



**BEST PRACTICE
GUIDE FOR
PREPARING
REGULATORY
IMPACT
STATEMENTS**



December 2003

TABLE OF CONTENTS

INTRODUCTION	3
BACKGROUND TO REGULATORY REFORM.....	5
<i>National Competition Policy</i>	<i>5</i>
<i>Business Regulation Review Committee</i>	<i>5</i>
<i>Mutual recognition</i>	<i>6</i>
OTHER REASONS FOR REGULATORY REFORM	7
<i>Market failure</i>	<i>7</i>
<i>Institutional failure</i>	<i>7</i>
<i>Regulatory failure</i>	<i>7</i>
STEPS TO REGULATORY REFORM.....	8
WHAT IS A REGULATORY IMPACT STATEMENT (RIS)?.....	9
RIS AS A DEVELOPMENTAL TOOL	10
WHY SHOULD A RIS BE PREPARED?.....	11
REQUIREMENTS OF A RIS	13
<i>Consultation</i>	<i>13</i>
1. <i>Identify the problem.....</i>	<i>15</i>
2. <i>State the objectives of government intervention</i>	<i>15</i>
3. <i>List the options</i>	<i>16</i>
4. <i>Identify any Mutual Recognition Issues.....</i>	<i>18</i>
5. <i>Undertake impact analysis</i>	<i>19</i>
6. <i>Make a conclusion and suggest a recommended option</i>	<i>24</i>
7. <i>Develop guidelines to implement and review the regulation.....</i>	<i>24</i>
RIS CHECKLIST.....	26
APPENDICES	27
APPENDIX A: TYPES OF MARKET FAILURE.....	28
APPENDIX C: COST BENEFIT ASSESSMENT	33
APPENDIX D: SUSTAINABILITY	36
APPENDIX E: COMMONWEALTH ECOLOGICALLY SUSTAINABLE DEVELOPMENT STATEMENT.....	38

INTRODUCTION

Regulation is any law, government rule or direction that requires certain conduct from individuals, businesses and governments. There is wide community support for Government regulation that protects consumers, public health and safety, the environment and other significant interests. However, many existing laws were designed without explicit consideration of their impact on competition and the resulting costs on businesses, consumers and society.

All regulation has an impact on society, both financial and non-financial. Legislation should be viewed as a last resort when all alternative options are ineffective, inefficient and/or have greater impacts on society. However, the option with the least costs may not necessarily be the best option.

A Regulatory Impacts Statement (RIS) is a rigorous process for analysing the most feasible (efficient and effective) options available, including the possibility of regulation, to produce the greatest net benefit to society, while simultaneously meeting the needs of government.

There are seven principles and features that characterise regulatory policy that conform to best practice standards¹. They are:

Employ the minimum regulation necessary to achieve objectives

- Kept simple to avoid unnecessary restrictions
- Targeted at the problem to achieve the objectives
- Not imposing an unnecessary burden on those affected

Not be unduly prescriptive

- Performance and outcomes focused
- General rather than overly specific

Be accessible, transparent and accountable

- Easy to understand
- Fairly and consistently enforced
- Some flexibility for dealing with special circumstances
- Open to appeal and review

Integrated and consistent with other laws

- Addresses a problem not addressed by other regulations
- Recognises existing regulations and international obligations

Communicated effectively

- Written in ‘plain language’
- Clear and concise

Mindful of the compliance burden imposed

- Proportionate to the problem
- Set at a level that avoids unnecessary costs

¹ Source: Productivity Commission 2002, *Regulation and its Review 2001–02*, Annual Report Series, Productivity Commission, Canberra

Enforceable

- Provides the minimum incentives needed for reasonable compliance
- Able to be monitored and policed effectively

Given the need for appropriate and effective regulation that meet the needs of government and minimises the costs on business and society, the Government requires that each regulatory proposal be accompanied by a thorough assessment of the risks, costs and benefits to government, business and society associated with the proposal. However, as these risks, costs and benefits change over time, it is also necessary to undertake regular reviews to ensure that the regulation remains appropriate.

The RIS should be prepared once an administrative decision is made that regulation may be necessary, but before a policy decision is made on the nature of the regulation needed. Undertaking the RIS process minimises the likelihood of unnecessary regulation and maximises the potential for achieving the regulatory objective and delivering benefits to the community. The objective of the RIS process is to ensure that if regulation is necessary it has the least possible regulatory costs and does not unnecessarily impede competition.

The RIS should include a clear statement of the objectives of the regulatory proposal, the best means of achieving that objective, and its likely effects on government, business and society. This means determining whether there are any alternatives to regulatory proposals and, through a process that includes an analysis of the quantitative and qualitative costs and benefits, determine the course of action that maximises the benefits to the community as a whole.

