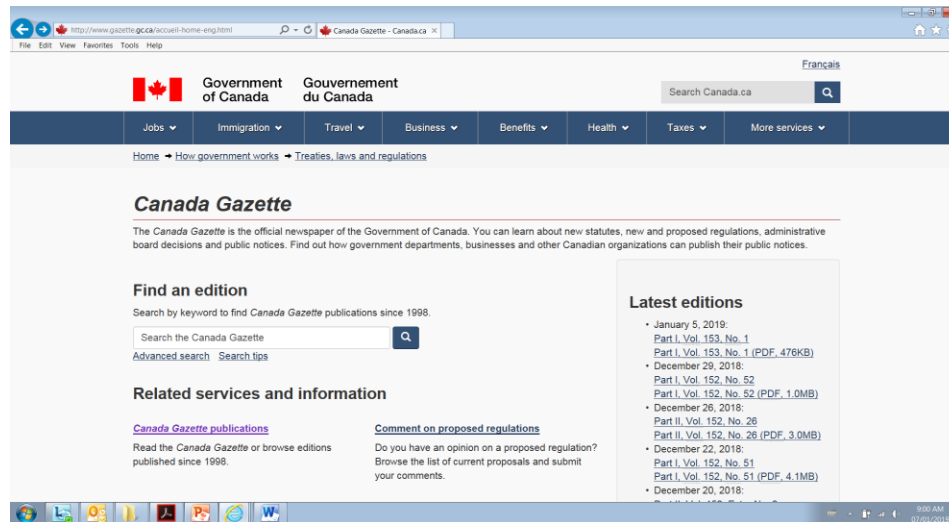
- Regulations are legal texts and are not written in plain language.
- They are written by lawyers from the Department of Justice.
- Throughout the drafting process, the Department that proposes the regulation answers any technical questions that the lawyers have.

# Central Agency Review and Governor in Council Approval

- **Before pre-publication in Part I of the *Canada Gazette*, proposed regulations must be reviewed by:**
  - Treasury Board Secretariat.
  - Clerk of the Privy Council and Deputy Minister of Justice.
  - Regulatory Affairs and Orders in Council Secretariat of the Privy Council.
  - Regulations Section of the Department of Justice (on behalf of the Deputy Minister under the *Statutory Instruments Act*).
- **Before it can be pre-published in the *Canada Gazette*, a regulatory proposal must be approved by the Treasury Board (a committee of Cabinet).**

# Pre-publication

- **Draft regulations, including the RIA, are pre-published in Part I of the *Canada Gazette*.**
  - The *Canada Gazette* is the official newspaper of the Government of Canada.



- **Pre-publication gives the public an opportunity to provide comments.**
  - The standard comment period following pre-publication is 30 days, but can provide for longer.

# **Post Pre-publication: Revision, Review and Approval**

- **The Government examines and addresses the comments it receives during the comment period, and revises the regulatory package accordingly.**
- **The Regulatory Impact Analysis is then updated to include:**
  - A summary of the comments received during the pre-publication period.
  - The rationale for the department's response.
  - Any actions that were taken to address those comments.
- **The amended proposed regulation must undergo further reviews and follow the approval process set out on slide 13.**

# Registration, Coming into Force and Scrutiny

- **The regulations need to be sent to the Clerk of the Privy Council so they can be registered.**
  - Registration is a crucial step because it determines when the regulations will take effect.
- **Regulations are published in Part II of the *Canada Gazette*.**
  - This signals that a regulation has officially been made.
- **Regulations come into force on the day they are registered, unless the enabling act or the regulations themselves specify another date.**



## **Part II:**

# **Making Technical Regulations Under the Accessible Canada Act**

# Purpose of this Presentation

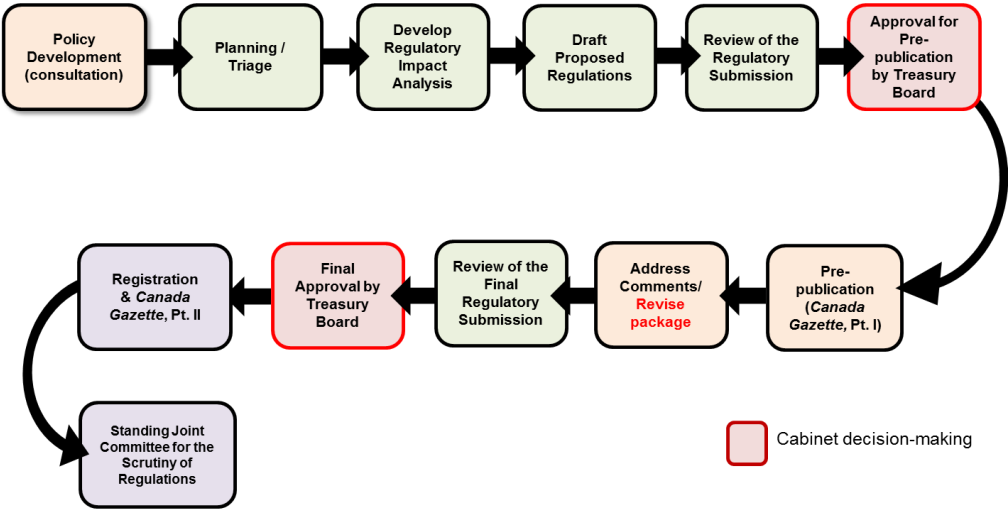
- Explain the purpose of technical regulations in implementing the Accessible Canada Act.
- Define the role of the Accessibility Secretariat to make technical regulations for approval by Treasury Board.
- Introduce the role of stakeholders in the making of technical regulations.
- Engage on how you are to be consulted throughout the process to make technical regulations.

