

# **Chapter 1: About the review**

## **1.0 About the review**

The regulatory environment has a substantial effect on the behaviour and performance of businesses. While regulation can help to serve important economic, social and environmental objectives by addressing market failures, it is crucial that regulatory interventions do not unnecessarily inhibit private sector participation in the economy and its contribution to higher standards of living. This requires a regulatory environment that promotes competition and does not inhibit innovation while also addressing policy objectives and market failures.

To maximise the innovation and output potential of an economy, firms need clear price signals and the flexibility to shift resources as conditions change. However, Malaysia has accumulated many regulations over the years many of which constrain change and growth. Some regulations also inhibit competition and innovation by creating barriers to entry to some activities and industries.

## **1.1 10th Malaysia Plan: Modernising Business Regulation**

In 2007, the Government took a significant step in rationalising Malaysia's regulatory regime by launching PEMUDAH, a special task force to facilitate business. PEMUDAH's substantial achievements include reducing the process of starting a business from 9 procedures and 11 days to 3 procedures and 3 days, reducing the time taken to register standard property titles from 41 days to 2 days, and reducing the time taken for tax refunds to less than 30 days as compared to the previous year which takes around 1 year.

Based on the World Bank's Doing Business 2015: Going Beyond Efficiency report, Malaysia's standing in the ease of doing business ranking improved from 20<sup>th</sup> in last 2014 report to 18<sup>th</sup>, scoring 78.8 DTF score, 10 points behind Singapore which has retained its position as the economy with the most business-friendly regulations in the world.

To make Malaysia the preferred place to do business, the Government has begun a comprehensive review of business regulations, starting with regulations that impact on the twelve National Key Economic Area (NKEAs). Regulations that contribute to improved national outcomes will be maintained, while redundant and outdated regulations will be eliminated and replaced with better ones where appropriate. This review will be led by the Malaysia Productivity Corporation (MPC) in collaboration with relevant experts from business and academia. This work will complement the efforts of PEMUDAH and ensure that any reviewed regulations do not result in disincentives to business, investment and trade.

**Table 1.1: Malaysia's Competitiveness Performance in the Doing Business Report**

Rank	Year					
	2010	2011	2012	2013	2014	2015
Ease of doing business	23	21	18	12	20	18
Starting a business	88	113	50	54	12	13
Dealing with construction permits <sup>1</sup>	109	108	113	96	39	28
Getting electricity	nil	nil	59	28	28	27
Employing workers <sup>2</sup>	61	nil	nil	nil	nil	
Registering property	86	60	59	33	74	75
Getting credit	1	1	1	1	19	23
Protecting investors	4	4	4	4	5	5
Paying taxes	24	23	41	15	31	32
Trading across borders	35	37	29	11	10	11
Enforcing contracts	59	59	31	33	30	29
Resolving Insolvency (Closing a business)	57	55	47	49	65	36

<sup>1</sup> The time and cost related to obtaining an electricity connection were removed from the dealing with construction permits indicators and are allocated at the getting electricity indicators

<sup>2</sup> The employing workers data are not included in the ranking on the ease of doing business starting from 2011

## 1.2 What has the MPC been asked to do?

The 10<sup>th</sup> Malaysian Plan has mandated the MPC to carry out regulatory reviews with the goal of making it easier to do business in Malaysia. The review is in line with the aspiration envisaged in the New Economic Model (NEM) to transform Malaysia into a developed economy. The NEM strongly indicates the need for good regulatory management to improve regulatory quality. The 10<sup>th</sup> Malaysia Plan in Chapter 3 on Modernising Business states:-

*“The regulatory environment has a substantial effect on the behaviour and performance of companies. Private sector participation in the economy and innovation require a regulatory environment provides the necessary protections and guidelines, while promoting competition”. Too often, Malaysian firms face a tangle of regulations that have accumulated over the years and now constrain growth. At the same time, regulations that would promote competition and innovation are absent or insufficiently powerful”. “To achieve this goal, the Government will begin with a comprehensive review of business regulations, starting with regulations that impact the NKEAs”.*

