



Hazardous Materials Information Review Commission Canada

**2001-2002
Estimates**

Part III – Report on Plans and Priorities

Canada

The Estimates Documents

Each year, the government prepares Estimates in support of its request to Parliament for authority to spend public monies. This request is formalized through the tabling of appropriation bills in Parliament. The Estimates, which are tabled in the House of Commons by the President of the Treasury Board, consist of three parts:

Part I – The Government Expenditure Plan provides an overview of federal spending and summarizes both the relationship of the key elements of the Main Estimates to the Expenditure Plan (as set out in the Budget).

Part II – The Main Estimates directly support the *Appropriation Act*. The Main Estimates identify the spending authorities (votes) and amounts to be included in subsequent appropriation bills. Parliament will be asked to approve these votes to enable the government to proceed with its spending plans. Parts I and II of the Estimates are tabled concurrently on or before 1 March.

Part III – Departmental Expenditure Plans which is divided into two components:

- (1) **Reports on Plans and Priorities (RPPs)** are individual expenditure plans for each department and agency (excluding Crown corporations). These reports provide increased levels of detail on a business line basis and contain information on objectives, initiatives and planned results, including links to related resource requirements over a three-year period. The RPPs also provide details on human resource requirements, major capital projects, grants and contributions, and net program costs. They are tabled in Parliament by the President of the Treasury Board on behalf of the ministers who preside over the departments and agencies identified in Schedules I, I.1 and II of the *Financial Administration Act*. These documents are to be tabled on or before 31 March and referred to committees, which then report back to the House of Commons pursuant to Standing Order 81(4).
- (2) **Departmental Performance Reports (DPRs)** are individual department and agency accounts of accomplishments achieved against planned performance expectations as set out in respective RPPs. These Performance Reports, which cover the most recently completed fiscal year, are tabled in Parliament in the fall by the President of the Treasury Board on behalf of the ministers who preside over the departments and agencies identified in Schedules I, I.1 and II of the *Financial Administration Act*.

The Estimates, along with the Minister of Finance's Budget, reflect the government's annual budget planning and resource allocation priorities. In combination with the subsequent reporting of financial results in the Public Accounts and of accomplishments achieved in Departmental Performance Reports, this material helps Parliament hold the government to account for the allocation and management of public funds.

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Hazardous Materials Information
Review Commission

Conseil de contrôle des renseignements
relatifs aux matières dangereuses

Report on Plans and Priorities 2001–2002

Allan Rock
Minister of Health

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Section I: Messages

President's Message

I am pleased to submit to Parliament and to Canadians the Hazardous Materials Information Review Commission's report on its strategic plans and priorities for 2001–2002.

During 2001–2004, the planning period covered by this report, the Commission will pursue two main objectives: completing the work of program renewal, and eliminating the backlog of claims created by the unprecedented number of new claims received by the Commission during the past year.

In 1999, the Commission undertook a thorough review of its operations with the aim of improving service delivery, increasing the transparency and accountability of its operations, and modernizing its administration. We also wanted to set our relationships with our clients and partners on a surer footing. In cooperation with our clients and our partners in the Workplace Hazardous Materials Information System (WHMIS), we drafted the report *Commission Renewal: Blueprint for Change*, which charts the broad outlines of change, and a companion document, the *Workplan*, which details the actions needed to realize the *Blueprint's* vision.

Our renewal initiative is proceeding on schedule, with many of the *Blueprint's* 29 action items already implemented and others awaiting regulatory and statutory approval. In the coming months our emphasis will be on completing this work, with particular emphasis on measures that promote the health and safety of Canadian workers.

In response to the claim backlog, the Commission acted quickly to preserve its program integrity and to safeguard the health and safety of Canadian workers. As part of our plan for dealing with the higher than expected workload, we applied for and received additional funding that will enable us to hire new staff. Our goal is to gradually reduce and ultimately eliminate the backlog over the next five years.

As we look ahead to the next four years and the tasks we have set for ourselves, we can also look back, with pride and satisfaction, on the road we have travelled together. By any measure we've come a long way in a short time. It was just two years ago, in January 1999, that we drafted the *Blueprint*; only a year ago, in January 2000, that the Council of Governors unanimously approved the *Workplan*. The changes we have made since then, and continue to make, have reshaped our organization and will affect the way we do business for years to come.

In March of last year the Government of Canada tabled in Parliament its plan for improving and modernizing management practices in the public service. The

report, entitled *Results for Canadians*, puts citizens' needs at the centre of all federal activities, programs and services; highlights the importance of sound public service values; focuses on achieving results; and promotes discipline, accountability and value-for-money in the use of public funds.

Thanks to our self-initiated renewal efforts, the Commission is well advanced in realizing the government's vision. Our new tripartite business line structure puts the needs of our clients first and promotes timely, cost-effective service delivery. Our new Web site helps speed service delivery while enhancing transparency and accountability. Our revamped cost recovery structure stresses fairness, consistency and predictability. And our redesigned screening and dispute resolution processes will bring greater openness and efficiency to these procedures while helping to build relationships of trust, mutual respect and understanding with our clients.

These and other changes planned for 2001–2004 are all guided by the Commission's core values: timeliness, accessibility, transparency, quality, consistency, competence, respect and fairness.

Our successes to date are impressive, but equally commendable is how we achieved them. We did it by engaging our clients, our WHMIS partners in labour, industry and government, and other stakeholders. We built on their ideas and drew on their experiences and insights. Then, with the guidance of our tripartite Council of Governors and with the energy and commitment of our hard-working staff, we shaped our vision of the kind of organization we wanted to become and acted to bring that vision to fruition. As partners in renewal we worked hand-in-hand to get government right. On behalf of the Commission and the Canadians it serves, I would like to express to all those who have contributed to this effort my deepest gratitude.