Undertaking a RIS will help reduce unnecessary regulation on business. The RIS process seeks to ensure that the regulatory measure has the minimum possible impact on business while still fully achieving its objective. Agencies must address the business impact as part of the RIS process.

The objective of this manual is to assist ACT Government agencies to present a case for their regulatory proposal. Background information is provided, explaining the impetus for regulatory reform. The section titled *Preparing a RIS* contains a step-by-step guide to ensuring that agencies undertake a thorough assessment of the proposal, and is the focus of this guide

BACKGROUND TO REGULATORY REFORM

In the ACT, there are three main policy requirements, driving regulatory reform. These are:

- National Competition Policy (NCP);
- The Government's acceptance of the recommendations in the Business Regulation Review Committee's *Review of ACT Business Regulation Report*; and
- Mutual recognition.

National Competition Policy

Under the National Competition Policy Agreements, all governments have an obligation to ensure that legislation is not anti-competitive. The principle articulated in the 1993 Hilmer Report places the onus of proof on governments to demonstrate a public interest case for the enactment or retention of statutory restrictions on competition. Hence, under clause 5 of the Competition Principles Agreement of the National Competition Policy (NCP), each government undertook to review and, where appropriate, reform all existing regulation that restricted competition by the year 2000. COAG later agreed in November 2000 to extend the deadline to June 2003.

The guiding principle is that restrictions be removed unless:

- the benefits of the restrictions to the community outweigh the costs; and
- the objectives of the legislation can only be achieved by restricting competition.

Fundamental to regulatory best practice, these principles are also required to be incorporated in regulatory impact statements for proposed new or amended legislative proposals.

Business Regulation Review Committee

In March 2002 the Business Regulation Review Committee was appointed to review the ACT business regulatory environment. The Committee examined the progress made to improving the regulatory environment since the 1995 Red Tape Task Force Report and subsequent National Competition Policy-related reviews of business regulation.

The Committee noted the particular contribution that Regulatory Impact Statements had made in improving the quality of legislative and policy proposals brought forward by departments and agencies for Government and subsequently Assembly consideration. To this end, it formally recommended that this Guide be updated and then re-issued to all agencies

The Government accepted this recommendation in its formal response to the Committee's report. The report is available on-line at:

www.treasury.act.gov.au/documents/brrtext.pdf and the full text of the

Government's response to the report is at:

<http://www.treasury.act.gov.au/competition/pol.html>

Mutual recognition

Mutual recognition reduces compliance costs to business and improves their efficiency and competitiveness when conducting transaction across State and Territory borders.

The increasing emphasis given to cross-jurisdictional policy and legislative development means that regulations are no longer developed in isolation. Consideration must be given to regulatory regimes operating in other jurisdictions to ensure that consistency is achieved wherever possible, particularly where common enforcement procedures or harmonisation of regulatory regimes will have the positive effect of reducing compliance costs to businesses operating across State and Territory borders.

Commonwealth, State and Territory governments have passed mutual recognition legislation to ensure that goods and occupations that comply with the regulations in one jurisdiction are deemed to comply with regulations in all other jurisdictions.

The consideration of cross-jurisdictional identification of mutual recognition issues forms one requirement of a RIS, and is examined further in the step-by-step section of this Guide.

Relevant agreements are the:

- Mutual Recognition Agreement (MRA), which came into operation in 1993 between all Australian States and Territories; and
- Trans-Tasman Mutual Recognition Arrangement (TTMRA), which commenced in 1998 between Australia and New Zealand.

OTHER REASONS FOR REGULATORY REFORM

In addition to policy requirements mentioned above, there are also a number of economic justifications for regulatory reform and government intervention. These include:

- market failure;
- institutional failure; and
- regulatory failure.

Market failure

While open and unrestricted competition in markets is generally regarded as the most efficient mechanism for allocating resources, the nature of some goods and services prevents markets from attaining optimal economic and social outcomes for the community. The resulting market failure is sufficient justification for government intervention. Market failure often arises in the presence of one or more of the following:

- public goods;
- externalities;
- natural monopolies; and
- information asymmetries.

The table at *Appendix: Types Of Market Failure* gives a brief description of these market failures and reasons why government intervention may be needed.

Institutional failure

Institutional failure arises when the processes and structures relating to the enforcement of laws do not operate efficiently or effectively. This type of failure is demonstrated particularly through:

- obstacles experienced by consumers relying on the court system;
- inadequate and uncoordinated enforcement effort facilitating unfair competition within industry;
- lack of clarity and consistency in agency roles and responsibilities, resulting in confusion for industry and consumers;
- overlap and duplication of agency responsibility with no co-ordination between agencies; and
- lack of resources or inadequate co-ordination of enforcement in a manner that best makes use of the available resources.