# Why are Regulations Needed?

- **Regulations are a key part of implementing the Accessible Canada Act.**
- **Regulations will mean:**
  - Organizations are required to improve accessibility.
  - There will be rules for the Accessibility Commissioner and other regulators to enforce.
  - Individuals will be able to make accessibility complaints.
- **Regulations will be made in three stages:**
  1. Technical regulations.
  2. Initial accessibility regulations.
  3. Ongoing regulations.

# Technical regulations will go through the same regulatory process as discussed earlier.

## Regulatory Development Process



# What are Technical Regulations?

- **Technical regulations establish requirements under the Accessible Canada Act for:**
  - Accessibility Plans.
  - Feedback Processes.
  - Progress Reports.
  - Administrative Monetary Penalties (AMPs).
- **The first set of regulations are to be made within two years of the Act coming into force, as a result of the Standing Committee on Human Resources, Skills and Social Development and the Status of Persons with Disabilities (HUMA).**

# Stakeholder Participation in Making Technical Regulations

- **How organizations follow technical requirements is determined by a combination of:**
  - Requirements in legislation.
  - Requirements in regulation.
  - Voluntary guidance on how to implement.
- **Stakeholder feedback is critical in shaping the development of effective regulations.**
- **Stakeholders for accessibility regulations include: the disability community; regulated entities (the federally regulated private sector); and government bodies.**
- **There will be opportunities for stakeholders to participate in the process to make technical regulations.**

# Role of Accessibility Secretariat

- **To make technical regulations, the Accessibility Secretariat is responsible for:**
  - Conducting consultations with organizations representing:
    - People with disabilities.
    - Regulated entities (i.e., industry, government departments).
    - Other implicated groups (e.g. labour, etc.).
  - Analysing the costs and benefits of proposed regulations.
  - Completing a Regulatory Impact Analysis Statement.
  - Coordinating with government bodies.
  - Finalizing regulations for approval by Treasury Board.

# Role of Stakeholders

- **Stakeholder feedback is needed to:**
  - Improve the concepts being proposed for regulation.
  - Identify and understand how regulations could impact individuals and organizations.
- **Stakeholder organizations are encouraged to:**
  - Represent their organizations by providing feedback on concepts, proposals, etc.
  - Identify implementation challenges and operational realities.
  - Validate/correct assumptions.



# What Stakeholders can Expect from Engagement on Regulations

- **Scope of first engagement on regulations will be focused on technical rule making.**
- **Engagement activities will be made as accessible as possible, but there are known challenges.**
  - Regulations are not written in plain language.
- **The final decision on regulations is made by the Treasury Board.**
  - Consultations are an important part of understanding how the decision to regulate can impact different stakeholders.

# Stakeholder Engagement Plan

**Webinar:** Presentation and discussion that explains:

- a) The regulatory development process.
- b) How technical regulations will be made.

 **Today**



**Teleconference #1:** Presentation on proposed technical regulations:

- a) Accessibility plans, feedback processes and progress reports.
- b) Administrative monetary penalties.

 **March**



**Teleconference #2:** Discussion to:

- a) Summarize stakeholder comments.
- b) Provide a final opportunity for stakeholders to comment on the main elements prior to drafting.

 **Mid April**



**Meeting or teleconference:** Presentation and discussion to:

- a) Explain how stakeholders' input was used to shape the regulations.
- b) Share information about next steps.

 **May**

# Next Steps

- **Schedule next event on technical regulations:**
  - Teleconference #1: Presentation and discussion on proposed technical regulations:
    - a) Accessibility plans, feedback processes and progress reports.
    - b) Administrative monetary penalties.

# Annex: References

## Guide to Making Federal Acts and Regulations

- <https://www.canada.ca/en/privy-council/services/publications/guide-making-federal-acts-regulations.html#pt3>

## Policy on Regulatory Development

- <https://www.canada.ca/en/treasury-board-secretariat/services/federal-regulatory-management/guidelines-tools/policy-regulatory-development.html>

## Cabinet Directive on Regulation

- <https://www.canada.ca/en/treasury-board-secretariat/services/federal-regulatory-management/guidelines-tools/cabinet-directive-regulation.html>

## **Canada Gazette:**

- <http://www.gazette.gc.ca/accueil-home-eng.html>