

Monitoring Implementation of Laws in Canada

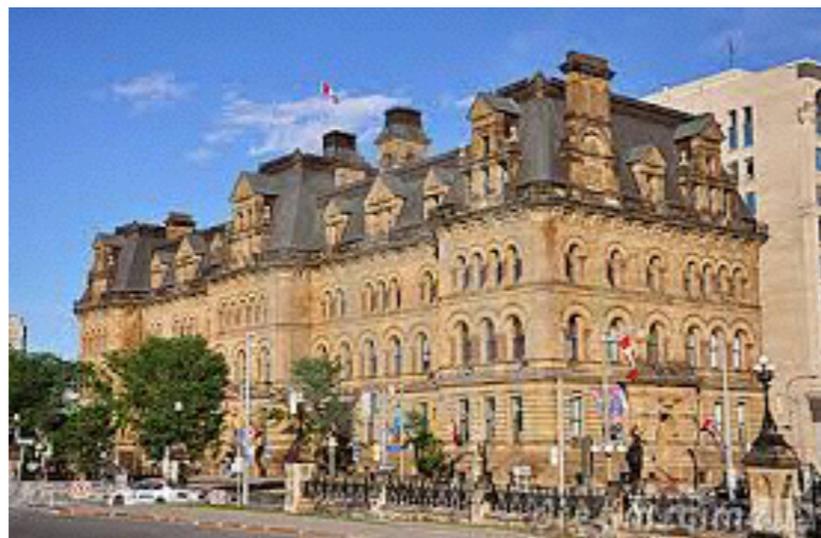
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Only 2 Levels of Laws in Canada



- **Statutes**
(Primary Legislation)



- **Regulations**
(Secondary Legislation)

Statutes

(Primary Legislation)

- laws made by Parliament
- must fall within the law-making authority of the national government, as specified by the Constitution
- must comply with the Charter of Rights and Freedoms (part of the Constitution)
- usually proposed by responsible ministries in the government
- drafted by specialist Ministry of Justice drafters based on policies approved by Cabinet
- statutes specify which Minister is responsible for its administration

Regulations

(Secondary Legislation)

- laws made by Cabinet or, in some cases, by individual ministers
- must fall within the law-making authority granted by Parliament in the primary legislation
- must comply with the Charter of Rights and Freedoms
- developed by responsible ministries in the government
- drafted by specialist Ministry of Justice drafters

Five Systems for Monitoring Implementation of Laws at the National Level in Canada

1. Program-level performance management system
2. “Deliverology” results management system
3. Periodic program evaluations
4. Ad hoc Ministry reviews of laws
5. Parliamentary reviews of laws

Program-Level Performance Management System (1)

- government-wide performance management requirements are established by Treasury Board ministry which oversees spending and establishes internal administrative policies, directives, guidelines that apply to all ministries in the government
- system applies to “programs”, not laws
 - programs are an activity of a ministry (e.g., air safety, regulation of pesticides, support of sports, criminal prosecution service, regulation of weights and measures, promoting bilingualism, etc.
 - ministries will have many programs
 - a program may, or may not, be authorized by a law or be devoted to the administration of a law
 - a program may involve responsibility for administration of more than one law
- every program must have a Performance Management Framework that:
 - demonstrates how program-specific objectives align with the high-level strategic outcomes of the Ministry
 - provides a program-specific logic model (identifying activities, outputs, immediate, intermediate, ultimate outcomes)
 - identifies program-specific performance indicators and related measures
 - includes a data gathering strategy (who, what, how)
 - includes an evaluation and reporting plan

Program-Level Performance Management System (2)

- designed to impose multiple disciplines in public administration:
 - ensure alignment of program objectives and activities with policy mandates of ministries and with “whole-of-government” objectives
 - ensure monitoring and reporting on ongoing administration of programs
 - ensure that every program activity is contributing to achievement of program’s objectives
 - influence allocation of budgets among ministries, within ministries, and within programs
 - provide a coherent structure for operational planning within programs
- all program-level performance frameworks are integrated into a ministry-level “results framework”
- ministry results are to be integrated into a government-wide results framework

“Deliverology” Results Management System

- a new regime, focused on policy priorities of the government
- ensures that ministries deliver the things promised by the government party in the last election
- new secretariat in the Office of the Privy Council (Prime Minister’s department) to oversee the system
- ministries must submit detailed workplans and report on progress
- ministries must identify results, indicators, measures, and data gathering strategy
- operates in parallel with the Treasury Board’s general performance management system

Periodic Program Evaluations

- required for all ministries by a Treasury Board Administrative Policy
- all programs to be evaluated periodically to ensure they are still needed and accomplishing their objectives
- in theory, every 5-7 years for a “summative evaluation”
- even if the program is focused on administration of a law, the program evaluation does not typically examine the substantive requirements of the law
- typically includes information from internal and external sources (e.g., responsible officials, documents, statistics, stakeholders)

Ad Hoc Ministry Reviews of Laws

- can be directed by Cabinet (priority of the government)
- often initiated at discretion of the responsible ministry
- no standard procedure or approach
- not structured by logic models, indicators, measures, etc.
- usually focused on need for changes in drafting of statute and/or regulations
- will take into account ministry's experience with implementation (e.g., issues with interpretation, inspection and enforcement powers, gaps in coverage of the law, insufficient authority to make regulations, insufficient penalties)
- often will involve consultation with provincial governments, citizens, businesses, civil society organizations
- conclusions will form basis for development of policy proposals for reform of the law (e.g., amending the statute, amending the regulation)

Parliamentary Reviews of Laws

- Parliament has authority to initiate a review of any law and its administration, but this power is rarely used
- some statutes require that the (primary) law be reviewed periodically by the minister responsible for its administration
- report on the review of the law is submitted by Minister to Parliament, often with proposals for amendment of the statute
- Parliamentary committee will review report, hold hearings, and issue its own report