This year the Commission will turn the corner on renewal. Increasingly in the months ahead we will be getting back to normal operations—working with our WHMIS partners to safeguard the health and safety of Canadians in the workplace while helping chemical companies protect their legitimate trade secrets. But the lessons and gains made during renewal will not be forgotten. The spirit of renewal will live on in the open and respectful ways we serve our clients, in our collaboration and communication with our WHMIS partners, and in the accountability and professionalism we bring to all our work. We will face the challenges of the future with confidence born of the knowledge that, thanks to our renewal program, we now possess both the culture of service and the procedural and administrative tools needed to ensure success.

Weldon Newton
President and Chief Executive Officer

Management Representation

Report on Plans and Priorities 2001–2002

I submit, for tabling in Parliament, the 2001–2002 Report on Plans and Priorities (RPP) for the Hazardous Materials Information Review Commission.

To the best of my knowledge the information:

- Accurately portrays the department's mandate, priorities, strategies and planned results of the organisation.
- Is consistent with the disclosure principles contained in the *Guidelines for Preparing a Report on Plans and Priorities*.
- Is comprehensive and accurate.
- Is based on sound underlying departmental information and management systems.

I am satisfied as to the quality assurance processes and procedures used for the RPP's production.

The Planning and Reporting Accountability Structure (PRAS) on which this document is based has been approved by Treasury Board Ministers and is the basis for accountability for the results achieved with the resources and authorities provided.

Weldon Newton
President & CEO

February 15, 2001
Date

Section II: Departmental Overview

2.1 What's New

1. The Hazardous Materials Information Review Commission (HMIRC) continued the work of renewal and reform, begun in January 1999, as outlined in its publication *Commission Renewal: Blueprint for Change* and the accompanying *Workplan*. The *Workplan*, which lists the specific actions needed to realize the vision mapped out in the *Blueprint*, was approved by HMIRC's Council of Governors in January 2000, published, and mailed to stakeholders in March of that year. Both documents have also been published on HMIRC's Web site. The Commission expects to complete implementation of the *Workplan* during this planning period, placing emphasis on measures that enhance its ability to serve Canadian workers. (See section 2.4.1 for more information on the renewal effort.)
2. As part of its program of renewal and reform, the Commission has adopted a business attitude that focuses on performance and strategic partnerships. To better express this focus, HMIRC has redefined its organization along three business lines: Client Services, MSDS Compliance and Dispute Resolution. This year, for the first time, the Commission will carry out its planning and reporting functions through these business lines.
3. HMIRC unveiled its new Web site on March 1, 2000. The site offers on-line publications and forms, instructions for filing claims and appeals, e-mail interactivity, links to related Canadian and international sites and much more. The Web site supports both the Government of Canada's goal of having all its departments and agencies fully on line by 2004 and HMIRC's goal of improved service delivery to its clients. (See section 2.4.1 for more information about the Government On-Line program and HMIRC's Web site.)
4. HMIRC held its first-ever workshop for stakeholders in Ottawa on June 15, 2000. The event, dubbed "Dialogue 2000," was designed to better inform stakeholders of HMIRC's regulatory requirements and thereby improve the quality of claim submissions. Highlights of the agenda included an update on the renewal program, a guided tour of the Commission's new Web site, and presentations by staff on a variety of topics related to the Commission's operations. For each topic, presenters explained the current process, outlined any proposed changes, and answered questions from participants. All of the 25 representatives of industry and governments in attendance gave the workshop high marks for quality, relevance and usefulness, according to written evaluations submitted at the end of the day-long event. HMIRC plans to make its informational workshops an annual event.

5. HMIRC is updating its cost recovery operations to bring them in line with the Treasury Board of Canada's current Cost Recovery and Charging Policy. Under the new scheme, HMIRC will propose to charge user fees for services rendered through its Client Services business line (which generally provide a private benefit to industry) while eliminating fees for services related to MSDS Compliance (which are performed in the public interest). HMIRC is now developing a revised fee schedule based on the framework. (See section 4.1.1 for more information on this initiative.)
6. HMIRC has developed a comprehensive dispute resolution process that seeks not only to resolve disputes through an effective appeal process, but to prevent disputes from arising in the first place, and, when they do arise, to resolve them quickly, fairly and economically. The new process, which is administered through the Dispute Resolution business line, introduces a number of important changes designed to make existing screening and appeal procedures simpler, more transparent and more effective. These changes encourage active participation by claimants and appellants, the sharing of information, improved communication and the resolution of disputes in a non-adversarial, collaborative and informal atmosphere. (See section 2.4.1 for more information on HMIRC's Dispute Resolution process.)

2.2 Mandate, Role and Responsibilities

2.2.1 About the Hazardous Materials Information Review Commission

The Hazardous Materials Information Review Commission (HMIRC) was created as an independent agency in 1987 by proclamation of the *Hazardous Materials Information Review Act*. HMIRC is a small but important public sector institution charged with providing the trade secret protection mechanism within the Workplace Hazardous Materials Information System (WHMIS) at the federal, provincial and territorial levels.

WHMIS is a nation-wide program created in the late 1980s through a consensus of labour, industry and government. It is designed to provide Canadian workers with the information they need to protect themselves from the harmful effects of hazardous (or potentially hazardous) materials used in the workplace, while minimizing any adverse effects on industry and the economy's capacity to generate wealth and employment. Health Canada's Product Safety Bureau is the lead federal agency responsible for WHMIS policies and for making sure the program is applied uniformly in all jurisdictions.

How does the system work? Under WHMIS, manufacturers and suppliers of designated products must provide employers with information on the hazards of materials produced, sold or used in Canadian workplaces. This information is conveyed by the Material Safety Data Sheet (MSDS) that accompanies the

product and by the product's label. By law a product's MSDS must fully disclose all hazardous ingredients in the product, their toxicological properties, the safety precautions to be observed when using, transporting or storing the product, and the recommended first-aid treatment to be applied in case of uncontrolled exposure to the product. Employers, in turn, provide this information to their employees through product labels, worker education programs and workplace MSDSs.