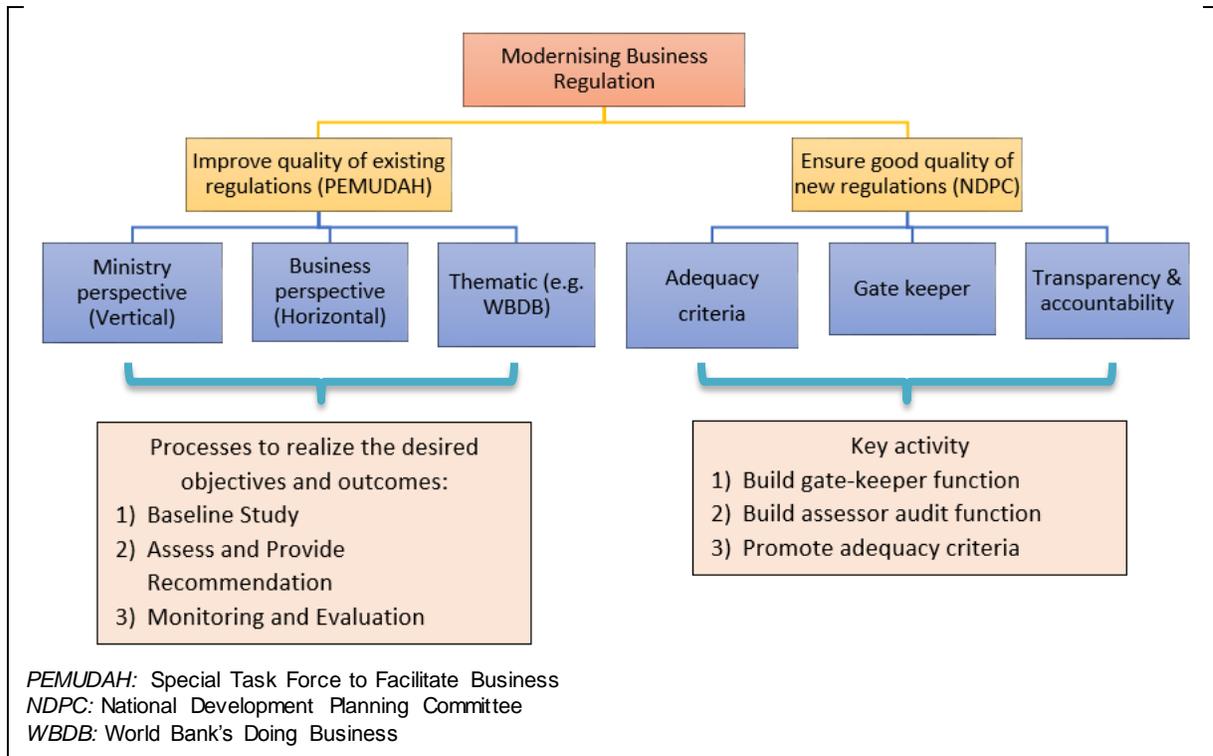
Specifically, the MPC is:

- reviewing existing regulations with a view to removing unnecessary rules and compliance costs. Priority is given to regulations affecting NKEAs
- ensuring that regulators conduct regulatory impact assessment for new regulations
- making recommendations to the Cabinet on policy and regulatory changes that will remove unnecessary regulatory burdens and enhance productivity.

The reviews of existing regulation involve public consultation with stakeholders and interested parties. The process will be implemented with the intention to improve the quality of existing regulations. Other processes within MPC will focus on ensuring the good quality of new regulation particularly by applying regulatory impact analysis.

This report reviews existing regulation affecting two main medical professionals servicing the health industry, which are Doctors and Nurses. As shown in the Figure 1-1, the review process takes into account both government and business perspectives as well as reports, data and reasoning of organisations such as the World Bank, the World Health Organisation (WHO) and the Australian Government Productivity Commission (AGPC).

