5 October 2021

Cabinet Submission Checklist – Regulations Two-Step Process

Where regulations are likely to be contentious, represent a change in government policy, or will impact multiple ministerial portfolios, a two-step process is followed.

The two-step process requires a Cabinet submission to seek approval to **draft** the regulations (step 1) and once the regulations have been made and settled, a second submission to **make** regulations (step 2)

Submission for approval to draft regulations (step 1 of 2)

Submission Content

The body of the submission must include details on the following:

|  |  |
| --- | --- |
| **Submission details** | **Y/N** |
| Summarise the main aim of the regulations – describe the context of the proposed regulations and any other necessary background information |  |
| Who has been consulted about the making of the regulations and what have they said about their being made |  |
| Summarise the impacts of the regulations on the community, business or the environment (etc) |  |
| Outline the resources required to support the new regulations and where they will come from |  |
| What steps will be taken to support the regulations’ effective implementation and ongoing operation? If appropriate, give details of the implementation strategy.  Who is responsible for the implementation strategy? |  |

## Recommendation

The recommendation must make reference to:

|  |  |
| --- | --- |
| **Recommendation details** | **Y/N** |
| Cabinet approving the drafting of regulations by Parliamentary Counsel |  |
| The full name and year of the Act that the regulations will be made under |  |
| The purpose of the regulations |  |

**Example of recommendation:**

*That Cabinet approve the drafting of regulations under the (insert full title and year of the enabling Act) to (insert a brief description of the purpose of the regulations).*

## Attachments

The following attachments must be included in the following order:

|  |  |
| --- | --- |
| **Attachments** | **Y/N** |
| Costing comment from the Department of Treasury and Finance |  |
| Cabinet Office comment |  |
| Drafting instructions for Parliamentary Counsel |  |
| Any other documentation relevant to the proposal |  |

Submission for approval to make regulations (step 2 of 2)

Submission Content

The submission to make the regulations must contain the same level of detail as the submission for approval to draft, as well as the following additional information:

|  |  |
| --- | --- |
| **Submission details** | **Y/N** |
| State when Cabinet approved the drafting of the regulations |  |
| State whether the regulations have been drafted according to the instructions previously approved by Cabinet or detail what the changes are |  |
| That Parliamentary Counsel have issued a Certificate of Validity |  |
| The submission must state when the regulations will come into effect. By default, all regulations come into effect four months after they are made. If the regulations are to commence earlier, the submission must state why this is necessary and that Parliamentary Counsel have issued a Certificate of Early Commencement which the Minister has signed to enable this to occur |  |

|  |  |
| --- | --- |
| **Submission details** | **Y/N** |
| State that the regulations will be published in the Government Gazette on the day that they are made by the Governor in Executive Council  Provide other details of any proposed communication or publicity for the regulations |  |
| Details on when the regulations should be made by the Governor in Executive Council |  |

## Note: the name of the regulations detailed throughout the submission must be identical to what appears on the regulations settled by Parliamentary Counsel.

## Recommendation

The recommendation must make reference to:

|  |  |
| --- | --- |
| **Recommendation details** | **Y/N** |
| Her Excellency the Governor in Executive Council making the regulations |  |
| The full name and year of the regulations being made |  |
| The full name and year of the Act that the regulations are made under |  |
| The purpose of the regulations |  |
| The proposed date of operation |  |

**Example of recommendation:**

*I recommend that Cabinet recommend that Her Excellency the Governor in Executive Council make the (insert full title and year of the regulations) under the (insert full title and year of the enabling Act), to (insert a brief description of the purpose of the regulations), noting that the regulations will come into operation on (insert date).*

## Attachments

The following attachments must be included, and must be listed in the following order:

|  |  |
| --- | --- |
| **Attachments** | **Y/N** |
| Costing comment from the Department of Treasury and Finance |  |
| Cabinet Office comment |  |
| Report addressed to the Legislative Review Committee |  |
| Certificate of Validity signed by Parliamentary Counsel – for each set of regulations |  |
| Certificate of Early Commencement signed by the minister, if required – for each set of regulations |  |
| Regulations initialled by the minister, if required – one copy of each set |  |

|  |  |
| --- | --- |
| **Attachments** | **Y/N** |
| Correspondence – evidence of any pre-conditions, evidence of a recommendation being made to the Governor or minister |  |
| **Note:** if there is more than one set of regulations, a complete set of the documents must be attached to the submission in the order detailed above. Each set of documents should be attached in the order that the regulation names are listed in the recommendation section of the submission (for example, Certificate of Validity, Certificate of Early Commencement, one copy of regulation, then repeat order for each set of regulations) |  |

## Legislative Review Committee Report

The report to the Legislative Review Committee should address the following matters:

|  |  |
| --- | --- |
| **Report details** | **Y/N** |
| The policy considerations which resulted in the development of the regulatory or deregulatory proposal |  |
| A summary of any administrative, legal or other arrangements established under the proposed regulations |  |
| If available, appropriate information on the financial impact of the proposal (keeping in mind that this report is to a Standing Committee of the Parliament and not a report to Cabinet) |  |
| An outline of the process of consultation leading to the formulation of the policy position and the preparation of the regulations |  |
| If a ministerial certificate for early commencement of the regulations has been issued and the reasons for the issue of the certificate |  |
| The name and telephone number of an officer who can be contacted about the regulations |  |

|  |  |
| --- | --- |
| **For more information:** |  |
| Contact the Executive Council clerks | [Cabinet Coordination contact list](http://in.dpc.sa.gov.au/docs/Documents/Cabinet-Coordination-Contact-List.pdf) |