

GOVERNMENT RELATIONS

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In Canada, legislative power is divided between Parliament (the federal legislature) and provincial legislative assemblies. Each of these branches of government is based on the British parliamentary model, in which the political party with the most members elected to Parliament or to the provincial legislative assembly typically forms the government. See [Canada](#).

Usually, the governing party that forms the federal or provincial government holds a majority of the seats in the federal or provincial legislature and governs through a Cabinet of appointed “ministers.” This tends to reduce the relative influence of individual elected members of the legislature, as it is rare that members of the governing party vote against a government-supported initiative. However, at the federal level, there were a series of “minority governments” between 2004 and 2011, in which the governing party held more seats than any other party in Parliament, but did not hold a majority of the seats. As a result, the relative influence of members of Parliament increased during that time. After a series of “majority governments” were elected from 2011 to 2019, the results of the last two federal elections (in 2019 and 2021) have been minority governments.

Coalition governments between two or more parties have not yet occurred at the federal level in Canada, although that tactic has been more widely discussed between federal political parties in recent years. In March 2022, the governing Liberal Party, which held a minority of seats in the federal Parliament, entered into a “supply-and-confidence” agreement with the opposition New Democratic Party. The parties agreed to co-operate on key priorities and to keep the Liberal government in office until June 2025, though the agreement is not enforceable; nothing prevents the New Democrats from withdrawing from the agreement and supporting a vote of no confidence in the Liberal government, which (if successful) would force the government’s resignation and precipitate early elections. At different times in recent decades, a number of provinces have been governed by similar arrangements between parties.

Given the significant role that the federal and provincial governments play in the Canadian economy, every enterprise operating in Canada should consider a government relations strategy. Companies may also engage with governments through industry associations. This may be a practical necessity for companies active in industries that are heavily regulated (such as telecommunications, pharmaceuticals, transportation, and energy); that



can be greatly affected by government policy (such as manufacturing and agriculture); or that sell to the government (such as defence and information technology companies).

Government relations work, which includes lobbying, is generally focused on outreach to government employees, the ministers who form the executive council (i.e., Cabinet) in each province and federally and their staffs, and members of the legislature who are part of the governing party. Depending on the concern, enterprises may also choose to lobby members of opposition parties in order to have matters raised in the legislature or at a committee of the legislature. This can be particularly important when a minority government is in power.

Government relations work is needed when an enterprise seeks to initiate, support, or oppose legislative initiatives, or seeks a change in regulation or policy. A number of government ministries and regional or political interests may be involved with any given initiative or change, and the enterprise may seek meetings with all the responsible senior government employees and ministers. For example, enterprises involved in interprovincial trucking operate within a regulatory environment that includes provincial and federal ministries of transportation, industry and commerce, and labour. Likewise, private development of hydroelectric power projects usually requires contact with provincial ministries of energy, lands and environment, as well as the federal ministries of fisheries and oceans, and environment. It also may be necessary to engage the senior elected member of the governing political party who is “politically responsible” for a given region, as any given initiative or change can affect regions differently.

Two areas of notable interest for government relations are relationships with Indigenous Peoples and the Canadian system of environmental assessments (EA), which is required for major projects approvals.

In the case of the group of Indigenous Peoples known as First Nations (the other two groups are the Métis and the Inuit), the First Nations themselves will likely need to be consulted when major projects are planned, as they may retain some claim to Aboriginal title or hold traditional Aboriginal rights in relation to the land. These rights vary across Canada, depending on historical and legal developments. Where First Nations interests are involved, both

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the federal and provincial governments will also have to be advised and consulted. See [Aboriginal Law](#).

In the area of EA, Canada requires comprehensive environmental assessments when projects involving land use reach a certain threshold of invested capital or when certain types of projects are involved. If the project is under federal jurisdiction (such as interprovincial pipelines), environmental assessments fall under the *Impact Assessment Act* (IAA). Enacted in 2019, the IAA creates a comprehensive process for assessing the effects of projects designated for assessment by the federal government and determining whether the designated project would serve the public interest. The stated objectives of the IAA include the consideration of environmental, social, health and economic factors. If the project is strictly within a single province and federal jurisdiction is not involved, generally only the provincial EA process will apply. In some cases, both federal and provincial EA processes apply. A number of provinces, led by Alberta, have challenged the IAA's constitutionality and that challenge is currently before the Supreme Court of Canada. A decision is expected in late 2023 or early 2024.

