

Chapter 2

A Comprehensive Horizontal Review on Existing Regulations to Create Business Environment

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CHAPTER 2

A Comprehensive Horizontal Review on Existing Regulations to Create a Conducive Business Environment

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[1] Introduction

World Bank reports indicate that improving regulations could lead to the creation of a better business environment. To reaffirm this finding, the secretariat established under the ambit of Malaysia's Special Taskforce to Facilitate Business (PEMUDAH) closely monitored improvement initiatives from October 2011 to September 2017. *Doing Business 2018* (World Bank, 2017) shows that the Dealing with Construction Permits ranking for Malaysia improved tremendously to 11 out of 190 economies, from 113 out of 183 economies (World Bank, 2011).

The causes of slowdown in productivity are related to weakening demand and/or supply constraints brought about by cyclical and structural factors, slowing investment, more complex skills requirements, and a weak regulatory environment (Van Ark, 2015). Van Ark also underscores that the relationship between productivity growth and regulations is not linear. He stresses that regulations could increase entry costs and affect overall levels of competition and innovation, with implications for productivity.

[2] What Regulations Are Being Reviewed?

A well-functioning regulatory system is essential to enhance governance and promote stability, productivity, progress, and prosperity, whilst at the same time protecting public health and safety and the environment. Many regulatory policies have already proven their worth, supporting structural reforms, entrepreneurship, and market openness.

However, impacts should be assessed and regulations reviewed systematically to ensure that they meet their intended objectives efficiently and effectively in a changing and complex economic and social environment. Aspects of economic regulations that restrict entry, access, exit, pricing, output, normal commercial practices, and forms of business organisations should be periodically reviewed to ensure that the regulations' benefits outweigh the costs, and that alternative arrangements cannot equally meet the regulations' objectives with less effect on competition.

Regulatory intervention can often be justified where freely operating markets would deliver less than optimal levels and qualities of output, usually because the benefits the free market brings to individuals or businesses diverge from the benefits to society as a whole. When regulations are used appropriately, they address market imperfections so that total economic and social welfare is increased.

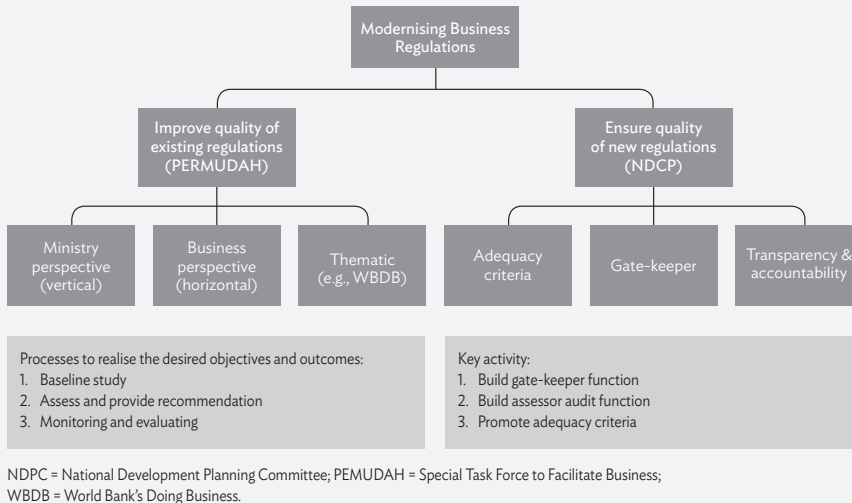
The regulatory environment has a substantial effect on the behaviour and performance of companies. Private sector participation in the economy and innovation require a regulatory environment that provides the necessary protections and guidelines, while promoting competition. Too often, Malaysian firms face a tangle of regulations that have accumulated over the years and now constrain growth. At the same time, regulations that would promote competition and innovation are absent or insufficiently powerful...

To achieve this goal, the Government will begin with a comprehensive review of business regulations, starting with regulations that impact the National Key Economic Areas (Prime Minister's Department, 2010).

Box 1: Role of Malaysia Productivity Corporation in Modernising Business Regulations

Reviews of existing regulations involve public consultation with stakeholders and interested parties. Other processes within the Malaysia Productivity Corporation will focus on ensuring the quality of new regulations, particularly by applying regulatory impact analysis.

Regulatory Review Framework of Malaysia Productivity Corporation



Source: MPC (2014).

[3] Reducing Unnecessary Regulatory Burdens

Regulatory burdens arise from the costs imposed by regulations and enforcement. While some burden on business is inevitable for regulations to achieve their objectives, regulations that are poorly designed, written, administered, or enforced can impose greater burdens than necessary. Differences in state regulations that address the same issue can also place additional burdens on businesses operating across jurisdictions. Regulations with the same objective, but imposing different requirements, can result in businesses having to plan and take different approaches to meet compliance in different geographical regions. If these different compliance activities yield similar outcomes, the differences can be viewed as unnecessary burdens. A business may also have to interact with more than one regulator, either within or across jurisdictions. Different approaches to enforcement by these regulators could also create additional burdens. Box 2 explains the types of regulatory burdens (MPC, 2014).