Some manufacturers are reluctant to disclose the identity of their products' key ingredients or secret formulations for fear of losing their competitive edge in the marketplace. In such cases, the company can apply to HMIRC for an exemption from its legal obligation, under WHMIS, to disclose all of a product's hazardous ingredients.

Once HMIRC registers the claim for exemption, the company is free to sell its product. Meanwhile, HMIRC makes a decision on the validity of the claim by reviewing the supporting information provided by the claimant in light of the criteria set out in the *Hazardous Materials Information Review Regulations*. HMIRC also determines whether the product's MSDS (and sometimes its label) meets WHMIS requirements. This determination is based on a thorough scientific assessment of all the product's ingredients and their health risks. If the MSDS falls short of WHMIS's regulatory and legislative requirements, HMIRC orders the claimant to correct it and later follows up on the order to ensure compliance.

In the case of a valid claim, the exemption remains in effect for three years, at which time the claim must be re-submitted if the product continues to be sold in Canada, or withdrawn. It should be noted that companies that receive an exemption from having to disclose the claimed confidential business information must still comply with WHMIS requirements in all other respects.

In short, HMIRC enables Canadian and international chemical companies to protect their legitimate trade secrets while meeting their legal obligations under WHMIS. HMIRC also provides an appeal mechanism by which claimants can contest the rulings of the Commission.

The following statutes and regulations are central to the Commission's work:

Hazardous Materials Information Review Act

This Act establishes the Hazardous Materials Information Review Commission and sets out its powers and responsibilities. The Act also specifies the information that can be claimed as a trade secret.

Hazardous Materials Information Review Regulations

These regulations specify the criteria against which the validity of a trade secret claim is assessed and set out the filing fees for claims and appeals.

The Hazardous Materials Information Review Act Appeal Board Procedures Regulations

This document details the procedures to be followed by a claimant or an affected party in filing an appeal. It also establishes the procedure for dealing with appeals and conducting appeal hearings.

The Hazardous Products Act

This Act provides Health Canada with the authority to control, restrict or prohibit the sale, advertising and importation of products and materials that could pose a health risk to Canadians. Under the Act, products used in the workplace that exhibit certain hazardous physical properties or toxic effects are classified as controlled. The Act covers a wide variety of workplace products but specifically excludes, among other things, pest control products, radioactive substances and products covered under the *Explosives Act*. The Act places a legal requirement on Canadian suppliers and importers of controlled workplace products to prepare (or obtain) and transmit an MSDS, and to apply a label disclosing prescribed information, as a condition of sale. Where a supplier is exempt from disclosing a specific chemical identity, the Act requires the disclosure of the generic chemical identity.

The Controlled Products Regulations

In conjunction with the *Hazardous Products Act*, the *Controlled Products Regulations* establish specific criteria that identify controlled products and set out the requirements for labelling and MSDS.

Provincial and Territorial Occupational Safety and Health Acts and Regulations

Most provincial occupational safety and health acts specifically reference the *Hazardous Materials Information Review Act* and refer employers who would like to protect a trade secret to HMIRC. In the case of claims for exemption made by these employers, HMIRC issues any compliance orders under the appropriate provincial/territorial occupational safety and health act. In this respect, HMIRC is truly a federal/provincial/territorial agency. (See section VI for a complete list of the relevant statutes and regulations.)

2.2.2 Mandate

Under the authority of the *Hazardous Materials Information Review Act* and the provincial and territorial occupational safety and health acts, the Commission is charged with carrying out the following mandate:

- to formally register claims for trade secret exemptions under WHMIS and issue Registry Numbers;
- to issue decisions on the validity of claims for exemption using prescribed regulatory criteria;

- for products that are the subject of a request for exemption, to make decisions on the compliance of their MSDSs and labels within WHMIS requirements as set out in the *Hazardous Products Act* and *Controlled Products Regulations* and various provincial and territorial occupational safety and health acts; and
- to convene independent, tripartite boards to hear appeals from claimants or affected parties on decisions and orders issued by the Commission.

2.2.3 Role

HMIRC's role is to balance the right of chemical companies to protect legitimate trade secrets against the right of workers to have accurate health and safety information about hazardous products used in the workplace.

