

Evaluating the Appropriateness of Professional Reliance Regimes

	Criteria	Evaluation	Rationale or Comments
1	Extent of reliance on the QP	<input type="checkbox"/> QP makes the decision, no ministry statutory decision maker [SDM] involved <input type="checkbox"/> Tenure holder makes the decision, informed by a QP <input type="checkbox"/> SDM makes decision based on QP work, but discretion is constrained; <input type="checkbox"/> SDM has significant role and discretion over acceptance of QP work <input type="checkbox"/> Little to no review of QP work or authority to address deficiencies <input type="checkbox"/> QP work is normally reviewed with clear authority to address deficiencies <input type="checkbox"/> Whether the regulated activity is focused on a fixed period or ongoing activity	
2	Level of environmental, financial, health and safety risks associated with the work undertaken by the qualified professional (QP).	<input type="checkbox"/> High <input type="checkbox"/> Medium <input type="checkbox"/> Low	[Address risk types individually, to the extent relevant]
3	Level of risk to (and QP awareness of) third party interests, such as nearby property owners, other Crown tenure holders (e.g. water licensees, commercial recreation and other Land Act tenures, forestry tenures, mining, guide outfitters, trapping, outdoor recreation interests and tourism businesses) and Aboriginal rights.	<input type="checkbox"/> High <input type="checkbox"/> Medium <input type="checkbox"/> Low	
4	The extent to which the activity involves trade-offs between private proponent interests (i.e. the professional's client or employer) and the Crown/public interest in resource values such as fish, wildlife, water, air, biodiversity, soil, timber, forage, minerals, cultural heritage resources, scenic viewscapes, outdoor recreation, etc.	<input type="checkbox"/> High <input type="checkbox"/> Medium <input type="checkbox"/> Low	

5	The extent to which the QP activity requires decision-making that is values-laden, as opposed to mostly technical expertise squarely within a professional's knowledge and experience.	<input type="checkbox"/> QP function is highly values laden, and many values fall outside of QP expertise <input type="checkbox"/> Some values, but mostly within QP expertise & training <input type="checkbox"/> Some values, mostly outside of QP expertise & training <input type="checkbox"/> Mostly technical <input type="checkbox"/> No QP decision making	
6	The extent to which the professional work could be undertaken in whole or in part by government instead of a QP, subject to resources needed and available	<input type="checkbox"/> Government has the expertise, and resources needed to undertake work is high <input type="checkbox"/> Government has the necessary expertise currently and resources needed are not significant <input type="checkbox"/> Government no longer has the necessary expertise, but resources needed are high <input type="checkbox"/> Government no longer has the necessary expertise, but resources needed are low <input type="checkbox"/> Government traditionally has not had the necessary expertise, and significant new resources would be needed	
7	The extent to which the subject matter involves broad latitude for discretion with a number of variables and many possible options and outcomes, as opposed to narrower technical issues on which there is relative professional consensus. Evaluation could include the degree of scientific certainty, perhaps due to being an emerging field or involving highly interdisciplinary or complex sciences.	<input type="checkbox"/> Broad latitude for discretion, with significant disparities in QP opinion <input type="checkbox"/> Narrow latitude for QP discretion, and high degree of QP concensus <input type="checkbox"/> Somewhere in between the two above	
8	Whether the combination of issues, parties and relationships render the matter problematic for actual or perceived conflicts of interest between the professional, client, Crown, public and other interests.	<input type="checkbox"/> High potential for conflicts of interest that are difficult to resolve through agency-based rules or professional codes of ethics <input type="checkbox"/> High potential for conflicts of interest, but resolvable through agency-based rules or professional codes of ethics <input type="checkbox"/> Low potential for conflicts of interest and most are resolvable through agency-based	

