

Government Resolution No. 2118 of October 22, 2014

2118. Reducing the Regulatory Burden –

It is hereby resolved, to approve the amended version of the Resolution of the Ministerial Committee for Economic and Social Affairs (the Socio-Economic Cabinet) of September 17, 2014, as follows:

In this Resolution,

- A. Regulation – A law or rule having legislative effect which constitutes a binding behavioral code for any economic or social conduct, and is enforceable by an administrative authority which derives its power from law.
To avoid doubt, for the purposes of this resolution, legislation in the field of taxes and the imposition of levies, or changes in their amount are not considered regulations.
- B. Regulator – Any administrative authority in the government authorized to initiate or formulate regulation and/or grant permissions, licenses, etc. by the power of the regulation, and/or to issue an administrative order to implement said regulation, whether this authority is derived from law or whether it was delegated to the regulator by an authority with the power to do so by law.
- C. Administrative Costs – The direct costs of work processes vis-à-vis the regulator, such as obligatory reporting, submitting requests and forms, obtaining approvals, waiting periods, etc.
- D. Compliance Costs – The direct costs incurred by meeting the regulatory demands.
- E. Minimizing Compliance Costs – Minimizing the costs of meeting the regulatory demands, subject to the implementation of a risk-management process that is based on the considerations that guide the regulator according to the power-granting legislation.
- F. The Governmental Book of Regulators – A book which maps the regulators in the government, as prepared in accordance with Government Resolution No. 708 of August 25, 2013.
- G. Modifying Technical Requirements – Modifying the technical requirements imposed on the importation or manufacturing of goods in accordance with the free import regulation or any other law so that these requirements match those practiced in significant markets around the world, with the exception of special circumstances due to unique conditions in the State of Israel.
- H. Reducing the Regulatory Burden – Minimizing administrative costs, minimizing compliance costs and modifying technical requirements.
- I. Regulatory Impact Assessment – The regulatory impact assessment process is detailed in Article 3 hereinafter.

Reducing the Current Regulatory Burden

1. To charge the government ministries with reducing the current regulatory burden as follows:
 - a. By March 31, 2015, each ministry will formulate a five-year plan to reduce the regulatory burden. This plan will determine a list of regulators for whom the plan to reduce the regulatory burden will be implemented for each of the years 2015-2019 (hereinafter: the five-year plan). The five-year plan will include all regulators listed in the Governmental Book of Regulators.
 - b. Beginning in 2014, by December 31st of each year, each ministry will formulate and publicize a detailed plan to be executed the following year to reduce the regulatory burden vis-à-vis the regulators determined in the five-year plan (hereinafter: the annual plan).
 - c. With respect to the administrative costs, the annual plan will bring about a 25% reduction in the aggregate administrative costs of the regulators included in it.
 - d. Notwithstanding Sections a-c above, the formulation of the annual plan to be executed in 2015 will be completed by April 30, 2015; it will not be expected to bring about the 25% reduction in administrative costs; and it will include at least the regulators listed in the Addendum to this Resolution.
 - e. The five-year plan and the annual plans will be formulated after conducting a dialogue with the business sector and the third sector, in coordination with the Prime Minister's Office. In cases when an annual plan includes matters that pertain to the jurisdiction of other ministries, the plan will be formulated in consultation with the other relevant authorities.
 - f. Beginning in 2016, by March 31st of each year, each ministry will publicize a report detailing the actions taken the previous year to implement the annual plan and the five-year plan, including a breakdown of the regulatory burden that has been reduced (hereinafter: the annual report).
 - g. Notwithstanding the definition of *regulation* in this Resolution, the Israel Tax Authority at the Ministry of Finance will be required to reduce the existing regulatory burden as detailed in this Article.
2. To instruct the Minister of Economy to work to modify the official standards in Israel so that they conform to international standards, as detailed in the Standards Law – 1953; to complete this modification until December 31, 2015; and to ensure that any national deviations to these standards that were deemed necessary are in accordance with the rationales for declaring an official standard as detailed in Article 8 of the Law.