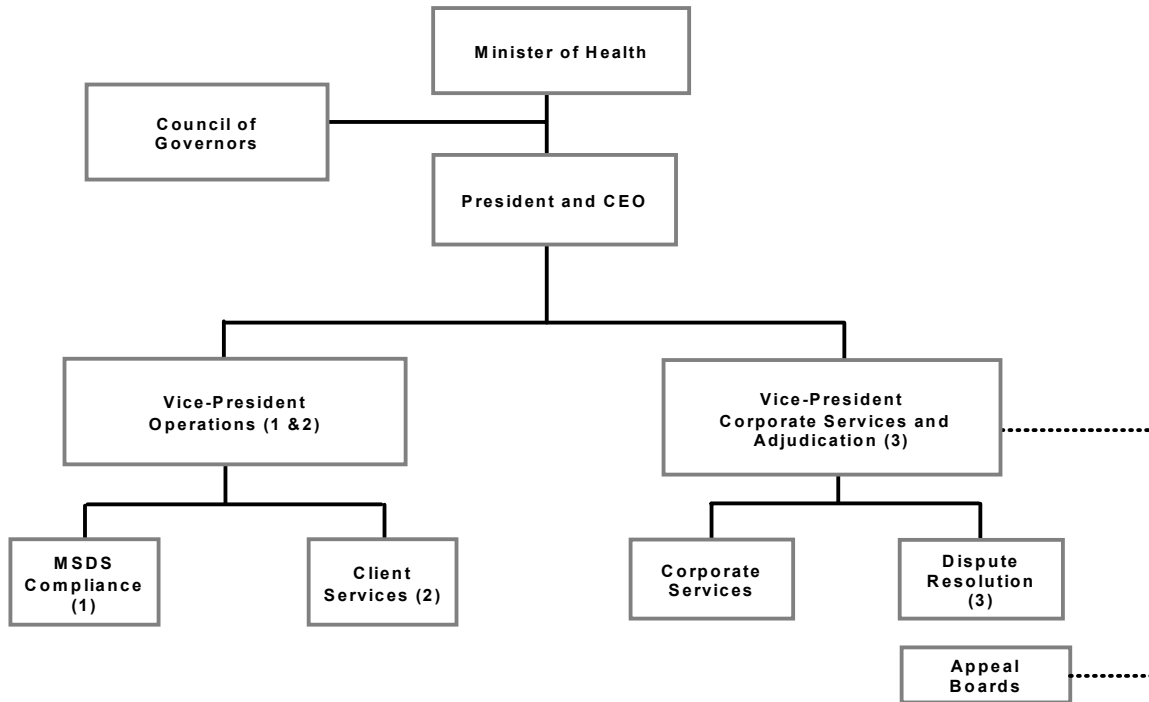
2.2.4 Responsibilities

The Commission is governed by a Council of Governors, whose members represent workers, suppliers and employers, and the federal, provincial and territorial governments. The Council makes recommendations to the Minister of Health on matters such as changes to the procedures used to review claims for exemption or to hear appeals, and applicable fees.

The President and CEO is appointed by the Governor in Council and, as the Commission's Chief Executive Officer, has the authority and responsibility to supervise and direct the organization's work on a day-to-day basis. The President is accountable to the Council of Governors and the Minister of Health.

The Vice-President of Operations has the authority and responsibility to supervise and direct work within the MSDS Compliance and the Client Services business lines.

The Vice-President of Corporate Services and Adjudication, who is also the Chief Appeals Officer, has the authority and responsibility to supervise and direct the work within the Dispute Resolution business line and Corporate Services.



	Business Line Titles	2001–2002 Planned Spending (\$ thousands)	FTE
1.	MSDS Compliance	1,930	24
2.	Client Services	572	8
3.	Dispute Resolution	368	2

2.3 Departmental/Program Objective

The Commission’s departmental objective is to allow suppliers and employers involved with hazardous industrial materials to protect legitimate confidential business information related to their products and, at the same time, to ensure that workers are provided with accurate safety and health information regarding these products.

2.4 The Planning Context

2.4.1 Government Commitments

1. Renewal

HMIRC is entering its third and final year of program renewal. The process, begun in January 1999, is designed to transform the Commission into a more client- and results-based organization dedicated to meeting its clients' changing needs efficiently and cost-effectively.

HMIRC laid out its renewal agenda in two key documents: *Commission Renewal: Blueprint for Change*, which establishes the guiding principles of renewal and maps the direction of change; and an accompanying *Workplan*, which enumerates the actions needed to realize the *Blueprint's* vision. That vision is best expressed by the eight principles that form the cornerstones of renewal and the benchmark against which the Commission's activities are measured: timeliness, accessibility, transparency, quality, consistency, competency, respect and fairness.

The *Blueprint* was developed in consultation with the Commission's stakeholders. Both publications were approved by the Commission's Council of Governors and by the Minister of Health, and both have been published and distributed to stakeholders as evidence of the Commission's commitment to change. Both documents are available on the Commission's Web site.

Many of the *Blueprint's* 29 strategic measures have been implemented through administrative and procedural changes; others will require regulatory or statutory changes. (See section 4.1.2 for more information on HMIRC's proposed legislative changes.)

2. Dispute Resolution Process

When HMIRC set out to redesign its approach to handling disputes between itself and its clients (one of its renewal commitments), it realized that as well as improving the appeal process—the end stage of disagreements—it would also have to examine upstream events, those of the screening process¹, which is where many problems start.

Throughout the spring and summer of 2000, HMIRC worked with its WHMIS partners and stakeholders to analyse its current practices and to develop ideas

¹ The screening process begins with the registration of the claim and includes MSDS pre-assessment, formal evaluation of the MSDS, and assessment of the claim's validity. It ends with a decision by the Screening Officer on whether to allow or deny the claim, including any orders to revise the MSDS.

for a comprehensive dispute resolution process that would include and complement the appeal process. The results of these labours are summarized in a document entitled *Conceptual Framework for Resolving Disputes*. The *Framework* outlines a set of proposed changes to the existing screening and appeal processes aimed at simplifying them and making them more transparent, cost-effective, fair and participatory—in short, more client-oriented.

HMIRC's Council of Governors approved the *Framework* in October, giving the Commission a green light to finish developing the process. HMIRC is now preparing the administrative and legislative changes, guidelines and training programs needed to put its ideas into practice.

The new dispute resolution process, which is the responsibility of HMIRC's Dispute Resolution business line, focusses not only on resolving disputes through an effective appeal process, but on preventing disputes from arising in the first place, and developing ways to resolve them—fairly, quickly and cost-effectively—when they do. The keys to the latter function are openness and communication. Both the remodelled screening and appeal processes feature more frequent contacts with claimants and appellants, through phone calls and conferences—particularly in early stages—to brief them on policies, roles and procedures, to answer questions, and to create opportunities for the kinds of interactions that promote understanding and trust. Both processes emphasize the need to share information, to encourage clients' participation and to identify problems early, before they become serious. For difficult cases, Dispute Resolution works to provide all parties with options for resolving the dispute in a non-adversarial, collaborative and informal atmosphere.