Box 2: Types of Unnecessary Regulatory Burdens

Often regulations have legitimate social, economic, or environmental objectives. Some burden on business is usually necessary to achieve the regulations' objectives, but unnecessary burdens can arise from the following:

- excessive coverage, that is, the regulation affects more economic activity than intended or required to achieve its objective (includes 'regulatory creep');
- subject-specific regulation that covers much the same issues as other generic regulations;
- prescriptive regulations that unduly limit flexibility, such as preventing businesses from
 - using the best technology
 - making product changes to better meet consumer demand, and
 - meeting the underlying objectives of regulations in different ways;
- overly complex regulations;
- unwieldy licence application and approval processes, excessive delays in obtaining responses and decisions from regulators;
- requests to provide more information than needed;
- requests to provide the same information more than once;
- rules or enforcement approaches that inadvertently result in businesses operating less efficiently;
- unnecessarily invasive regulator behaviour such as overly frequent inspections or irrelevant or duplicative information requests;
- overlap or conflict in the activities of different regulators; and
- inconsistent application or interpretation of regulations by regulators.

Source: MPC (2014).

Poor governance and lack of transparency and accountability are amongst the principal causes of unnecessary regulatory burden, resulting from poorly designed, written, administered or enforced regulations, which frequently provide opportunities for corruption.

[4] Good and Bad Written Regulations

Regulations that are written have enabled authorities to administer and enforce them using certain methods:

- a. filling out a form or fulfilling requirement;
- b. inspection at premise;
- c. notification by the business to authority;
- d. depositing documents to authority;
- e. licence requirements; and
- f. creating a culture of requirement, e.g., training for point collection.

[5] Good and Bad Administration and Enforcement

Recent studies by the Malaysia Productivity Corporation (MPC) show that many regulatory requirements were based on misinterpretation of primary legislation,

which led to using the wrong instruments or requesting unnecessary information from business (PEMUDAH, 2015). The World Bank found that the more the regulators imposed procedures, the more time was required for approval. In most cases, officers wrongly interpreted the regulations (Box 3).

Box 3: Misinterpretation of Regulations Leads to Inefficient Government Delivery

The Malaysia Productivity Corporation's analysis of development regulations shows that the parent acts and the subsidiary legislation are clear. The regulations insist only on a minimum set of documents. But local governments have introduced many forms and checklists and end up with piles of documents for development plan approvals. Industries must also submit hardcopies after submitting the documents online, adding to their frustration. The written regulations still insist on the original signatory, while the online documents seem 'invalid'. Thus, implementation is burdensome and costly. These weaknesses will make Malaysian companies uncompetitive and, in the end, the public will have to pay the price (MPC, 2014). The Khazanah Research Institute made a public statement based on their recent study:

Malaysian housing market is deemed seriously unaffordable, with the median house price at 4.4 times median annual household income. Many developed countries are around 3 times median annual household income.

The study mentioned inefficiency in the construction value chain as a main contributor to the expensive property in the country (KRI, 2015).

Table 1: Benchmarking on Dealing with Construction Permits in 16 Capital Cities in Malaysia, 2012 and 2015

No.	City	2012		2015	
		Procedure	Time (Days)	Procedure	Time (Days)
1	AlorSetar	51	262	47	314
2	Ipoh	58	306	33	270
3	Johor Bahru	66	192	66	453
4	Kangar	20	80	42	179
5	Kota Bharu	48	89	48	208
6	Kota Kinabalu	40	278	52	655
7	Kuala Lumpur	32	161	7	79
8	Kuala Terengganu	41	89	49	322
9	Kuantan	59	135	28	163
10	Kuching Utara	34	218	25	548
11	Labuan	57	111	52	251
12	Bandar Melaka	45	318	45	318
13	Georgetown	44	464	44	464
14	Putrajaya	51	292	51	292
15	Seremban	52	64	49	277
16	Shah Alam	80	129	49	339

Note: The procedures and times were based on interaction with local governments and technical agencies in major cities.

Source: MPC (2015b).

