

21.

Government Relations



Every enterprise operating in Canada should consider the strategic benefits of understanding and working with government.

Canada's System of Government

Canada is a federation divided into 10 provinces and three territories.

The Constitution divides powers between the federal parliament and the provincial legislatures.

Areas within the jurisdiction of the federal parliament include defence, foreign policy, trade and commerce, transportation, communications, criminal law, banking, patents, copyright, and unemployment insurance.

The provincial legislatures have jurisdiction over education, hospitals, property and civil rights, welfare, natural resources, local works and undertakings, and “generally all matters of a local or private nature in the province.” Jurisdiction over agriculture and immigration is divided between the two levels.

It is important to note that the Canadian provinces are generally not subordinate to the federal government. The provincial legislatures are autonomous within their constitutional jurisdiction, and the federal parliament is autonomous within its jurisdiction. Only in exceedingly rare cases – where provincial laws encroach on federal jurisdiction – will federal laws render provincial laws inoperative.

Executive

The head of Canada's government is the Prime Minister. In the provinces and territories, the head of government is the Premier.

Canada's head of state is King Charles III, represented in Canada by the Governor General. The Governor General plays a largely ceremonial and constitutional role and is entirely removed from the running of government. In each province and territory, there are equivalent roles to those of the Governor General.

The Cabinet is composed of the Prime Minister (at the provincial level, the Premier) and as many members as he or she chooses. Cabinet members are called ministers. The formal title of most ministers is “[Portfolio] Minister,” though some ministers have different titles (e.g., Attorney General or President of the Treasury Board).

Legislative

The federal Parliament is bicameral, divided into an elected House of Commons and an unelected Senate.

Canada is currently divided into 338 electoral districts, each represented by one member of the House of Commons.

Members of the House of Commons are called members of Parliament, or MPs, while members of the Senate are called senators. There are currently 105 senators.

All provinces have unicameral legislatures. Members of provincial legislatures are usually called members of the legislative assembly (MLAs). However, in Ontario, they are called members of provincial parliament (MPPs); in Newfoundland and Labrador, they are called members of the house of assembly (MHAs); and in Quebec, they are called (in English) members of the national assembly (MNAs).

Elections

The call of a general election involves dissolving Parliament or the legislature and then calling an individual election in each electoral district of the country or province. What Canadians refer to as a general election is actually a simultaneous series of district elections.

Federal general elections, as well as almost all provincial general elections, now occur on a fixed date, four years after the last election. Previously, the dates of elections were determined by the Governor General or lieutenant-governor. However, since these positions are largely ceremonial and the lieutenant-governor merely acts on the advice of the Prime Minister (or the Premier, as the case may be), in practice, it is the Prime Minister (or the Premier) who decides when to dissolve Parliament or the legislature and trigger a general election.

Structure of Government

The federal government is organized into units called departments. The number and structure of departments is determined from time to time by the Prime Minister.

The senior civil servant in charge of each ministry is the deputy minister. All deputy ministers are appointed by Cabinet and serve at the pleasure of the Prime Minister. In practice, they report to the Prime Minister's deputy minister (the clerk of the Privy Council), who is head of the civil service.

The entire civil service, from the rank of deputy minister downward, is non-partisan and expected to serve the government of the day. Even the Privy Council Office (the Prime Minister's department) consists of non-partisan civil servants. While a newly elected government

might shuffle deputy ministers or replace a few who are not well-suited to implement its agenda, by and large, even following a change of party, the civil service remains intact.

In addition to non-partisan civil servants, the Prime Minister, ministers, and members of the House of Commons are supported by political staff members who serve at their pleasure and as long as their employer holds office. Ministers' staffs usually range in size from 10 to 25, while a backbench member of the Commons might have two to four assistants divided between the parliamentary office in Ottawa and the constituency office(s) in his or her electoral district.

Government Relations

Companies who are, or are considering, doing business in Canada should be familiar with the applicable government regulations that affect their business. Moreover, there are many business opportunities for sectors where government demand is high (e.g., defence, information technology, health and pharmaceuticals).

Government relations involves the lobbying of senior bureaucrats, ministers, and government officials who are in a position to consider changes to laws or government policies, or to approve a company's involvement in government projects. Such efforts should not be limited to the political party that forms the majority in Parliament, as lobbying the minority parties can be effective as well.

A healthy relationship with the applicable level of government becomes crucial when a business is faced with specific issues that are within governmental control. For example, (a) a corporation that produces and operates carbon

dioxide capture and storage mechanisms would benefit from a comprehensive understanding of the current environmental and natural resources regulatory environment and funding opportunities and (b) the production of a natural gas pipeline can involve provincial ministries of energy, lands, and environment as well as the federal ministries of fisheries and oceans and environment. In such situations, it is crucial to engage the appropriate elected officials to assist with initiating change, investment, and encouraging business development.

Indigenous Law

The area of Indigenous law is important to any forestry, energy, mining, or transportation business operating on lands subject to Indigenous land claims and land treaties.

Environmental Law

Environmental law is emerging as a legal mainstay in real estate development, natural resource extraction, and industrial development, among other fields. Not only must the current regulations be understood and applied but the associated risks must also be mitigated and the potential liability lessened. Few businesses are free of environmental concerns. A succinct and cohesive understanding of Canadian environmental law will not only minimize legal risk but may also provide previously unforeseen benefits.