**Figure 1.1 Regulatory Review Framework of MPC**



Source: Malaysia Productivity Corporation (MPC)

The government has formalised the mandate given to the MPC with the launching of a national regulatory policy through the policy document “*National Policy on the Development and Implementation of Regulations (NPDIR)*” in July 2013. The document has been developed to support the modernization of the regulatory regime.

The document states:

*Global competition, social, economic and technological changes require the government to consider the inter-related impacts of regulatory regimes, to ensure that their regulatory structures and processes continue to be relevant and robust, transparent, accountable and forward-looking.*

Essentially, the report is targeted to promote the NEM policy objective of improving economic efficiency through enabling fair competition. The objective of the national policy is to ensure that Malaysia’s regulatory regime effectively supports the country’s aspirations to be a high-income and progressive nation whose economy is competitive, subscribes to sustainable development and inclusive growth. The policy is to ensure a regulatory process that is effective, efficient and accountable as well as to achieve greater coherence among policy objectives of government.

### **1.3 The approach and rationale of this review**

Becoming a high-income nation requires, among other critical factors, an efficient labour market that is able to attract, develop and retain the best talent and which does not impede job mobility. Shortages of the required types of skills and talent will hamper the transformation to a knowledge and innovation-based high income economy. Efforts to reform the labour market are necessary to ensure efficient matching of demand with supply, and to improve the retention of top talent and to enhance the attractiveness of Malaysia to local and foreign talent as well as the Malaysian diaspora.

During the period of the 10<sup>th</sup> Malaysia Plan, the Government had committed to modernising the labour market, with special emphasis on improving job mobility and upskilling the workforce, in particular those from the bottom 40% low-income earners. The focus of the reform is on three key areas:

- making the market more flexible
- upgrading the skills and capabilities of Malaysia's existing workforce
- enhancing the Malaysia's ability to attract and retain top talent.

The particular aspects which has been addressed in this review are those regulations which impede mobility and flexibility and in other ways impose unnecessary regulatory burdens on business. This is complementary to the 11<sup>th</sup> Malaysia Plan which calls for the acceleration of such reforms through comprehensive and integrated governance reforms including modernising the current regulatory regime to ensure a thriving and competitive environment for the services sector.<sup>3</sup>

### **1.4 Conduct of the study**

The investigations have involved collection, review and analysis of data and information from two sources: secondary data from literature reviews and primary data from interviews with key stakeholders