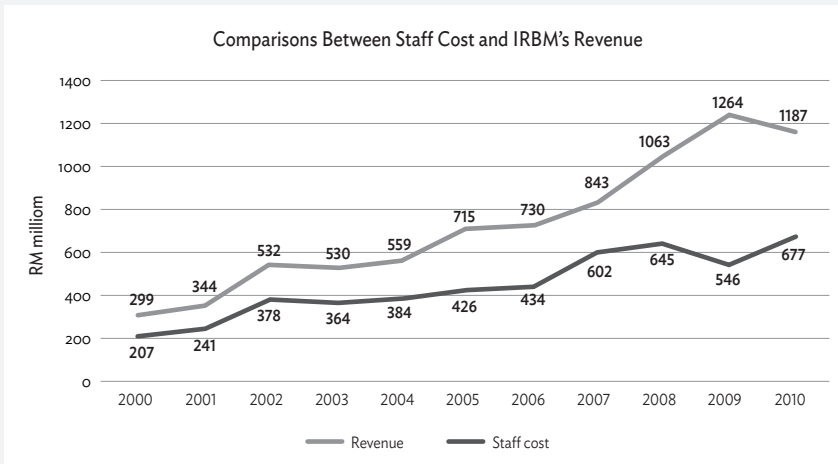
[6] Impact of Unnecessary Regulatory Burdens on Business

Reducing unnecessary compliance burdens has become an important part of improving business competitiveness and economic performance. Modernising regulations will lead to more competitive growth as it will lower the cost of doing business. How regulations are implemented, administered, and enforced can significantly impact compliance burdens (MPC, 2014).

Box 4: How the Inland Revenue Board of Malaysia Lowered Internal Operational Costs

The Inland Revenue Board of Malaysia (IRBM) has introduced various tax reforms and electronic services, among them e-Filing and m-Filing, which are free applications that enable taxpayers to complete and furnish their income tax return form electronically. This has not only eased submission but also increased revenue and decreased internal operational costs. The graph compares staff cost and revenue.

Figure 1: Comparisons Between Staff Cost and Revenue of the Inland Revenue Board of Malaysia



Source: Abdul Wahab (2013).

The IRBM's regulatory reform has made IRBM more productive and improved tax collection. Abdul Wahab also mentions that IRBM's risk management strategy reduced non-compliance amongst businesses. The current tax submission enforced by IRBM is much simpler and uses self-declaration (transferring the burden of proof to the owner), thus motivating businesses to comply.

Reducing administrative procedures and the complexity of government formalities undeniably reduces government administrative costs and provides more savings to businesses. Records show annual regulatory burdens are equivalent to 1.4% of gross domestic production the United Kingdom, 2.4% in Denmark, and 3.6% in The Netherlands. Most developed countries target reducing the cost of regulatory burdens by 25% (CEDA, 2013).

[7] Reducing Unnecessary Regulatory Burdens: Framework and Methodology

Reducing unnecessary regulatory burdens (RURB) to achieve effective, coherent, and responsive regulatory measures is similar to kaizen or continuous, systematic improvement though small, incremental changes to improve efficiency and quality. The RURB supports national regulatory reform to improve the overall regulatory regime such that policies and regulations fit together: i.e. to reduce redundancies and avoid conflicting policies and to ensure that policies and regulations complement one another in support of greater efficiency. The RURB differs from regulatory impact analysis as RURB focuses on existing regulations and is based on ex-post analysis, benefitting from implementation data. Analysis is undertaken from the business perspective to detect unnecessary regulatory burdens in manufacturing products or delivering services in the value chain. Thus, unnecessary costs arising from poor or excessive regulations as well as from poor implementation of the regulations are addressed.

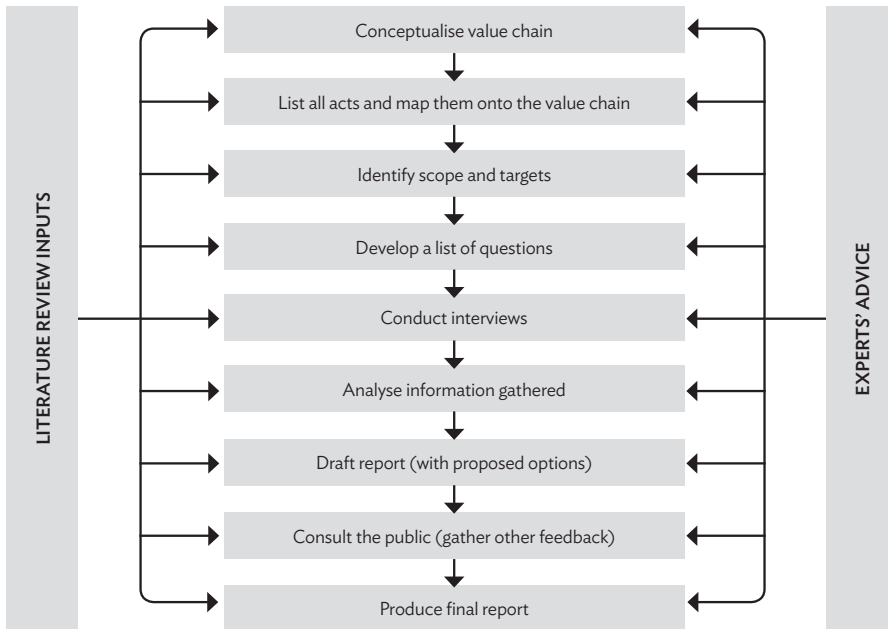
A typical MPC RURB report has five chapters:

Chapter 1: Mandate and purpose of study

-Important elements of this chapter:

- a. What is the purpose of this chapter?
- b. Is the mandate appropriate (strong enough) for the target group (reader)?
- c. Are the objective, scope, and boundary conditions established?
- d. Is the method (approach and/or rationale) sufficiently explained?
- e. Is the structure of the report laid out to guide the reader?