Ex-ante Regulatory Impact Assessment (RIA)

3. To instruct each regulator, when formulating new regulation, depending on the purpose of the regulation and as part of the considerations guiding the regulator in accordance with the power-granting legislation or any law, to consider an alternative that reduces the regulatory burden, and, without diminishing from the generality of the aforementioned, to act as follows:
 - a. To define –
 - 1) A clear purpose for the regulation, in accordance with the considerations guiding the regulator outlined in the power-granting legislation;
 - 2) The need for regulatory intervention to achieve this purpose;
 - 3) The expected benefits of implementing the regulation.
 - b. When applicable, to discontinue the requirement to obtain approvals in advance by determining binding, clear and definite rules to be imposed retroactively, including through self-regulation, all subject to the possibility of effective, deterring and economically beneficial enforcement and oversight.
 - c. To calculate the regulatory burden expected to result from the regulation, taking into account all available information.
 - d. To lessen any overlapping of the regulation with other regulations and any contradictions between them.
 - e. To lessen the harm inflicted to additional public interests as a result of the regulation.
 - f. To create clarity, certainty and consistency in the targets of the regulation with regard to the stipulations of the regulation, the methods of supervising that its stipulations are met and the methods of enforcing it, while making this information accessible.
 - g. To conduct a dialogue with as many stakeholders as possible, in addition to upholding the right to a hearing as determined by law, when applicable.
 - h. To implement this Article in accordance with the Governmental Handbook for Regulatory Impact Assessment.
 - i. To draft a report which will detail the information regarding the implementation as determined above (hereinafter: the RIA report) as a supplement to the formulation of the regulation.
 - j. The RIA report will be made public starting on January 1, 2016:
 - 1) With respect to a governmental draft resolution when the memorandum of law is published;
 - 2) In connection to the subsidiary legislation, before the subsidiary legislation is approved by the relevant minister or before it is forwarded to the relevant Knesset

committee for approval if such approval is required for the subsidiary legislation, or when the draft of the subsidiary legislation is made public, whichever occurs first and as needed.

The minister responsible for regulation will be allowed to exempt his/her ministry from the requirement of the RIA process in cases where the impact of the regulation on the targets of the regulation or on other public interests is negligible.

4. Instructions for transitioning into 2015:
The RIA process will be applied to two regulations initiated by each ministry during 2015, one determined in primary legislation, and the second determined in subsidiary legislation.

A Governmental Regulation Website

5. To charge the governmental ICT (information and communications technologies) unit with creating, by March 1, 2015, a governmental regulation website in which the following will be made public:
 - a. The Governmental Book of Regulators;
 - b. The five-year plan;
 - c. The annual plans;
 - d. The annual reports;
 - e. The RIA reports;
 - f. Regulations published after the website is created.
6. To instruct every ministry or regulator, as the case may be, to detail on the governmental regulation website the areas in which the ministry plans to formulate new regulation, in addition to making the annual plan public on the website.

Organizational Infrastructure

7. To charge the Director General of the Prime Minister's Office with the following:
 - a. To develop, by January 1, 2015, tools and measures to enable the execution of Article 1 above.
 - b. To publish, by April 1, 2015, a Governmental Handbook for Regulatory Impact Assessment to enable the execution of Article 3 above.
 - c. To update, from time to time, these tools and measures and the Handbook, in particular in reference to the experience gained by the ministries throughout 2015 from implementing Articles 1 and 3 above.

- d. To update, from time to time, the Governmental Book of Regulators.
 - e. To formulate, in conjunction with the Civil Service Commission, mandatory instruction courses for regulators.
 - f. To establish an advisory committee to the government, comprising representatives of the government, the business sector and the third sector, to provide advice regarding the implementation of this Resolution.
8. The directors general of the government ministries will appoint an employee of each ministry at the level of deputy director general to be responsible for implementing this Resolution and to manage a team to this end.
 9. To instruct the Ministry of Finance and the Civil Service Commission, in coordination with the Prime Minister's Office, to allocate, within 30 days, the budget and the positions in the government ministries for the implementation of this Resolution.
 10. In order to facilitate the implementation of this Resolution within the given schedule, to instruct the Civil Service Commission to advance the tender procedure so that the ministries can complete filling the positions by April 1, 2015.
 11. To instruct the governmental ICT unit to assist the ministries by providing the computerized solutions required to implement the annual plans, and to develop generic platforms that will be available for the use of the ministries. The Prime Minister's Office will be the professional authority guiding the governmental ICT unit regarding the implementation of this resolution.
 12. Further to Government Resolutions No. 708 of August 25, 2013, and No. 4027 of November 25, 2011, this Resolution will not apply to statutory corporations, the Capital Market, Insurance and Savings Department at the Ministry of Finance, or to regulation in their fields.

The government notes the announcement of the Commissioner of Capital Markets, Insurance and Savings that she will voluntarily adopt a parallel process in the spirit of this resolution and will report to the government on its implementation. In addition, in light of the importance that the Government attributes to reducing the regulatory burden, the Government asks regulators who are statutory corporations to consider implementing parallel processes in accordance with the principles of this resolution.