		<p>rules or professional codes of ethics</p> <p><input type="checkbox"/> Low potential for conflicts of interest, but difficult to resolve through agency-based rules or professional codes of ethics</p>	
9	Whether the matter involves an essentially government function, such as compliance and enforcement (acknowledging that there is a valuable role for independent environmental monitors if properly regulated).	<p><input type="checkbox"/> Very common to use QPs in this way; not essentially government function</p> <p><input type="checkbox"/> Common to use QPs in this way, but not necessarily appropriate</p> <p><input type="checkbox"/> The QP function is normally a government function for a number of policy reasons</p>	
10	Whether there are more effective and efficient alternatives to professional reliance, such as practices-type regulations or authorizations. E.g. even if a complex set of rules with checks, balances and oversight functions could work, is that approach more costly and less efficient than practice standards? Or are such standards impractical?	<p><input type="checkbox"/> PR regime is most efficient; issues cannot be efficiently or effectively addressed through practices-type rules or authorizations</p> <p><input type="checkbox"/> Practices-type rules or authorizations are feasible, and an option to consider</p>	

Evaluating Effectiveness & Best Practices for Professional Reliance Regimes

Competency: A professional's competence has to be backed by appropriate education, training, and experience.	Evaluation of how well regime is performing against the criteria	Rationale / Comments
1 Does the regulation/authorization identify the qualifications needed for the professional task? Have there been issues resulting from the description of the qualifications needed for the task?	<p><input type="checkbox"/> – type of QP clearly defined or qualifications needed to complete the task are described , & no resulting issues</p> <p><input type="checkbox"/> – description good but issues, or description broad but no issues</p> <p><input type="checkbox"/> – class of QPs is too broad and relies on self-declaration of qualifications; issues identified by government staff</p>	

2	If the expertise required is fairly specialized within a given profession, how is competency assessed by government and/or those who retain professionals?	<input type="checkbox"/> – process in place to assess competency and working well <input type="checkbox"/> – process in place but not working well <input type="checkbox"/> – no way to assess competency	
3	Is or should there be specialized training and education available? Is it required in order to undertake this professional task?	<input type="checkbox"/> – specialized training and education is required and available; <input type="checkbox"/> – not required but still available <input type="checkbox"/> – required or needed but not available <input type="checkbox"/> – not needed	
4	Is or should there be a gatekeeper function to help ensure that only professionals with the appropriate education, training and experience undertake the work? (e.g. rosters, specialized areas of practice, etc.). If function exists, have there been any issues identified? What improvements could be made?	<input type="checkbox"/> – gatekeeper function needed and exists and no issues reported <input type="checkbox"/> – function exists but has issues <input type="checkbox"/> – gatekeeper function needed but does not exist; issues identified with the process <input type="checkbox"/> – not needed or applicable	
5	Are there means to limit or restrict the task being undertaken by those who lack appropriate education, training, and experience? What are they?	<input type="checkbox"/> – means exist and there are no issues with their use <input type="checkbox"/> – means exist but not adequate <input type="checkbox"/> – means do not exist and this has been identified as an issue <input type="checkbox"/> – not required or applicable	
Clarity of expectations: Clear guidance is needed as to the objectives, standards, guidelines and protocols that are relevant to the work professionals undertake. Clear expectations also support quality assurance, and standards, guidelines and protocols can be used to monitor or audit performance.			Rationale / Comments
6	Does the regulation/authorization specify the desired results, outcomes or management objectives?	<input type="checkbox"/> – clear, no issues <input type="checkbox"/> – clear, but issues <input type="checkbox"/> – not clear and issues	