Figure 2: Process of Reducing Unnecessary Regulatory Burdens



Source: MPC (2015a).

Chapter 2: Economic performance of the country and the chosen sector

-Important elements of this chapter:

- What is the purpose of this chapter and/or analysis?
- What knowledge is obtained about the requirements of this sector?
- What are the important areas for regulatory interventions?
- Will this understanding of the industry help identify regulatory impediments?
- With this current understanding of the industry, are you comfortable moving forward?

Chapter 3: Definition of regulations, unnecessary regulatory burdens, and good regulatory practices

-Important elements of this chapter:

- What is the purpose of this chapter?
- Have regulations been explained in the context of this review?
- Are regulatory and unnecessary regulatory burdens and their significance appropriately explained? How are they captured and/or measured?
- What principles of good regulatory practice will guide the development of options?
- What are some examples of generic poor regulatory practices?

- f. Will this knowledge be sufficient to help you in the interviews and options development?

Chapter 4: List regulations imposed on the sector and the regulatory instruments

-Important elements of this chapter:

- a. What is the purpose of this chapter?
- b. Is the value chain (for warehousing) clearly (sufficiently) established to guide the regulatory mapping and stakeholders' analysis?
- c. Are the relevant regulations (subordinate regulations and the regulatory instruments) clearly identified?
- d. Are the main business stakeholders (business players and intermediaries) identified?
- e. Are the regulators (and intermediaries, if any) identified and their roles, functions, and objectives established?
- f. Are you confident that the knowledge is sufficient for your interviews and options development?

Chapter 5: Concerns, feasible options with recommendations

-Important elements of this chapter:

- a. What is the purpose of this chapter?
- b. What has been captured in the interviews? Have they been substantiated or supported by background (further literature) research?
- c. What is the analysis of regulatory and non-regulatory issues?
- d. Are you able to relate the issues to the regulations (or sections), the objectives (intention) of the regulations, the regulatory instruments (and regulators)?
- e. What are the assessments of the regulatory burdens? What are the objective measures captured to provide evidence?
- f. Are the burdens measured and/or analysed as compliance costs, interactions (procedures), time delays, duplications, interpretations, documentations, etc.?
- g. Are the options established based on the analysis' relationships with the good regulatory practice (GRP) principles?
- h. What are the options to reduce unnecessary regulatory burdens (some objective measures)?
- i. What do the stakeholders (business and regulators) say about the options?
- j. Are you satisfied with and confident about your assessment, analysis, and options?

The RURB team undergoes intensive training on good regulatory practice principles and techniques to detect burdensome regulations. Chapters 1–4 are fundamental for the RURB team to understand RURB principles before meeting with businesses. The RURB team should be able to explain what unnecessary regulatory burdens are, the impact of regulations on businesses, and the purpose of collecting regulatory issues. Once these chapters are completed, the RURB team should be prepared to meet the businesses and regulators to find out how regulations are implemented.

An issues paper should be forwarded to all stakeholders, from businesses to regulators. The issues will be captured and validated with regulators. The team will measure the administrative burdens by using the standard cost model. Based on the MPC Public Consultation Guideline, the team will wait up to 60 days to allow all stakeholders to provide feedback and recommendations. Regulators will be interviewed to know how they view the purpose of regulations and to validate concerns. Regulators usually discuss manpower distribution and technology barriers to inspection or validation of business applications.

In chapter 5, the team should be able to recommend an option for each concern. The option should be able to eliminate or reduce compliance costs or clarify how to adhere to regulations. Before closing the RURB report, the team should ask the businesses and regulators separately for their final comments on the draft report, which will be included in the final report.

The comprehensive study may require nine to twelve months (MPC, 2016a). It reviews regulations for the whole sector, and data collection covers the states or provinces that have small and medium-sized enterprises, big enterprises, and multinational companies. Views from various groups will help the RURB team measure the efficiency of administration or enforcement of regulations.