Among the proposed key changes to the screening process are these:

- HMIRC will introduce a new MSDS pre-assessment stage that includes a voluntary compliance option. Immediately after registration of the claim and before the formal review gets under way, HMIRC will examine a claimant's MSDS for obvious technical violations and advise the claimant on how the MSDS might be improved with minimum effort. The claimant is given an opportunity to voluntarily amend the MSDS for those items. This procedure will speed up the screening process and reduce the number of orders issued by Screening Officers. It will also make accurate, complete MSDSs available to employers and workers sooner.
- After its Health and Safety Evaluator has formally reviewed an MSDS and prepared an advice document for the Screening Officer, HMIRC will provide a copy of the advice document to the claimant for comment. This step includes provisions for identifying and dealing with any disagreements that might arise at this stage.

- HMIRC will propose changes to the legislation to allow claimants to enter into compliance measures agreements, in order to bring the MSDS into full compliance, as an alternative to a formal order.

Proposed key changes to the appeal process include:

- Allowing the Commission to play a role in appeal hearings to provide factual clarification of information.
- Measures designed to simplify the current appointment process for appeal board members: for example, appointing a three-member panel for a longer period, or reducing the number of nominees on lists of potential board members.
- Providing appeal board members and appellants with a procedural manual that sets out the regulatory context, the screening process, and information on how the appeal process works, has worked and can work.
- Measures to maximize the effectiveness of procedural conferences.

3. Government On-Line

Government On-Line (GOL) is the federal government's multi-year project to provide Canadians with electronic Internet access to federal information and services 24 hours a day, 7 days a week. The plan calls for all federal departments and agencies to be fully on-line by 2004. The program's goals are to improve service delivery to Canadians, to increase citizens' participation in government, to make the government more transparent and responsive to Canadians, and to spur Canada's participation in the global e-commerce marketplace.

Many of the strategic initiatives of HMIRC's renewal plan envisioned using the Internet to deliver the Commission's programs and services more efficiently and effectively. HMIRC began planning its Web site in the fall of 1999; by the fall of 2000 HMIRC had extended its plan to incorporate the government's GOL vision. HMIRC's "Government On-Line Plan" describes how the Commission will implement, in three stages, the government's GOL strategy.

HMIRC proudly launched its Web site on March 1, 2000. The site, which was developed in consultation with HMIRC's clients, provides information about the Commission and its services, and instructions for filing claims and appeals. HMIRC's publications and forms are available for viewing or downloading in a variety of formats. The site also features e-mail access with automatic acknowledgement, basic search capabilities, links to related sites, and a "What's New" page to keep visitors abreast of recent developments and activities at the Commission.

The site was designed to comply with Treasury Board Secretariat's Common Look and Feel Guidelines, to facilitate use by the disabled, and to respect both the letter and the spirit of the *Official Languages Act*. Indeed, HMIRC's Web site achieves so much with such limited resources that it has been cited as a model for other departments and agencies to follow and showcased at several government workshops.

HMIRC is further developing the site to increase its functionality and features. Plans are under way to build in capacity for on-line filing of claims (e-filing) and fee payment (e-commerce). Also on the drawing board are advanced security and search capabilities, Internet forums, an electronic databank of toxicity profile summaries, a list of common MSDS errors, and templates and standard wording for MSDSs.

To further increase its accountability and transparency as a public service organization, and to encourage comment and participation by its WHMIS partners and stakeholders, the Commission has committed to posting all newly developed policies, regulations and procedures on its Web site.

As of January 1, 2001, HMIRC's site had attracted over 10,000 visitors and supplied users with over 1 gigabyte of data.

2.4.2 Claims Backlog

Historically, HMIRC has received on average 200 new claims for exemption each year. In 1999–2000, however, the Commission received almost twice that number of claims (394). This unprecedented increase in workload has created a backlog of 650 claims. In addition, the Commission projects above average rates of new filings in coming years, partly as a consequence of the healthy Canadian economy.

In the fall of 2000 the Commission applied for and received additional financial support to help it address the backlog. HMIRC will use the funds to hire additional staff to handle the projected increase in its workload and to reduce the size of the backlog over five years.

Among other things, HMIRC's plan for dealing with the backlog of claims calls for increasing the number of claims processed annually during the planning period from 200 to a high of 425. This increase is possible because, thanks to HMIRC's modernization and renewal program, the screening process has become more efficient.

2.4.3 Key Linkages to Other Departments

Because WHMIS is an integrated activity that spans many jurisdictions, the Commission works closely with its many partners in government, industry and labour.

HMIRC maintains close ties to Health Canada, which bears ultimate responsibility for administering the *Hazardous Products Act*. Our relationship with Health Canada's WHMIS Division, which coordinates the development of WHMIS policy and strives to ensure that the program is applied consistently in all jurisdictions, is particularly important.

HMIRC also collaborates with Human Resources Development Canada, which is the lead agency for the federal government on occupational safety and health (OSH) programs; and with Justice Canada, on which it relies for legal advice on various issues.

HMIRC now contracts out some aspects of its work related to MSDS Compliance to the Canadian Centre for Occupational Health and Safety (CCOHS). Located in Hamilton, Ontario, CCOHS is a federal agency under Human Resources Development Canada. HMIRC's arrangement with the Centre is fortuitous because it provides the Commission with much-needed assistance at a time when workloads have significantly increased.

2.4.4 Key Strategic Partnerships with the Private Sector and Other Levels of Government

The Commission is offering to build partnerships with provincial occupational safety and health (OSH) agencies (namely, Departments of Labour and Worker Compensation Boards). OSH co-ordinators in the provinces and territories work on the front lines of both the WHMIS and HMIRC programs, and their knowledge and expertise are invaluable to the Commission. For its part, HMIRC is looking for ways to help its OSH partners increase chemical companies' compliance with WHMIS and identify unfiled claims that should be referred to the Commission.