7	<p>Has government provided adequate guidance concerning the methodology and standards professionals are to use when carrying out the task? (Has government developed/contributed to formal professional development/outreach on those guidelines, methodology or standards?)</p>	<input type="checkbox"/> – guidance exists and government has contributed to professional development or outreach <input type="checkbox"/> – guidance exists but no outreach <input type="checkbox"/> – guidance needed but doesn't exist <input type="checkbox"/> – not needed or applicable	
8	<p>Is there a need for professional standards of practice or practice guidelines, and are they in place? Are they consistent across eligible professions?</p>	<input type="checkbox"/> – professional standards/practice guidelines exist and are consistent <input type="checkbox"/> – standards exist but not consistency <input type="checkbox"/> – no standards exist but are needed <input type="checkbox"/> – not needed or applicable	
9	<p>Is there a practical and effective means of addressing professional work that does not follow guidelines or practice standards?</p>	<input type="checkbox"/> – mechanism in place to address and used successfully <input type="checkbox"/> – mechanism in place but some issues <input type="checkbox"/> – no mechanism in place and needed <input type="checkbox"/> – not needed or applicable	
10	<p>Are there formal procedures for certification that inculcate a sense of personal responsibility and accountability? (e.g. this could be addressed in regulation, attestation document or assurance statements)</p>	<input type="checkbox"/> – QP certification required with liability implications <input type="checkbox"/> – QP certification required but no obvious implications <input type="checkbox"/> – not needed or applicable	
11	<p>What are they certifying? Does this address the right things based on the overall objectives?</p>	<input type="checkbox"/> – QP certification is clear and addresses the overall objectives <input type="checkbox"/> – QP certification is vague or uncertain or does not address the management results/objectives	
12	<p>If the task requires multiple disciplines, is each professional's role clearly identified?</p>	<input type="checkbox"/> – yes <input type="checkbox"/> – no <input type="checkbox"/> – not needed or applicable	
13	<p>Are there rules concerning QPs maintaining supporting documentation, including the rationale for decisions or recommendations?</p>	<input type="checkbox"/> – rules exist and no issues <input type="checkbox"/> – rules exist but issues identified <input type="checkbox"/> – no rules and issues identified <input type="checkbox"/> – not needed or applicable	

Accountability: To help ensure acceptable performance, there have to be clear mechanisms for accountability, with consequences if performance is unacceptable. This can be achieved through complaint resolution, compliance and enforcement actions by government, monitoring, or independent audits that assesses individual competence in a given field. (Note: accountability requires effective oversight by professional associations, but their role will be assessed in a separate audit process).			Rationale / Comments
14	Documentation: Is the QP's documentation provided to government routinely or on request? Where not prohibited, is the documentation readily available to First Nations, stakeholders and the public?	<input type="checkbox"/> – all documentation readily available <input type="checkbox"/> – some documentation available <input type="checkbox"/> – no documentation available <input type="checkbox"/> – not needed or applicable	
15	Currency: if field conditions change significantly over time, does the professional work have an expiry date?	<input type="checkbox"/> – regulation/authorization regime contemplates this and works well <input type="checkbox"/> – regime contemplates this but has issues <input type="checkbox"/> – regime doesn't contemplate this and there are issues <input type="checkbox"/> – not applicable (e.g. no lag time between prof'l work and development)	
16	Adherence: Are there controls in place to ensure that recommendations by professionals are adhered to?	<input type="checkbox"/> – controls are in place and working well <input type="checkbox"/> – controls in place but issues <input type="checkbox"/> – no controls in place and issues <input type="checkbox"/> – not needed or applicable	
17	Conflict of interest: Does government have the ability to address conflicts of interest arising from the QP's duty to their client, self-interest, and the public interest?	<input type="checkbox"/> – government has ability to consider conflicts of interest and authority to act <input type="checkbox"/> – government considers conflicts but no authority to act <input type="checkbox"/> – government doesn't consider <input type="checkbox"/> – not needed or applicable	