[8] Selection of Sector and Industry

The number of regulations has grown at an unprecedented pace over recent decades. Some regulations formulated a long time ago are still enforced. Until recently, the relevance and effectiveness of existing regulations have not been reviewed systematically, even though new regulations are being formulated to

meet the demands of an increasingly affluent and risk-adverse society and an increasingly complex global economy. The RURB team should comprehensively review business regulations, starting with those that impact key economic areas. Regulations that help improve national outcomes will be retained, while unnecessarily burdensome, redundant, and outdated regulations will be eliminated.

The selection of the RURB project should be based on government priorities. Investigations should involve the collection, review, and analysis of primary data from interviews with businesses and service associations and of secondary data from literature reviews.

Primary data should be collected through interviews of key stakeholders—business players, associations, representatives of professional bodies, field experts, and regulators. Secondary data are from many sources and classified as follows:

- a. regulations of Malaysia, particularly
 - primary regulations,
 - secondary or subsidiary regulations,
 - state and local government regulations,
 - government decrees or circulars, and
 - standards or guidelines;
- b. research papers published by international agencies such as the World Bank, Organisation for Economic Co-operation and Development, Asian Development Bank, and research agencies from developed countries, such as the Australian Government Productivity Commission and the United Kingdom Commission for Employment and Skills;
- c. research papers and reports commissioned by government agencies such as the Economic Planning Unit and the Ministry of International Trade and Industry of Malaysia;
- d. statistical data on employment from international and local sources; and
- e. other information derived from professional bodies, private businesses, and associations on policy, news, reports, and statistics.

[9] Value-Chain Analysis

Value-chain analysis is a strategy tool introduced by Michael Porter, which helps the RURB project team analyse business-cycle activities (Porter, 2001). Using the value-chain strategy, the RURB team can capture valuable and important activities from farm-to-plate or from start-to-closing-a-business. How detailed the value chain is will depend on the sector and complexity of the businesses. Many established value chains can be retrieved from the internet. With the assistance of local experts, the value chain can be harmonised and adapted to the local situation.

The team has to restrict or scope the RURB project. Once the activities are mapped, regulatory instruments (e.g. licences, permits, inspections) should be listed in a regulatory database. Next, the team should identify the stakeholders. This value-chain exercise is important as it will speed up the gathering of information to help businesses diagnose and pinpoint the burdensome and critical areas for improvement.

[10] Stakeholder Analysis and Regulatory Mapping

Previously, many policies had been introduced without or with insufficient consultation, which led to business and investor uncertainties and concerns. The introduction of new government agencies without proper analysis also contributed to redundant regulations. Businesses had to adapt to the difficulties and absorb the additional cost for one or two years. Unfortunately, most businesses simply transferred the burden to customers. A proper analysis of value chain and in-depth revision of the sector will help the team identify the regulations involved and map them according to business flow and/or key cycle stages of the business (Box 5).

Box 5: Business Life Cycle of Professionals in Construction Industries in Malaysia

The value chain of delivering professional services to the construction industry begins with the setting of professional practices, and is then followed by other processes.

Figure 3: Professional Services Regulations Value Chain from the Setting up to the Closure of Professional Practice

PROCESS	PARTIES	PROCEDURES
Setting up of practice	Professional boards	<ul style="list-style-type: none"> Comply with academic qualification, practical experience, and examination requirements Obtain practice registration approval from the board
Registration of business	Companies; Commission of Malaysia (SSM)	<ul style="list-style-type: none"> Register with SSM before forming corporate or partnership practice
Service registration with government	Government agencies	<ul style="list-style-type: none"> Register with Ministry of Finance before rendering services to government agencies Register with various technical agencies as a requirement of government tender process
Non-profession statutory registration	Customs Department; Inland Revenue Board (IRB)	<ul style="list-style-type: none"> Register with Customs Department for service tax requirement Register with IRB for personal or company tax deduction
Delivery of professional service	Professional boards; government agencies; local governments	<ul style="list-style-type: none"> Register with various technical agencies as a certified service provider, e.g., National Water Services Commission; Planning Malaysia
Completion or termination of practice	Professional boards; SSM	<ul style="list-style-type: none"> Deregistration of practice with professional boards Closing or winding down of company with SSM

Source: MPC (2016c).

[11] Identification and Validation of Unnecessary Regulatory Burdens on Business

Unnecessary regulatory burdens arise from sources that can be categorised under three broad headings:

- a. poor writing of regulations
- b. poor enforcement and administration
- c. unnecessary duplication and inconsistency