2.5 Departmental Planned Spending

(\$ thousands)	Forecast Spending 2000–2001	Planned Spending 2001–2002	Planned Spending 2002–2003	Planned Spending 2003–2004
Budgetary Main Estimates (gross)	1,929	2,870	2,857	2,857
Non-Budgetary Main Estimates (gross)	0	0	0	0
Less: Respendable revenue	0	0	0	0
Total Main Estimates	1,929	2,870	2,857	2,857
Adjustments**	570	0	0	0
Net Planned Spending	2,499*	2,870	2,857	2,857
Less: Non-Respendable revenue	600	600	600	600
Plus: Cost of services received without charge	375	498	498	498
Net Cost of Program	2,274	2,768	2,755	2,755
Full Time Equivalents	26	34	34	34

* Reflects the best forecast of the total net planned spending to the end of the fiscal year.

** Adjustments are to accommodate approvals obtained since the Main Estimates and are to include Budget initiatives, Supplementary Estimates, etc.

Section III: Departmental Plans, Results, Activities and Resources

3.1 Business Line Details

HMIRC fulfills its mandate and carries out its mission through three distinct and complementary business lines:

1. MSDS Compliance
2. Client Services
3. Dispute Resolution

3.1.1 MSDS Compliance Business Line

Objective

The aim of the MSDS Compliance business line is to regulate, in the public interest, the maximum health and safety benefits in the workplace.

Description

This business line contributes to the right of workers to know about the health and safety hazards of exposure to chemicals found in products associated with claims for exemption by ensuring that MSDSs and labels are compliant with WHMIS requirements. This includes an assessment of the scientific information relevant to each of the product's ingredients and advice on the health and safety hazards posed by the product pursuant to the *Hazardous Products Act*, the *Canada Labour Code*, and provincial and territorial occupational health and safety legislation. Where non-compliance is found, a formal order for revision of the MSDS is issued and a follow-up done to ensure compliance.

This activity will continue to result in a direct contribution to the reduction of workplace-related illness and injury which, in turn, has the effect of easing economic pressures due to compensation claims and health care costs.

Net Planned Spending (\$ thousands) and Full Time Equivalent (FTE)

Forecast Spending 2000–2001		Planned Spending 2001–2002		Planned Spending 2002–2003		Planned Spending 2003–2004	
\$	FTE	\$	FTE	\$	FTE	\$	FTE
1,624	17	1,930	24	1,920	24	1,920	24

3.1.2 Client Services Business Line

Objective

The aim of Client Services is to assist suppliers or employers in protecting their product's confidential business information while allowing them to meet their disclosure obligations under WHMIS.

Description

The responsibilities within this area include the formal registration of claims for exemption, the issuance of Registry Numbers, the security of claim-related information and the issuance of a decision on claim validity pursuant to the *Hazardous Materials Information Review Act*. In addition, Client Services provides general advice and guidance to claimants and monitors levels of client satisfaction.

Net Planned Spending (\$ thousands) and Full Time Equivalents (FTE)

Forecast Spending 2000–2001		Planned Spending 2001–2002		Planned Spending 2002–2003		Planned Spending 2003–2004	
\$	FTE	\$	FTE	\$	FTE	\$	FTE
499	7	572	8	569	8	569	8

3.1.3 Dispute Resolution Business Line

Objective

The aim of Dispute Resolution is to provide all parties with a range of options for discussion on issues arising from decisions and orders of the Commission in order to prevent disputes from arising and where they do arise, to address them as early and effectively as possible.

Description

This business line includes the convening of independent tripartite boards to hear appeals or disputes from claimants or affected parties in order to address issues or disputes as early and effectively as possible.

An appeal may relate to the compliance of an MSDS, the rejection of a claim or to a request that confidential business information be disclosed in confidence to an affected party for occupational safety and health reasons.

Dispute resolution options such as mediation or facilitated discussion, will be implemented in a manner that is cost-effective and fair to everyone involved.

Net Planned Spending (\$ thousands) and Full Time Equivalents (FTE)

Forecast Spending 2000–2001		Planned Spending 2001–2002		Planned Spending 2002–2003		Planned Spending 2003–2004	
\$	FTE	\$	FTE	\$	FTE	\$	FTE
376	2	368	2	368	2	368	2

3.2 Key Results Commitments, Planned Results, Related Activities and Resources

3.2.1 MSDS Compliance Business Line

Key Results Commitment:

HMIRC commits to helping Canadian workers become knowledgeable about the health and safety hazards of exposure to chemicals found in products associated with claims for exemption.

Planned Results:

HMIRC will review and verify the compliance of MSDSs and, in some cases, labels, associated with claim-related hazardous products. Where MSDSs and labels are found to be non-compliant, HMIRC will issue formal orders to claimants to have them corrected.

HMIRC will use its recently acquired additional funding to hire more Screening Officers and Evaluators. HMIRC's goal is not only to keep pace with the growing number of claims being submitted each year but to reduce the accumulated backlog of claims as well.

Related Activities:

In addition to its day-to-day tasks outlined above, HMIRC will continue its program of renewal by implementing the measures set out in the *Blueprint for Change* and the accompanying *Workplan*. During the current planning period HMIRC will focus on the following initiatives relative to its MSDS Compliance business line:

- We will continue to implement measures (the use of informational workshops, for example) that promote full consultation with our tripartite stakeholders (government, industry and labour) in areas such as program review and evaluation and the improvement of service standards.
- We will eliminate cost recovery associated with MSDS Compliance work done in the public interest, in the context of Treasury Board's Cost Recovery and Charging Policy.

- We will identify and develop opportunities for joint initiatives with WHMIS partners, both in Canada and abroad, who have similar interests and objectives.
- We will increase our investment in the training and development of our staff to ensure that they remain current on developments in the chemical industry and are able to provide a high standard of service.
- We will launch a voluntary MSDS compliance program for claimants. The procedure will afford claimants an opportunity to remedy obvious technical shortcomings in their MSDSs prior to a formal review by the Screening Officer.
- We will propose amendments to the *Hazardous Materials Information Review Act* to allow Screening Officers to enter into a Compliance Measures Agreement with claimants, whereby claimants undertake to voluntarily comply with the Screening Officers' orders rather than being compelled to do so.
- We will be more proactive in WHMIS tripartite policy/interpretation analysis and development, and we will do more to communicate the results to claimants and the chemical industry as a whole.