13. This Resolution does not apply to regulations that deal with competition and target markets that have no more than three parties holding over 65% of the market.

Legislation

14. To instruct the Prime Minister's Office, with the assistance of the Ministry of Justice, to publish a Regulatory Impact Assessment memorandum of law, in accordance with Article 3 above and in light of the experience to be gained from the implementation of this Article.

Explanations

Government Resolution No. 708 of August 25, 2013, instructed the Director General of the Prime Minister's Office to introduce a "plan to improve regulation and to reduce the existing bureaucratic burden of regulation" for government approval. This Resolution follows from the aforementioned Resolution No. 708. Attached to this Resolution is the Governmental Book of Regulators, in which all governmental regulators, as defined in this Resolution, are mapped.

Regulation is a central tool for encouraging the economy and advancing society, and maintaining a developed regulatory system is the basis for an advanced, developed country, and helps protect vital public interests and allows for the existence of a modern, efficient and prosperous economy.

This Resolution does not detract from the importance of regulation, nor from the need to expand and formulate new regulations in various fields. However, good regulation must reflect a balance between protecting the public interest and superfluous regulation which burdens the economy and could prove detrimental to healthy market activity. The purpose of this Resolution is to bring about a reduction in the unnecessary regulatory burden, and to create the correct balance between vital governmental intervention and leaving room for market forces to operate.

The plan detailed in this Resolution includes two central components: the first – reducing the regulatory burden of existing regulation, and the second – carrying out an assessment of the expected impact of regulation before formulating new regulation.

The principles that lie at the basis of this Resolution are anchored in the Recommendations of the Council on Regulatory Policy and Governance, published by the OECD Regulatory Public Committee (see: <http://www.oecd.org/governance/regulatory-policy/49990817.pdf>). It is noted that the intention of this Resolution is not to instruct regulators to take into account any considerations that may contradict power-granting legislation or basic principles of the legal system.

Definitions:

A. Regulation – A law or rule having legislative effect, i.e. norms that impact the existing legal situation and are directed at the entire public, or at least at an undefined part of it, which constitute a binding behavioral code for any economic or social conduct, and is enforceable by an administrative authority which derives its power from law.

To clarify – In accordance with this definition, for the purposes of this Resolution, *regulation* does not include penal law or the provisions of civil law which regulate relationships between individuals. Nor does this definition include administrative instructions and arrangements that do not have legislative effect. In addition, regulation defined as a "binding behavioral code" does not include governmental activity which includes providing support, grants, subsidies etc., although the recipient of governmental support is likely to be required to meet certain conditions in order to receive it. Furthermore, legislation in the field of taxes and the imposition of levies, or changes in their amount are not considered regulations.

B. Regulator – For the purposes of this Resolution, a regulator is any administrative authority in the government authorized to initiate or formulate regulation and/or grant permissions, licenses, etc. by the power of the regulation, and/or to issue an

administrative order in order to implement said regulation, whether this authority was granted directly or whether it was delegated to the regulator by an authority with the power to do so by law. For the purposes of this Resolution, an administrative authority may be a minister, a unit in a ministry or an autonomous unit. The definition of *regulator* for the purposes of this Resolution does not include regulators that are statutory corporations or regulation in their fields.

- C. Administrative Costs – The direct costs incurred by work processes. These work processes include all the actions required to prove compliance with regulation, including *inter alia* obligatory reporting, submitting requests and forms, obtaining approvals and waiting periods involved in the process. To avoid doubt, in light of the definition of *regulation*, fees are not included in the administrative costs.
- D. Compliance Costs – The direct costs incurred by meeting the regulatory demands, including *inter alia* materials and equipment, the need to employ personnel, the responsibility to make information public, etc.
- E. Minimizing the Compliance Costs – Minimizing the costs of meeting the regulatory demands, subject to the implementation of a risk management process that is based on the considerations that guide the regulator according to the power-granting legislation.
- F. The Governmental Book of Regulators – This book, the first edition of which is attached to this resolution, is the product of the process of mapping the regulators, carried out by the Director General of the Prime Minister's Office as charged in Government Resolution No. 708 of August 25, 2013. The list of regulators in the book outlines the parties in the government who have de facto regulatory authority according to the definition of *regulator* in Section B above. It is noted that it is understood that all government ministers are regulators as defined in the Government Resolution. However, the book maps the current administrative structure, and accordingly, the regulators listed in it reflect the administrative end units.
- G. Amendment No. 10 to the Standards Law – 1953, which was passed on October 31, 2013, states that when establish a new standard, the default for that standard will be the full adoption of the international standard as practiced in developed countries with significant markets in the world. This stems from the assumption that adopting an international standard will facilitate trade between Israel and other countries around the world. In this spirit, it is proposed to also determine that in order to reduce the regulatory burden, it will be required to modify the technical requirements imposed on importation or the manufacturing of goods so that with the exception of special circumstances, as aforementioned, existing standards will be adjusted to match what is accepted internationally.
- H. Reducing the Regulatory Burden – Minimizing administrative costs, minimizing compliance costs and modifying technical requirements.
- I. Regulatory Impact Assessment – The process is detailed in Article 3 hereinafter.