Box 6: Regulatory Mapping for Development Process Flow in Malaysia

Key Federal Government Regulations	Key Cycle Stages	Key State and Local Government Regulations
<ul style="list-style-type: none"> • Town and Country Planning Act 1976 • National Development Planning • National Land Code (NLC) 1965 • Land Conservation Act 1959 • Land Acquisition Act 1960 (Act 486) • Federal Territory (Planning) Act 1982 (Amended 2006) • Federal Housing Act 1960 • Uniform Building By-Law 1984 • Building and Common Property Act 2007 • Free Zone Act 1990 • The Street Drainage and Building Act 1974 • Environmental Quality Act 1984 • Registration of Business Act 1956 • Housing Development Act 1966 	Development plan	<ul style="list-style-type: none"> • National Development Plan • State Planning Committee <p>Local Governments</p> <ul style="list-style-type: none"> • City of Kuala Lumpur Act 1971 • Town Planners Act 1995 • Local Government Act 1976 • Planning Department of Local Government Guidelines • State Planning Rules • State Irrigation and Drainage Guidelines • State Land Enactments
<ul style="list-style-type: none"> • Building Codes Health, safety, fire protection, accessibility, and resource conservation • The Street Drainage and Building Act 1974 • Environmental Quality Act 1984 • Government Contract Act 1949 • Contract Act 1950 • Drainage Work Act 1954 • Federal Roads Act 1959 • Water Services Industry Act 2006 • Uniform Building By-Law 1984 	Building plan	<ul style="list-style-type: none"> • Local Zoning • Local Government Act 1976 • Uniform Building By-Law 1984 • Various technical departments, service provider guidelines <p>JKR Fire Department JPS Land Office State Planning Office JMG JAS TNB Water operator</p>

JKR – Jabatan Kerja Raya (Public Works Department)
 JMG – Jabatan Mineral dan Geosains (Mineral and Geoscience Department)
 JAS – Jabatan Alam Sekitar (Environment Department)
 TNB – Tenaga Nasional Berhad (Electric Utility Company)

Source: MPC (2016b).

11.1 | Poor Writing of Regulations

Regulations can unnecessarily increase regulatory burdens in several ways:

Unclear or questionable objectives. A lack of clarity gives rise to uncertainty about what is expected of the regulated and the regulators. It also increases the potential for regulators to use their own discretion in determining the intent and priorities of legislators and can lead to inconsistency between regulators interpreting the same piece of legislation. Regulatory uncertainty discourages investment and could increase compliance costs.

Conflicting objectives. Sometimes regulations (possibly enforced by different regulators) can have conflicting objectives, e.g. safety considerations that suggest

generous spacing, and environmental regulations that seek to minimise a facility's 'footprint' and hence its environmental impact.

Overly complex regulations. Complex laws are likely to require legal interpretation, making compliance more costly and time consuming and regulators' expectations harder to determine.

Excessively prescriptive regulations. Prescriptive regulations are typically more complex and onerous than objective- or performance-based regulation, are less flexible, can stifle innovation, and may not allow businesses to deliver the policy outcome at least cost.

Redundant regulations. Regulations might remain in force despite being overtaken by changed circumstances. While providing no benefits, such regulations will still involve compliance costs and could overlap with more recent legislation, causing regulatory confusion.

Regulatory creep. Regulations may influence more areas and activities than originally intended or warranted. This can stem from the use of subordinate legislation and regulatory guidelines.

11.2 | Poor Enforcement and Administration

Poor enforcement and administration of regulations can arise from several sources:

Excessive reporting or recording requirements. Requirements beyond the minimum required to enforce a regulation unnecessarily increase compliance costs.

Inadequate resourcing of regulators (including inexperience or lack of expertise). This can delay approvals and potentially lead to poor regulatory decisions. It can also prompt regulators to seek additional, and potentially spurious, information because of a lack of experience or expertise, or to circumvent statutory time limits.

Overzealous regulations. These can increase compliance costs and discourage investment. Inadequate resourcing of regulators can lead to problems, but so can over-resourcing if it results in imposing excessive regulations or micro-management of regulated businesses.

Regulatory bias or capture. Regulators may be ‘captured’ by interests they deal with regularly and, therefore, make decisions favourable to those interests. Such interests could include the businesses being regulated (or a particular business or businesses), or lobby groups such as environmental or community groups.

11.3 | Unnecessary Duplication and Inconsistency

Regulatory duplication and inconsistency between jurisdictions are not inherently bad. They may stem from different circumstances between jurisdictions and, from a competitive federalism perspective, can lead to better overall outcomes. However, duplication and inconsistency can impose costs:

Duplication of regulations. The need to provide information to multiple regulators and go through multiple processes can add unnecessarily to compliance costs. The existence of multiple regulators also creates incentives for ‘forum shopping’, where participants may seek the forum where they are most likely to obtain a favourable outcome. It can also create uncertainties regarding the boundaries of responsibility for each regulator.

Inconsistency of regulations. Regulatory inconsistencies can occur within or across jurisdictions and increase regulatory burdens. Inconsistency is likely to present problems for businesses operating in multiple jurisdictions.

Variation in definitions and reporting requirements. Variation can occur between regulators within jurisdictions, although it is typically a more significant problem for businesses operating in multiple jurisdictions. Such variation can increase compliance costs.