There may be significant differences in the complexities and timelines of the EA process imposed by a particular provincial government and the process imposed by federal government. As such, most enterprises considering investments above the applicable EA threshold in any Canadian jurisdiction should develop an early and positive relationship with the appropriate levels of government so their eventual EA application does not come as a surprise or become controversial. See [Environmental Regulation](#).

Investors in Canada should be aware that, compared to the United States, Canada's federal and provincial governments are much more active in the delivery of certain services such as health care, utilities, infrastructure, and broadcasting. Investors should seek advice on the attitudes of government toward investments in these and other fields before proceeding, as coordination and co-operative relationships with government will lead to much more effective and efficient decision-making. This is also true of sectors in which there have recently been notable shifts in the regulatory environment. These include: residential real estate, in which foreign investment has increasingly been restricted and regulated in an effort to stabilize Canada's housing market (see [Real Property](#)); cannabis, which was legalized federally in October 2018 and which is significantly regulated at both the federal and provincial levels (see [Cannabis](#)); and critical minerals, in the exploration, extraction, and processing of which foreign enterprises may face heightened regulatory scrutiny (see [Foreign Investment Law & National Security](#)).

Lobbying is legal in all Canadian jurisdictions but is also subject to strict reporting and registration laws. Scrutiny of lobbying activities has been a particularly sensitive political issue in Canada over the past few years. Enterprises need to be mindful of the high standards expected of those engaged in lobbying efforts.

Codes of conduct for public officials regulate the public officials and not those interacting with them. Such codes of conduct govern what activities a public official may engage in, as well as the hospitality he or she may accept, if any. An enterprise should, for example, avoid inadvertently placing public officials in a conflict-of-interest position that could impede that official from being involved with a given issue and also bring negative attention to the enterprise's government relations effort.

Separate codes of conduct regulate lobbyists and their interactions with public officials. An amended code of conduct for lobbyists came into force on July 1, 2023. It creates new disclosure requirements and revised limits around gifts and hospitality. The new version of the code uses broader language to restrict the circumstances in which a registered lobbyist may lobby a public official, prohibiting the lobbying of officials who could "reasonably have a sense of obligation" toward the lobbyist. The new code also makes clear that all of its prohibitions and requirements extend to grassroots communication.

The regulation of those in the private sector who interact with public officials in Canada is generally governed by lobbying legislation. Such legislation provides that businesses and their employees may need to register their government relations activities with a central registry. This central registry is available to the public (usually through the internet). Federal and provincial lobbyist legislative schemes distinguish between in-house lobbyists (both for businesses and for organizations) and external consultant lobbyists. Businesses and organizations are required to register in respect of their in-house lobbying activities when their paid employees collectively devote a significant amount of time to regulated communications with public officials. The precise threshold for registration varies by jurisdiction and may change over time as legislation is amended.

The registration of lobbyists has come under increasing scrutiny in almost every jurisdiction in Canada. The Parliament of Canada and every provincial legislature has enacted lobbyist legislation. Some cities, such as Toronto and Ottawa, also have bylaws requiring individuals that lobby municipal

politicians and government employees to register. Lobbying activities in other cities, such as St. John's, in the Province of Newfoundland and Labrador, and Montréal and Québec City, in the Province of Québec, are regulated by provincial lobbying legislation.

The types of communication that may require registration vary from jurisdiction to jurisdiction. Broadly speaking, they include: communications with public officials (which includes not only politicians, but also many government employees) with respect to the development of legislative proposals; the introduction, passage, defeat or amendment of legislation; the making or amending of any legislation; the development or amendment of any policy or program; the awarding of any grant, contribution or other financial benefit; and, in some cases, the awarding of contracts and the arrangement of meetings with public officials.

Unlike the United States, Australia, and other jurisdictions, Canada does not have a foreign agent registry. However, the federal government launched public consultations on the concept in March 2023 and is expected to move forward with its creation. Such a registry would likely require persons or entities acting on behalf of a foreign state to declare any activities intended to influence Canadian government policies, officials, or democratic processes.

A well-planned government relations strategy can lead to a productive and professional relationship with responsible decision-makers in government. Both industry and public officials benefit from such relationships because they ensure that all the facts relevant to a government decision are expressed, understood and taken into account. Governments in Canada will generally do their best to be responsive, transparent and effective in addressing the needs of enterprises. However, when engaging public officials, it is essential for an enterprise to know and follow the rules.

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