

Centre for Civil Society

Quality of Regulation Index: A Checklist for Ex-Post Review of Laws

Democratic Safeguards				
Procedural checks to ensure participatory, transparent and accountable rule-making				
Criterion	Sub-criterion	Rationale	Questions	Response Type
Rule-making process	Transparency of rule-making / How accessible, transparent and participatory is the rule-making process?	Democratic rule-making requires that each law reflect the will of the people. Ex-ante, this involves those in power to consider the public's views about the law and make the law available for public scrutiny and open to challenge.	Was the entire text of the bill made available on the government or legislature's website?	Binary
			Was the bill open for comments from the general public through a government/legislature's website?	Binary
			Was the comment period open for at least 30 days following the public release of the draft bill (from the date of announcement)?	Binary
			Were all the comments received (or their summary) made available on the government or legislature's website?	Binary
			Were results of the consultation (response to the comments received) on the bill made available on the government or legislature's website?	Binary
			Is the entire text of the legislation as on date available on the government or legislature's website?	Binary
	What is the readability score of the legislation?	Score (0-100)		
	Ex-ante Impact Assessment/ Has the legislation been enacted following a publicly-available assessment of the costs and benefits it imposes on stakeholders?	Any regulation comes with costs for the government, businesses, and citizens. An RIA forces the government to think hard about the costs and benefits of a proposed regulation across stakeholders and across time.	Did the proposing ministry/department conduct an impact assessment (RIA) of the bill?	Binary
Course-correction	Ex post review / Has there been a review of the implementation of the law?	An ex-post review helps manage the stock of regulation to ensure that the rule-set in question is valid, cost-effective, efficient and fit for purpose. It also helps identify and record unintended consequences.	Is the legislation or any of its provision to be periodically reviewed?	Binary
			Has the line ministry/department conducted any ex-post review of this legislation?	Binary
			If an ex-post review was conducted, were any specific guidelines followed?	Binary
			If an ex-post review was conducted, were the findings made available on the government or legislature's website?	Binary
Legal Safeguards				
Procedural checks on the quasi-legislative and quasi-judicial functions of the executive				
Criterion	Sub-criterion	Rationale	Questions	Response Type
Guidance for executive discretion	Checks on delegated rule-making / What guidance is put in place for rule-making powers of the executive?	The legislature often delegates rule-making powers to the administrative under a parent statute, that runs the risk of unelected officials suppressing individual rights. This tension between 'bureaucracy and democracy', is resolved by instilling various checks on the executive's rule-making powers.	Does the legislation delegate rule-making powers to the executive?	Binary
			If the legislation delegates rule-making powers to the executive, are the rule-making heads for the subordinate legislation enumerated in the parent legislation?	Binary
			Does the parent legislation introduce a residual clause as one of its rule-heads?	Binary
			If the legislation delegates rule-making powers to the executive, does it specify by when the subordinate legislation must be made?	Binary

Checks on executive decision-making / What guidance is put in place on rule-decision powers of the executive?	A law that makes private action dependent on the approval of the executive, without clarifying the grounds for approval, puts unqualified power in the hands of the authority. Clear procedural guidance guards the public against violations and entitles them to a fair decision-making process.	Does the legislation confer upon the executive the authority to grant approval/licence?	Binary
		Does the provision identify the decision-making authority for granting approval/licence?	Binary
		Does the provision define conditions (criteria) for grant of approval?	Binary
		Does the provision define conditions (criteria) for grant of approval?	Binary
		Does the provision mandate the decision-making authority to provide reasons in writing (for denial or approval)?	Binary
		Is there a provision to appeal against the decision of the decision-making authority?	Binary
		Does the legislation confer upon the executive the responsibility to ensure enforcement?	Binary
		Does the provision identify the authority for carrying out enforcement actions?	Binary
		Does the provision mandate the enforcement authority to provide reasons for its decision in writing?	Binary
		Does the provision mandate a pre-decisional hearing (or issuance of show cause notice)?	Binary
Is there a provision to appeal against the decision of the enforcement authority?	Binary		

Economic Safeguards

Criterion	Sub-criterion	Rationale	Questions	Response Type
Impact on enterprises	Market entry / How does the rule-set affect market entry and exit?	Most high income countries share certain features and values that guide their economic laws, including a high degree of openness, low economic burden, increased competition and an enabling environment for the private sector. Creating a favorable business environment, entails as minimums, the following two aspects: first, easing entry and exit barriers and second, introducing rules that create a level-playing field and allow for competition to thrive.	Does the legislation introduce one or more of the following conditions for entry into the market: <ul style="list-style-type: none"> - Quota Limits (absolute/percentage caps on the number of suppliers) - Occupational licenses; permits; certifications - Tariffs; Taxes - Minimum capital requirements (or input/infrastructure requirements) - Territorial restrictions/ zoning - Barriers on access to necessary raw materials - Product specifications/characteristics based on quality/safety standards (usually tied to the licence/permit) - Patents and copyright? 	Binary
	Competition / How is competition affected due to the operation of the law?		Does the legislation directly limit the number or range of suppliers by awarding exclusive rights to supply?	Binary
			Does the legislation directly limit the ability of the supplier to exit the market?	Binary
			Does the legislation control the price a supplier may charge?	Binary
			Does the legislation control the characteristics of the products/services supplied?	Binary
			Does the legislation limit the sales channels a supplier may use or the geographic area in which a supplier can operate?	Binary

Does the legislation limit the number of buyers of a product/service?	Binary
Does the legislation restrict the ability of suppliers to advertise their products or services?	Binary
Does the legislation introduce restrictions on the production processes (for the goods/services produced)?	Binary
Does the legislation require suppliers to coordinate activities over which they would ordinarily compete?	Binary
Does the legislation give preferential treatment to domestic firms vis a vis foreign firms?	Binary
Are some private enterprises treated differently from others?	Binary
Are government enterprises treated differently from private enterprises in a comparable situation?	Binary
Does the legislation mandate product or service disclosures from the supplier to the general public?	Binary