3.2.2 Client Services Business Line

Key Results Commitment:

HMIRC commits to helping suppliers and employers protect valid confidential business information concerning their hazardous products.

Planned Results:

Client Services provides information that helps suppliers, producers, distributors and employers prepare and submit claims for exemption. HMIRC normally responds to telephone enquiries within 48 hours and to written enquiries within a week. The Commission expects to deal with approximately 100 enquiries annually during the planning period.

HMIRC's Screening Officers or their delegates will register claims for exemption submitted by claimants and issue Registry Numbers. Following a pre-registration check, claims will be registered within seven days after receipt of the completed claim, provided all the needed information has been included. At the request of a claimant, the Commission will register a claim in as little as 48 hours. HMIRC expects to register approximately 250 claims annually during the planning period.

Screening Officers will also rule on the validity of claims for exemption. Their decisions are based on a comparison of information supplied by claimants against the criteria of the *Hazardous Materials Information Review Regulations*.

Related Activities:

In addition to the day-to-day tasks outlined above, HMIRC will continue its program of renewal by implementing the measures set out in the *Blueprint for Change* and the *Workplan*. During the current planning period HMIRC will undertake the following initiatives relative to its Client Services business line:

- We will develop opportunities for joint initiatives with our WHMIS partners, both in Canada and abroad, who have similar interests and objectives.
- We will complete the restructuring of our cost-recovery activities.
- We will propose amendments to the *Hazardous Materials Information Review Regulations* to make it easier for claimants to demonstrate that certain information pertaining to their products is, in fact, a legitimate trade secret that should remain confidential.
- We will maximize our impact on workplace health and safety by conducting market studies on unfiled claims and keeping current on international trends.
- We will develop and enact policies and procedures designed to prevent misunderstandings and disputes between HMIRC and its clients.
- We will work to inform other regulatory and/or registry agencies of government about our services and expertise.
- We will increase our investment in the training and development of our employees to improve their awareness of—and ability to respond to—the needs of our clients.
- We will propose a statutory/regulatory framework for the filing of claims related to controlled products that are to be test marketed in Canada.

3.2.3 Dispute Resolution Business Line

Key Results Commitment:

HMIRC commits to resolving disputes in a fair, efficient and cost-effective manner.

Planned Results:

HMIRC will convene independent tripartite boards to hear appeals and resolve disputes that arise from any of its orders and decisions. To date, 16 appeals have been filed on the decisions and orders rendered by Screening Officers. Nine appeals have been completed and seven were withdrawn by the appellant prior to the Appeal Board's final determination. Historically, 1% of claim submissions have resulted in an appeal; based on this figure, the Commission expects to hear three appeals annually during the planning period.

Related Activities:

In addition to the day-to-day tasks outlined above, HMIRC will continue its program of renewal by implementing the measures set out in the *Blueprint for Change* and the *Workplan*. During the current planning period HMIRC will further develop the dispute resolution program by:

- establishing timetables, based on best practices and reasonable expectations, for the delivery of our services;
- establishing a complaint management system to deal with service complaints;
- systematically analysing decisions and orders of the Commission that have been successfully appealed to ensure that we are consistent in our decision making;
- soliciting feedback from our clients and sharing innovations and best practices related to the adjudicative/hearing process, in order to improve our services;
- further improving and streamlining the screening process by:
 - providing claimants with information about the Commission and its operations, especially the screening and appeal processes;
 - better briefing claimants at the pre-assessment stage on claims-related issues, including recent procedural changes and the voluntary compliance option;
- further improving and streamlining the appeal process by:
 - reviewing the appointment of appeal boards;
 - developing guidelines to assist appeal board members during procedural conferences;

- creating a procedural manual for appeal board members;
- providing appeal board members with formal training regarding appeals and tribunals;
- developing guidelines for the content of the Screening Officer's Record;
- developing evaluation and monitoring tools to assess the quality of our services and the effectiveness of the changes we've implemented under the dispute resolution program;
- proposing amendments to the statute to allow the Commission to play a role in appeal hearings (for example, to clarify factual information).

Section IV: Joint Initiatives

4.1 Horizontal Initiatives

4.1.1 Cost Recovery

One of the objectives of the Commission's strategic renewal initiative is to review and update its cost recovery regime and bring it into line with the Treasury Board of Canada's current Cost Recovery and Charging Policy. In doing so the Commission aims to protect its program integrity, minimize the costs charged to its clients, and make its cost recovery practices as fair, reasonable, consistent and transparent as possible.

A key feature of Treasury Board's Cost Recovery and Charging Policy, which became effective in 1997, is the distinction it draws between public and private good. A private good is one that benefits, for the most part, an identifiable individual or organization, whereas a public good accrues to Canadians in general. The policy stipulates that departments can charge for services that confer a private—but not a public—good. The reference notes to the policy emphasize that federal departments and agencies should not charge for services that provide Canadians with information about dangers to health, public safety or protection of the environment, and that departments must work with their clients to determine an appropriate division between public and private benefits.

After reviewing in detail its own operations and conferring with its clients, HMIRC developed a conceptual framework for a new cost recovery structure that is consistent with Treasury Board Secretariat's policy. HMIRC's proposed new cost recovery structure, as laid out in its framework document, is based on the recognition that its MSDS review function, (which provides information used by Canadian workers to safeguard their health and safety), involves a public good. By contrast, its Client Services function, which enables claimants to maintain the confidentiality of their valuable trade secrets (which affects the marketability of their products), provides a clear economic benefit to claimants that is not shared by Canadians in general: in short, a private good. Consequently, HMIRC proposes to charge claimants for services provided by its Client Services group and to eliminate fees associated with MSDS Compliance.