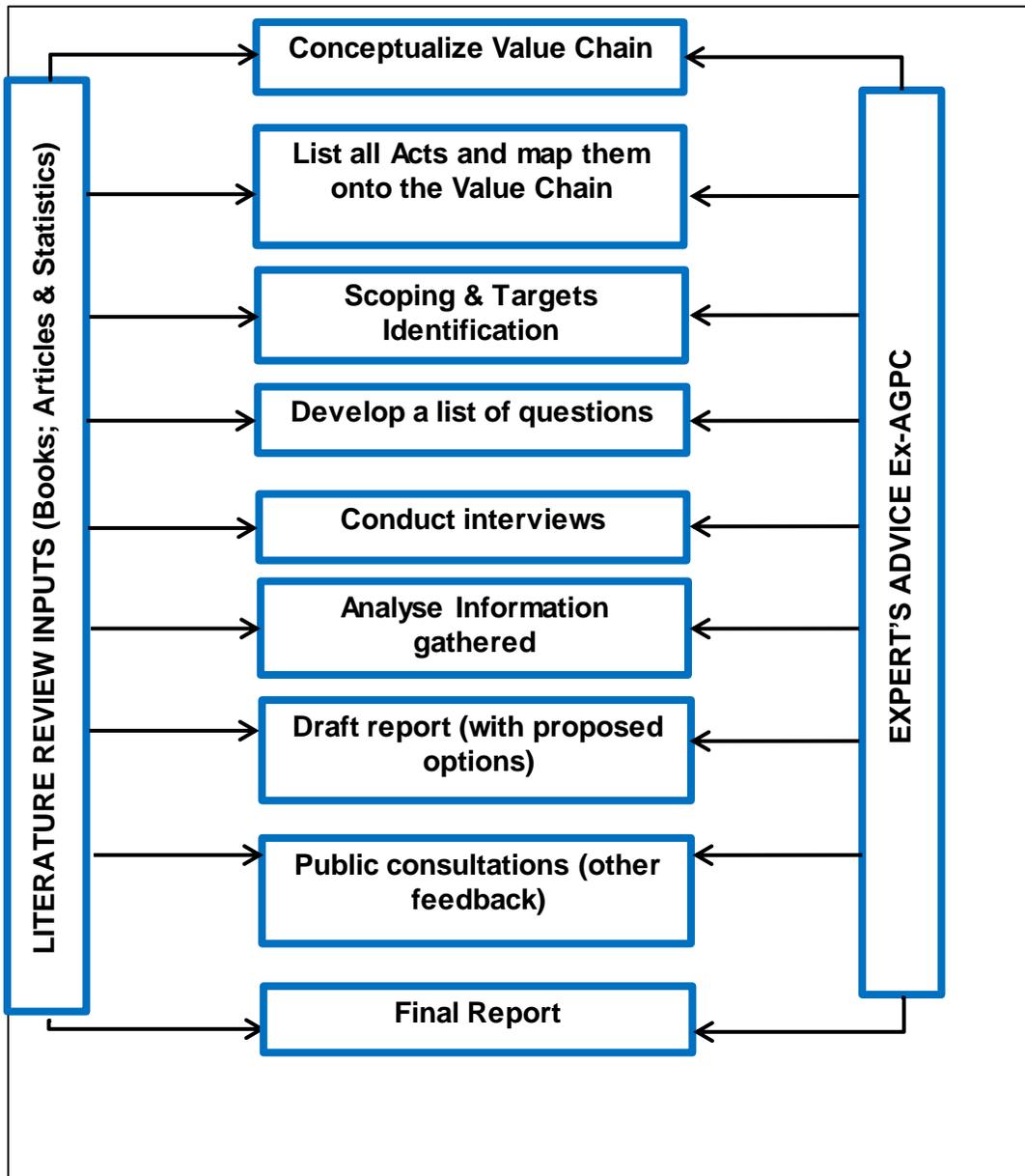
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<sup>3</sup> 11<sup>th</sup> Malaysia Plan on page 8-17

Secondary data are from many sources and are classified as follows:

- i. The Laws of Malaysia, particularly:
  - a. *Private Healthcare Facilities and Services Act 1998 (Act 586)*
  - b. *Private Healthcare Facilities and Services (Private Hospitals and Other Private Healthcare Facilities) Regulations 2006*
  - c. *Private Healthcare Facilities and Services (Private Medical Clinics or Private Dental Clinics) Regulations 2006*
  - d. *Medical Act 1971 (Act 50) amendment 2012*
  - e. *Dental Act 1971 (Act 51)*
  - f. *Registration of Pharmacists Act 1951 (Act 371)*
  - g. *Nurses Act 1950 (Act 14)*
  - h. *Personal Data Protection Act 2010 (Act 709)*
  - i. *Personal Data Protection (Class of Users) Order 2013*
  - j. *Personal Data Protection (Fees) Regulations 2013*
  - k. *Personal Data Protection (Registration of Data User) Regulation 2013*
  - l. *Personal Data Protection Regulations 2013*
- ii. Research papers published by international agencies such as the World Bank and the World Health Organisation (WHO) and other countries such as the AGPC, and the OECD
- iii. Local research papers and reports commissioned by the government such as the Economic Planning Unit (EPU) commissioned reports and Ministry of International Trade and Industry (MITI) commissioned reports
- iv. The Malaysian Government Plans such as the 5-year plans the Industrial Master Plan 3 and the Knowledge Economy Master Plan.
- v. Statistical data relating to medical professionals from both international and local sources primarily the World Bank, Ministry of Health publications and Department of Statistics Malaysia publications
- vi. Other information derived from federal, state and local government agencies, quasi-government bodies, professional bodies, private businesses and relevant associations on policy matters, news, reports and statistics. Much of this information has been accessed from websites.