To register concerns or regulatory issues, the team should consult a broad range of stakeholders. Formal meetings should be conducted with business associations and local and foreign companies to get their feedback on the concerns raised and to quantify compliance costs. There are two types of compliance cost: paperwork and non-paperwork (Box 7).

Box 7: Categories of Compliance Costs

Paperwork compliance costs

These include the costs imposed on the administrative structures of a business due to filling out forms and providing information. It also includes record-keeping costs and the cost of obtaining advice from external sources in the course of providing information.

Non-paperwork compliance costs

These include human capital and physical investment costs, costs of modifying output to conform to regulations, capital holding costs associated with regulation-induced delays in business projects, costs associated with dealing with inconsistent and duplicative regulations across jurisdictions, and the cost of time spent in meeting regulatory requirements such as audits and inspections.

Source: Australian Productivity Commission (2008).

Each concern of businesses should be validated with the right regulators and authorities mandated to enforce the regulations. If the concern or claim is true, then it will be registered in the report.

[12] Develop Solution Options

To develop coherent and transparent rules and efficient processes, resources should be adequately allocated. The RURB team must consider using focus groups and interviews to refine concerns and uncover their root causes. Measuring the impact of a problem using regulatory tools such as the standard cost model allows the focus group to sense the magnitude of existing regulations. The results from calculating the cost will justify regulators' deliberating further with businesses or stakeholders, which will facilitate discussions on alternative options to replace the cumbersome regulations. When assessing the regulations, the team can adopt six core principles (Box 8).

Box 8: Six Core Principles for Assessing Regulations and Their Administration

- Principle 1 : Have a proportionate and targeted response to the risk.
- Principle 2 : Minimise adverse side effects of those necessary to achieve regulatory objectives at least cost.
- Principle 3 : Have a responsive approach to incentivise compliance with regulations.
- Principle 4 : Ensure that all written regulations are consistent and that regulators interpret and apply them consistently. Avoid duplication and overlap of regulations and regulators.
- Principle 5 : Adopt transparency criteria so that parties are regularly consulted, businesses know their legal obligations, and all regulations can be easily accessed by everyone.
- Principle 6 : Promote accountability so that businesses can seek explanations for regulators' decisions and appeal them, and so that probity provisions are adopted to reduce corruption.

Source: MPC (2014).

[13] Decide and Recommend a Solution

When deciding on recommendations to overcome the hindrances caused by poor regulatory requirements, the choice is amongst the following:

- a. rules that prescribe how an outcome is to be achieved where the focus is on the methods of operation or inputs;
- b. performance-based rules that specify a particular outcome without prescribing the method to be used to achieve it (although it is often precise about the outcome);
- c. principle-based goals that indicate the broad intention and rely on agents to meet the spirit rather than the letter of the law; and
- d. system-, process-, or management-based regulations where businesses develop their own risk management strategies, which are audited by regulators.

The RURB team should act as a neutral party when evaluating suggestions from businesses or business associations. No single approach is best in all circumstances. Prescriptive regulations are only justified when the risk is very high or significantly affects small businesses that do not have sufficient resources. Large companies prefer performance- or principle-based regulations, which enable them to identify the most cost-effective way to comply with regulatory requirements. System-based regulations allow businesses to analyse the risk of potential hazards to products or services. Often the processes are available but not systematically applied.

[14] Spectrum of Regulatory Options

Regulatory and non-regulatory solutions can be developed to ensure greater accountability and transparency around regulationmaking, improved processes for assessing the impacts of regulatory proposals, and more effective consultation with those affected by regulations (Box 9). The options and recommendations are only potential solutions. To ensure that the recommended options are practical, they should undergo regulatory impact assessments with adequate cost–benefit analysis and public consultation.

[15] Lessons Learnt

MPC has conducted three types of RURB projects: comprehensive review, fast track, and solution creation. Each serves different needs and has different final outputs. The RURB study is a comprehensive review of key economic areas and requires nine to 12 months of work. The RURB fast track focuses on pressing issues requested by businesses, usually multinational corporations or local investment promotion agencies, and is completed in four to six months. Finally, RURB solution creation combines the fast track with kaizen solutions and pilot-testing, and is for immediately transforming demanding areas. Based on MPC's experiences, implementation is limited to a single regulator and a company willing to share all their internal data to identify quick solutions to remove barriers.

All RURB studies have resulted in lowering operation cost, which is valued using the compliance cost indicator. Total compliance cost saving was RM 7.3billion (MPC, 2016b). The breakdown according to the type of RURB study is in Table 2.

Deregulation is not a good solution in any economy; the purpose of having regulations is to protect public health and safety and the environment. What we need are smart regulations that will stabilise the market, and implementation that is cost effective and time saving. The engagement of the private and public sectors will provide a comprehensive view of all best-practice elements of building a well-controlled environment. Collaboration will enable identification

of quick and practical solutions and minimise the risk of unexpected consequences.