18	<p>Independence: Is the professional's role independent from the proponent? Are controls in place or needed to ensure that there is no undue influence by the client/employer on the professional's expert opinion? Is there a means to address expert shopping?</p>	<input type="checkbox"/> – legislation addresses independence through controls and authority to take action if needed <input type="checkbox"/> – legislation addresses independence through controls but no authority to take action <input type="checkbox"/> – not addressed but needed <input type="checkbox"/> – not needed	
19	<p>Monitoring: Are QPs required to carry out environmental monitoring? Is it woven into a plan-do-check-adjust framework effectively? Are monitoring results reported to government and available to the public?</p>	<input type="checkbox"/> – Monitoring is required and results reported <input type="checkbox"/> – Monitoring not required, but should be <input type="checkbox"/> – Monitoring not required	
20	<p>Government Responsiveness: Is there guidance in place for government staff as to expected timeframe for review and response to professional reports? Are there sufficient resources to meet those expectations?</p>	<input type="checkbox"/> – guidance in place and resourcing to meet expectations <input type="checkbox"/> – guidance in place but resourcing issues, or no guidance but no resourcing issues <input type="checkbox"/> – no guidance and resourcing issues	
21	<p>Knowledgeable Owner: At a minimum, can government act as a 'knowledgeable owner' of the natural resources? Does it have access to sufficient expertise to evaluate the professional's work?</p>	<input type="checkbox"/> – government has expertise and capacity to evaluate the professional's work <input type="checkbox"/> – government has expertise but capacity issues <input type="checkbox"/> – no expertise or capacity	
22	<p>Reporting: Are there clear rules are in place to ensure that enforcement agencies are made aware of incidents involving public land and resources? Do professionals have a duty to report incidents or non-compliance, to government or to professional associations? Is that realistic or desirable in the context?</p>	<input type="checkbox"/> – legislation or policy addresses and performing well <input type="checkbox"/> – legislation or policy addresses but issues <input type="checkbox"/> – legislation or policy (and professional's code of ethics) does not address and there are issues <input type="checkbox"/> – not needed or applicable	

23	<p>Performance audits: Does government or an external group carry out audits of the professional work systematically, to provide a reasonable level of assurance of compliance and quality control?</p>	<input type="checkbox"/> – audit system in place and no issues <input type="checkbox"/> – audit system in place but issues <input type="checkbox"/> – no audit system in place and issues	
24	<p>Complaints: Is there a known and effective means to address and resolve complaints from third parties who may be adversely affected by the professional's work?</p>	<input type="checkbox"/> – government has complaints process and working well <input type="checkbox"/> – government has complaints process but issues <input type="checkbox"/> – no complaints process and issues	
25	<p>Is guidance in place for staff for recognizing and responding to misconduct by the professional?</p>	<input type="checkbox"/> – guidance is in place and process is effective <input type="checkbox"/> – guidance is in place but issues <input type="checkbox"/> – no guidance and issues	
26	<p>Authority to intervene: Is there an effective means of dealing with inadequate work, preferably before problems arise? E.g. can government proactively intervene where work is inadequate, or could have an adverse effect on other resource users or the environment? Can remediation be ordered where adverse impacts have already occurred? If authorization is required, can it be declined, withdrawn or suspended?</p>	<input type="checkbox"/> – legislation or policy gives authority to intervene proactively or when adverse impacts have occurred <input type="checkbox"/> – either proactive powers or retrospective powers but not both <input type="checkbox"/> – no authority to intervene	
27	<p>Financial: Is liability addressed appropriately, through errors and omissions insurance, or performance bonds, or other mechanism (e.g. might be addressed in an authorization to the professional's client/employer)?</p>	<input type="checkbox"/> – liability is addressed through financial mechanisms and government has this information <input type="checkbox"/> – financial mechanisms are used but government doesn't have this information <input type="checkbox"/> – no financial mechanisms to address liability	

28	<p>Cumulative Effects: Does the legislation or policy address cumulative effects? Does the professional work have to take into account the cumulative effects or landscape level context if there are multiple operators? What does government do to consider cumulative effects before making a decision?</p>	<input type="checkbox"/> – legislation or policy addresses cumulative effects and professional and government roles clear <input type="checkbox"/> – legislation or policy addresses cumulative effects but roles not clear <input type="checkbox"/> – legislation or policy does not address but should <input type="checkbox"/> – not needed or applicable	
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