Figure 1.2: Summary of the process of this research.



In order to identify the problems and issues that need to be addressed, primary data was collected through interviews with business players, associations, professional bodies and relevant regulators. The draft report is being released to enable stakeholders including the main parties affected by the proposal i.e. the businesses, non-governmental organisations (NGOs), the community, regulators and other Government agencies to comment on the findings and options presented in the report.

The study is being carried out in two stages: the exploratory stage to prepare the draft report and the option stage to produce a final report which will identify the most appropriate options for reducing identified unnecessary regulatory burdens. With the assistance of the AGPC expert, a list of questions was prepared for the interviews with the respondents. The list of the interview questions is included in Appendix A of the report.

After receiving comments on the draft report, the MPC will produce a final report containing the MPC's assessment and comments of final recommendations. Figure 1-2 illustrate the process of this research.

## **1.5 Other initiatives by the Government**

### **1) National Policy on the Development and Implementation of Regulation**

This policy document applies to all federal government ministries, departments, statutory bodies and regulatory commissions. It is also applicable for voluntary adoption by state government and local authorities. The policy document spells out the objectives, operating principles, responsibilities, requirements and process for the regulatory process management.

The national policy also specifically mandates the MPC, through its responsibility to the National Development Planning Committee (NDPC), to implement the functions of the national policy. MPC is to assist in the coordination for implementing this policy<sup>4</sup>.

### **2) Best Practice Regulation Handbook**

The Best Practice Regulation Handbook provides the detail guidance on carry out best practice regulation – the systematic process to the development of regulations. Basically, a regulator has to carry out regulatory impact analysis (RIA) and produced a comprehensive report, the Regulatory Impact Statement when it is introducing any regulation that may impact upon businesses. MPC role here is to ensure that the RIS is adequately prepared before it is submitted to NPDC for further action<sup>5</sup>.

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<sup>4</sup> Government of Malaysia, Best Practice Regulation Handbook, July 2013

<sup>5</sup> Australian Productivity Commission, Performance Benchmarking of Australian Business Regulation: Cost of Business Registration, Research Report, November 2008

### **3) Guideline on Public Consultation Procedures<sup>6</sup>**

The Guideline on Public Consultation Procedure was launched in October 2014. The guideline which supplements the Best Practice Regulation Handbook aims to facilitate the implementation of the National Policy for the Development and Implementation of Regulations. It provides overview information, guiding principles, key requirements and case study examples for planning and implementing public consultation exercises.

#### **1.6 Structure of the Report**

This report on the Reducing of Unnecessary Regulatory Burdens (RURB) affecting the medical professionals has been organised into seven chapters, starting with this introductory **Chapter One**. This chapter highlights the rationale of this study and the approach of the study.

**Chapter Two** refers to the overview of the Medical Professional Value Chain in Malaysia and the policy implemented throughout the years. It covers the pertinent statistics on the performance of healthcare sector and medical professionals in Malaysia from 1990 to 2012.

**Chapter Three** looks at the regulatory burdens and the potential sources of unnecessary regulatory burdens. The chapter concludes with the main complaints/issues raised by the stakeholders.

**Chapter Four** provides an overview of the regulatory regimes for medical professionals in Malaysia. It covers the value chain and all the related regulations which are attached to each stage of the medical professional value-chain. It also provides a brief description of the three main medical professional regulations in Malaysia as well as employment policy in Malaysia.

**Chapters Five, Six, Seven, and Eight** present the analysis and findings of the regulatory related issues for this study. Options are proposed for the regulatory issues

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<sup>6</sup> Government of Malaysia, Guideline on Public Consultation Procedures, October 2014

of concern. Although the study has identified a wide list of complaints/issues, the focus is only to elaborate on pertinent regulatory issues that could be improved to create a more conducive working environment, particularly for the private medical professionals, who are the subject of the study.

**Figure 1.3: Summary of the Regulatory Issues discussed in this study**