Reducing the Existing Regulatory Burden

Article 1 – In accordance with this Article, a five-year plan to reduce the existing regulatory burden will be implemented in such a way that within five years, there will be a reduction in the regulatory burden will be implemented for all the regulators in the government. The five-year plan will comprise five annual plans. The five-year plan will provide the framework for the annual plans, and in it, each ministry will determine during which year the annual plan will be implemented for each regulator, and which regulations will be reformed.

The five-year plan and the annual plans will be formulated in consultation with the business sector and the third sector, in order to ensure that the plans provide solutions to the central issues burdening market activity, in coordination with the Prime Minister's Office.

As part of the annual plan, the administrative costs will be calculated for those regulators included in that year's plan. The annual plan of each ministry should achieve a 25% reduction in the aggregate administrative costs of the regulators specified in the annual plan, so that at the end of the five years, 25% of the overall administrative costs will have been reduced, similar to the reduction in the regulatory costs that has been achieved in such countries as The Netherlands, Germany, Britain and Sweden. The method of measurement will be the same as the one exercised in the OECD (see OECD Regulatory Compliance Cost Assessment Guidance: http://www.oecd-ilibrary.org/governance/oecd-regulatory-compliance-cost-assessment-guidance_9789264209657-en). In light of the instructions in this Resolution and in order to implement it, specific measuring mechanisms are being developed for Israel.

To clarify – although the annual plan must include a reduction in the regulatory burden of all the cost components of regulation, a quantitative goal of a 25% reduction has been set only for the administrative costs of the regulation and not for the regulatory demands themselves.

The work process for the annual plan is divided into three steps: The first step is formulating a detailed plan to reduce the burden. The plan will be made public by December 31st of each year. The second step is implementing the plan during the following year. The third step is publishing a report on the plan's implementation in the year following the implementation. It is hereby clarified that the implementation report will be published for the purpose of documentation and overseeing the progress of the plan's implementation, presuming that the plan was indeed implemented the year before. However, it is possible that the time needed to implement certain parts of the annual plan, in particular those parts pertaining to legislative reform, will take longer than one year to implement.

With regard to the annual plan for 2015, which is the first year the five-year plan is to be implemented, the date to formulate and publish the annual plan has been postponed until March 31, 2015. In addition, the plan will not be expected to reach the goal of a 25% reduction as to enable the process of developing measuring mechanisms and studying them. In 2015, the plan will be implemented at least on the regulators listed in the addendum, further to the intensive work currently being conducted by the various regulators in government ministries and with extra-governmental parties.

Although the definition of *regulation* excludes legislation in the field of taxes from this Resolution, the Israel Tax Authority will be required to reduce the regulatory burden as detailed in this Article.

Article 2 – On October 31, 2013, the Knesset passed Amendment No. 10 to the Standards Law – 1953. According to this amendment, when establishing an official standard, the Standards Institute of Israel should, as a rule, adopt an international standard with no national deviations except for special circumstances in which it is necessary to deviate due to unique conditions in the State of Israel. In this spirit, the Government instructs the Minister of Economy to work to modify existing official standards so that they conform to international standardization, and to ensure that any national deviations from these standards, as long as they are deemed necessary, be in accordance with the rationales for declaring an official standard (e.g. with regard to building materials, issues relating to maintaining public safety,

its health and environmental protection, including to provide information, ensure compatibility and avoid significant economic harm to the consumer).

Regulatory Impact Assessment (RIA)

Articles 3 and 4 – Optimal regulation is regulation that reflects balanced intervention in the economy, helps meet a defined target and justifies its impact on society and the economy. The purpose of the RIA process is to provide structure to and make official the decision-making process resulting in optimal regulation. To this end, subject to the purpose of the regulation and as part of the considerations guiding the regulator according to the power-granting legislation or any law, the regulator must consider an alternative that will reduce the regulatory burden.