Box 9: Spectrum of Regulatory and Non-Regulatory Options

Sometimes a mix of options should be considered. Some groups, especially small businesses, experience regulations differently while others present less compliance risk. Have you considered whether a mix of policy options would be more effective and efficient?

- **No regulation.** There may be good reasons for regulating but these must be weighed against not regulating. One benefit of not regulating is that no regulatory offsets need to be found.
- **Better enforcement of existing regulations.** Sometimes better staff training, enforcement, or a different management focus to address cultural, behavioural, or systems issues can be an effective means to achieve the desired outcome.
- **Principles-based regulations.** These allow affected groups maximum flexibility in achieving compliance. For example, where a market operates inefficiently, light-touch regulations may lay down rules for the participants on how to agree on prices. More heavy-handed regulations may involve government itself determining the price. Light-touch regulations must be implemented to ensure that those affected understand their legal rights and obligations; otherwise, the regulations may not be effective.
- **Self-regulation.** This consists of industry-written rules and codes of conduct enforced by the industry. Where industry participants understand and appreciate the need for self-regulation, this can be a good option. Any red tape resulting from self-regulation is usually minimal and often administered sympathetically by the industry. Self-regulation is a good option where the consequences of market failure are not critical and the market is likely to move towards an optimal outcome by itself. Self-regulation is not a viable option if an industry has no incentive to comply with its own rules. In some cases, self-regulation may create public concern, where, for example, perceived conflicts of interest could threaten safety, such as in foodhandling, healthcare, or aviation. Self-regulation should be approached carefully where previous attempts to achieve compliance or penalise non-compliance have failed.
- **Quasi-regulations.** This approach covers a wide range of rules or arrangements that are not part of explicit government regulations but nevertheless seek to influence the behaviour of businesses, community organisations, and individuals. Examples include industry codes of practice developed with government involvement, guidance notes, industry-government agreements, and accreditation schemes.
- **Co-regulation.** This is a solution where industry develops and administers its own arrangements and government provides legislation to enforce them. Such legislation can set out mandatory standards but may provide for enforcement through a code overseen by the industry.
- **Explicit government regulations.** So-called black-letter law, these comprise primary and subordinate legislation and are probably the most common form of regulation. They are usually used as a regulatory tool where perceived risk is high or public interest and achieving compliance are critically important. Such regulations must be drafted in plain language and sunset requirements observed.
- **Alternative instruments.** With each of these regulatory options, alternative instruments may be available to address the problem or issue set out in a regulatory impact statement, including the following:
 - No specific action, that is, relying on the market in conjunction with existing general liability laws (e.g., negligence or breach of contract) and insurance laws.
 - Information and education campaigns, including product labelling or media campaigns.
 - Market-based instruments, including taxes, subsidies, traceable permits, performance bonds, and traceable property rights.
 - Pre-market assessment schemes such as listing, certification, and licensing.
 - Post-market exclusions such as bans, recalls, licence revocation, or negative licensing.
 - Service charters.
 - Standards, which may be voluntary, compulsory, or performance based.
 - Other mechanisms such as public information registers, mandatory audits, and quality-assurance schemes.

Source: Australian Government Guide to Regulation (March 2014). More information can be found at www.cuttingredtape.gov.au.

Table 2: Projects to Reduce Unnecessary Regulatory Burdens, 2014–2016

	RURB Projects	Compliance Cost (RM million)	Compliance Cost Saving and Other Benefits (RM million)
RURB Study (comprehensive review)			
1	Healthcare–Private Hospital	145.8	36.4
2	Growing Palm Oil	641.3	160.3
3	Downstream Oil and Gas	1,592	398
4	Logistics	715	178
5	Construction	1,032	258
RURB Fast Track			
1	Construction	22.5	24
2	SME ICT Services	300	200
3	Professional and Technical Services	N/A	0.55
4	Healthcare Sector	N/A	44.7
5	Accreditation on Tertiary Education	N/A	2
6	Legal Services	N/A	0.55
RURB Solutioning			
1	Cargo Clearance at Free Zone	316	150
2	Maintenance Repair and Overhaul	98	61
3	Commercial Vehicle Licensing	6.1	5.4
4	Individual Permit Vehicle Application	100	80
5	Construction Permits (Kuala Lumpur)	116	58
6	Construction Permits (states)	1,116	580
7	Freight Movement in Free Zone	275	85
8	Cargo Clearance in Free Zone	165	45
9	Dangerous Good Permits	15	5
10	MAQIS Import/Export Permits	635.4	330.4
	Total	7291.1	2702.3

ICT = information and communication technology; N/A = not available; SME = small and medium-sized enterprise; RURB = reducing unnecessary regulatory burdens.

Source: MPC (2016a).

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