The Commission is now developing a revised fee schedule based on the framework.

4.1.2 Regulatory and Legislative Initiatives

Legislation and Regulations	Planned Results
<i>Hazardous Materials Information Review Act</i>	<p>HMIRC is proposing fundamental legislative changes to the statute to bring it in line with changes resulting from the Commission's strategic renewal initiative. This could include changes to permit streamlined procedures for reviewing claims (including a proposed attestation approach to claim validity), an enhanced dispute resolution process, and a simpler, more cost-effective appeal process. We will also propose changes to permit Compliance Measures Agreements with claimants.</p> <p>HMIRC is also proposing minor, technical amendments to the Act that will clarify the intent of the legislation and ensure, among other things, the equivalence of English and French texts.</p>
<i>Hazardous Materials Information Review Regulations</i>	<p>In 2001–2002 HMIRC will initiate a number of minor changes to the Regulations in response to the Standing Committee on Scrutiny of Regulations. We will propose additional changes to permit streamlined procedures for reviewing claims and to reflect the outcome of HMIRC's cost-recovery review and its new fee schedule.</p>
<i>Hazardous Materials Information Review Act Appeal Board Procedures Regulations</i>	<p>The Act and Regulations will be updated to better reflect the Commission's streamlined appeal process, which includes, among other things, measures aimed at maximizing the effectiveness of procedural conferences.</p>

4.2 Collective Initiatives

In its ongoing effort to become more efficient, HMIRC has launched a number of initiatives designed to trim its operating costs. For example, HMIRC is now co-located with another small agency with similar accommodation needs. This allows the shared use of hearing room, meeting rooms, postal facilities and library services. To cut costs even further, the Commission has entered into a Health Portfolio Partnership Agreement with Health Canada. Under this arrangement Health Canada provides HMIRC with a variety of corporate services, including human resource management, financial services, information technology services and real property management.

As well, HMIRC has an arrangement with the Department of Justice for the provision of legal services. The Department established a multi-client group to provide legal services, on a cost-recovery basis, to small agencies, including HMIRC. In exchange, HMIRC provides its counsel with office space and support.

The Commission is an active member of the Small Agency Administrators' Network and the Federal Agencies Forum. These organizations provide members with a forum for discussing, among other things, ways to ensure that federal initiatives are implemented efficiently and effectively. As well, members can collaborate in finding ways to meet their special resource needs and to turn to their advantage the fundamental differences that distinguish them from more conventional departments.

Finally, the Commission is working closely with provincial/territorial coordinators to help uncover unfiled claims.

Section V: Financial Information

Table 5.1: Sources of Respendable and Non-Respendable Revenue

Respendable Revenue

(\$ thousands)	Forecast Revenue 2000–2001	Planned Revenue 2001–2002	Planned Revenue 2002–2003	Planned Revenue 2003–2004
	nil	nil	nil	nil
Total Respendable Revenue	nil	nil	nil	nil

Non-Respendable Revenue

(\$ thousands)	Forecast Revenue 2000–2001	Planned Revenue 2001–2002	Planned Revenue 2002–2003	Planned Revenue 2003–2004
Material Safety Data Sheet Compliance	0	0	0	0
Client Services: Claim Registration Fees	600	600	600	600
Dispute Resolution	0	0	0	0
Total Non-Respendable Revenue	600	600	600	600

Total Respendable and Non-Respendable Revenue	600	600	600	600
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Table 5.2: Net Cost of Program for the Estimates Year

(\$ thousands)	Total
Net Planned Spending (Gross Budgetary and Non-budgetary Main Estimates plus adjustments)	2,870
Plus: Services received without charge	
Accommodation provided by Public Works and Government Services Canada (PWGSC)	350
Contributions covering employees' share of employees' insurance premiums and expenditures paid by TBS	148
Workers' compensation coverage provided by Human Resources Development Canada	0
Safety and associated expenditures of legal services provided by Justice Canada	0
Less: Non-Respendable Revenue	600
2001-2002 Net cost of Program	2,768

Section VI: Other Information

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Publications

The following HMIRC publications describe the Commission's operations and assist clients in filing applications. They are available from the Commission's Web site in various formats for downloading or on-screen viewing. Hard copies may also be requested from the Hazardous Materials Information Review Commission, 200 Kent Street, Suite 9000, Ottawa, Ontario K1A 0M1, Tel: (613) 993-4331; Fax: (613) 993-4686.

Annual Reports, 1988–2000
Report on Plans and Priorities 2000–2001
Departmental Performance Reports 1998–1999
Commission Renewal: Blueprint for Change (strategic plan)
Workplan (operational plan based on the *Blueprint for Change*)
Information Bulletins 1, 2, 3 and 4
Form 1—Claim for Exemption
Guide to Completing a Claim for Exemption Form
Guidelines for Toxicological Summary Requirements
Statement of Appeal Form 1

List of Legislation and Regulations

The following statutes and regulations comprise the regulatory framework within which the Commission carries out its mission. All the documents can be found on the Commission's Web site. Printed copies may be obtained from public libraries or purchased from booksellers that carry government publications. Copies can also be ordered from Canadian Government Publishing, Ottawa, Ontario K1A 0S9, Tel: 1-800-635-7943 or (819) 956-4800.

Hazardous Materials Information Review Act
Hazardous Materials Information Review Regulations
Hazardous Materials Information Review Act Appeal Board Procedures
Regulations

*Hazardous Products Act
Controlled Products Regulations
Canada Labour Code – Part II
Canada Occupational Safety and Health Regulations
Provincial and Territorial Occupational Safety and Health Acts and Regulations*

Please visit our Web site at www.hmir-c-crmd.gc.ca

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