As of January 1, 2016, the requirement to conduct the RIA process stipulated in these Articles will apply to any governmental legislative initiative regarding regulation, whether it is primary legislation or subsidiary legislation.

In Government Resolution No. 4027 of December 25, 2011, the Government charged the Head of the Policy Planning Department (today – Governance and Social Affairs) in the Prime Minister's Office, with the assistance of the Ministry of Industry, Trade and Labor (today – Ministry of Economy), to develop a "governmental regulation doctrine." In light of this Resolution, the Governmental Handbook for Regulatory Impact Assessment was drafted. This handbook will be updated in accordance with the instructions in this Resolution, and will be published by April 1, 2015 (Article 7 above), in order that an RIA process can be conducted in the various ministries before the requirement to conduct RIAs comes into force on January 1, 2016. Later on, the handbook will be updated based on the experience gained.

2015 is defined as a transition year to enable the examination and an update of the Handbook and the accompanying instruments based on experience gained, as well as to fill the positions and train suitable personnel. In this framework, each ministry will carry out the RIA process for two regulations initiated by each ministry during 2015, one determined by primary legislation, and the second by subsidiary legislation.

To clarify – the RIA will be published only once. If the regulation undergoes changes in the Knesset or one of the Knesset committees, the ministry will not be required to edit and publish a new RIA.

In order to avoid performing a complex process on negligible regulation, the authorized minister may consider exempting his/her ministry from the requirement to perform the RIA process in cases where the impact of the regulation on the targets of the regulation or on other public interests is negligible.

A Governmental Regulation Website

Article 5 – Transparency is one of the OECD's principles for good regulation. Therefore, the governmental ICT unit is charged with creating a central regulation website, and consolidating all the information, as well as the ministries' mandatory publications.

Article 6 – In order to provide the public with a complete picture, this Article requires the publication of work plans for future regulation in addition to retroactively publicizing previous plans, reports and regulations. However, this Article does not prevent urgent or

unexpected regulation that could not have been accounted for in the annual work plans from being promoted throughout the year.

Organizational Infrastructure

Article 7 – This clause charges the Director General of the Prime Minister’s Office with the responsibility of developing a methodology, instruments of assistance, a training program and an organizational infrastructure needed to implement the Resolution. By January 1, 2015, the Prime Minister’s Office will develop the instruments for reducing the existing regulatory burden (to implement Article 1 of the Resolution), on the basis of international know-how and the experience gained from the process of formulating plans for reducing the regulatory burden with the ministries over the past year.

By April 1, 2015, the Prime Minister’s Office will draft the Governmental Handbook for Regulatory Impact Assessment (to implement Article 3 of this Resolution) as detailed above. The tools, measures and Handbook will be updated from time to time based on the experience gained in the ministries.

Articles 8-10 – Implementing this Resolution will require suitable personnel who will be trained for this purpose and a budget designated for consultation firms to assist the ministries. To this end, these Articles charge: each ministry with appointing a deputy director general from among its employees who will be responsible for implementing the Resolution; and the Ministry of Finance and the Civil Service Commission, in coordination with the Prime Minister’s Office, with allocating the positions and the budget. In addition, in order to meet the timetable of this Resolution, the Civil Service Commissioner is charged with advancing the tender process so that the positions are in fact filled by the beginning of March 2015.

Article 11 – In many cases, a reduction to the regulatory burden is the result of improved computerization. Therefore, the government ICT unit is charged with developing generic platforms to be available for the use of the ministries.

Article 12 – The definition of *regulator* in this Resolution does not include statutory corporations. Therefore, the Government asks regulators who are statutory corporations to consider implementing parallel procedures in accordance with the principles of this resolution. Given to the fact that this Resolution does not apply to other financial regulators, and further to Resolution No. 4027 of November 25, 2011 and Resolution No. 708 of August 25, 2013, the Capital Market, Insurance and Savings Department at the Ministry of Finance is excluded from this Resolution. The Government notes the announcement of the Commissioner of Capital Markets, Insurance and Savings, that she will voluntarily adopt a parallel process in the spirit of this Resolution and will report to the Government on its implementation.

Legislation

Article 14 – In order to anchor the RIA requirement, the Prime Minister’s Office, assisted by the Ministry of Justice, based on the experience gained, will present the Ministerial Committee on Legislation with a Regulatory Impact Assessment memorandum of law.