Regulatory failure

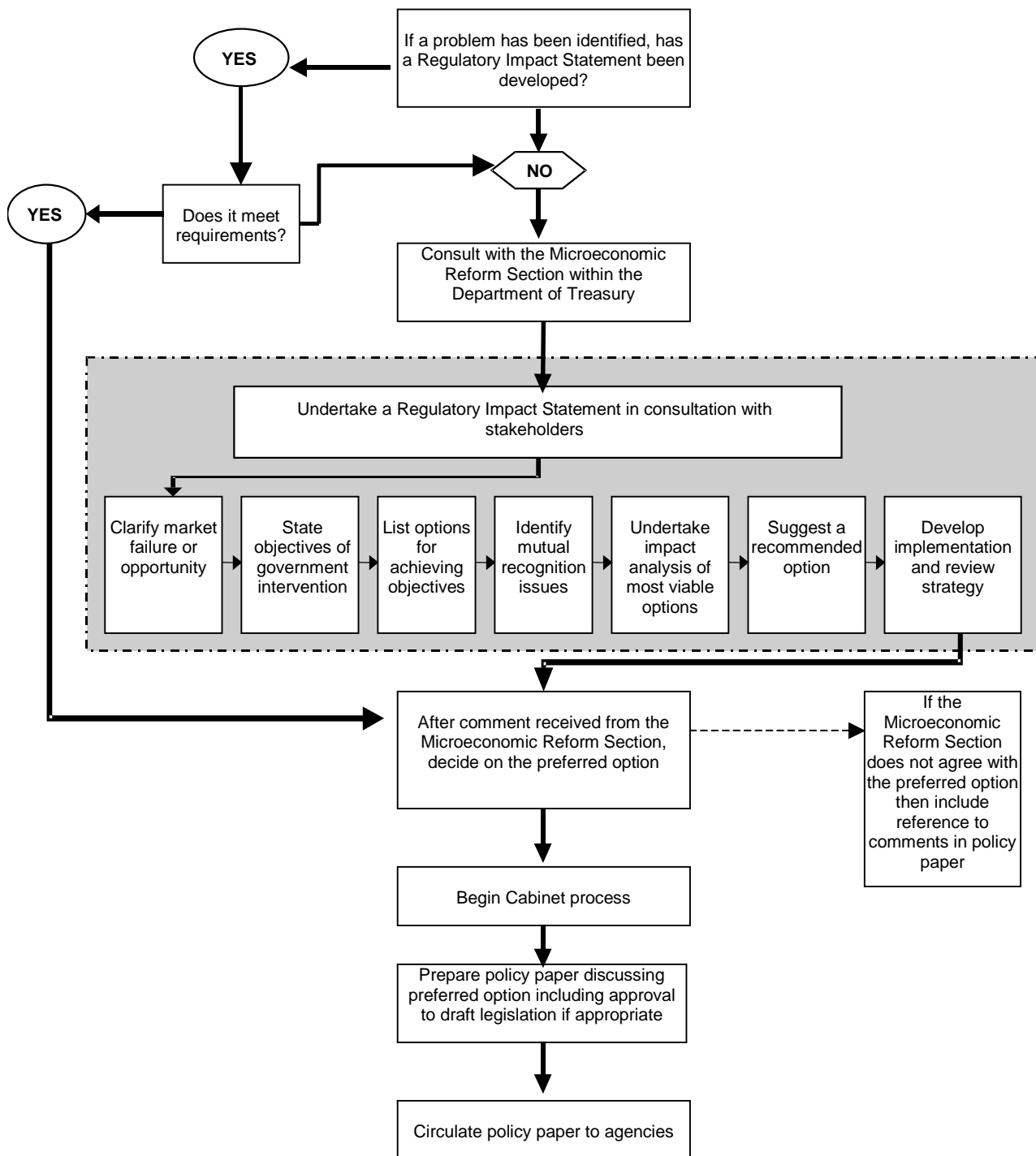
Regulatory failure results from problems associated with enforcement and legal frameworks. This type of failure can be attributed to:

- the regulations not being effective in addressing the problem they were seeking to address;
- inadequate resources for enforcement; or
- a lack of consistency and equity in the regulation.

Effective regulatory regimes employ aspects of both cooperative and controlling approaches.

STEPS TO REGULATORY REFORM

The diagram below illustrates the regulatory reform process. Note that consultation with both the Department of Treasury and stakeholders is an integral part of the process and is ideally undertaken at every stage.



WHAT IS A REGULATORY IMPACT STATEMENT (RIS)?

A RIS is an analytical tool that guides policy development and decision-making, prepared by the department, agency or statutory authority responsible for a regulatory proposal. It describes the issue that has given rise to a need for regulation and compares various possible options for dealing with that issue. An assessment of the costs and benefits of each option is included followed by a recommendation supporting the most effective and efficient option.

The objective of the RIS is to assist decision-making by presenting the information in a clear, structured and logical framework that will, after the decision is made, provide evidence of a sound approach underlying the chosen regulatory model.

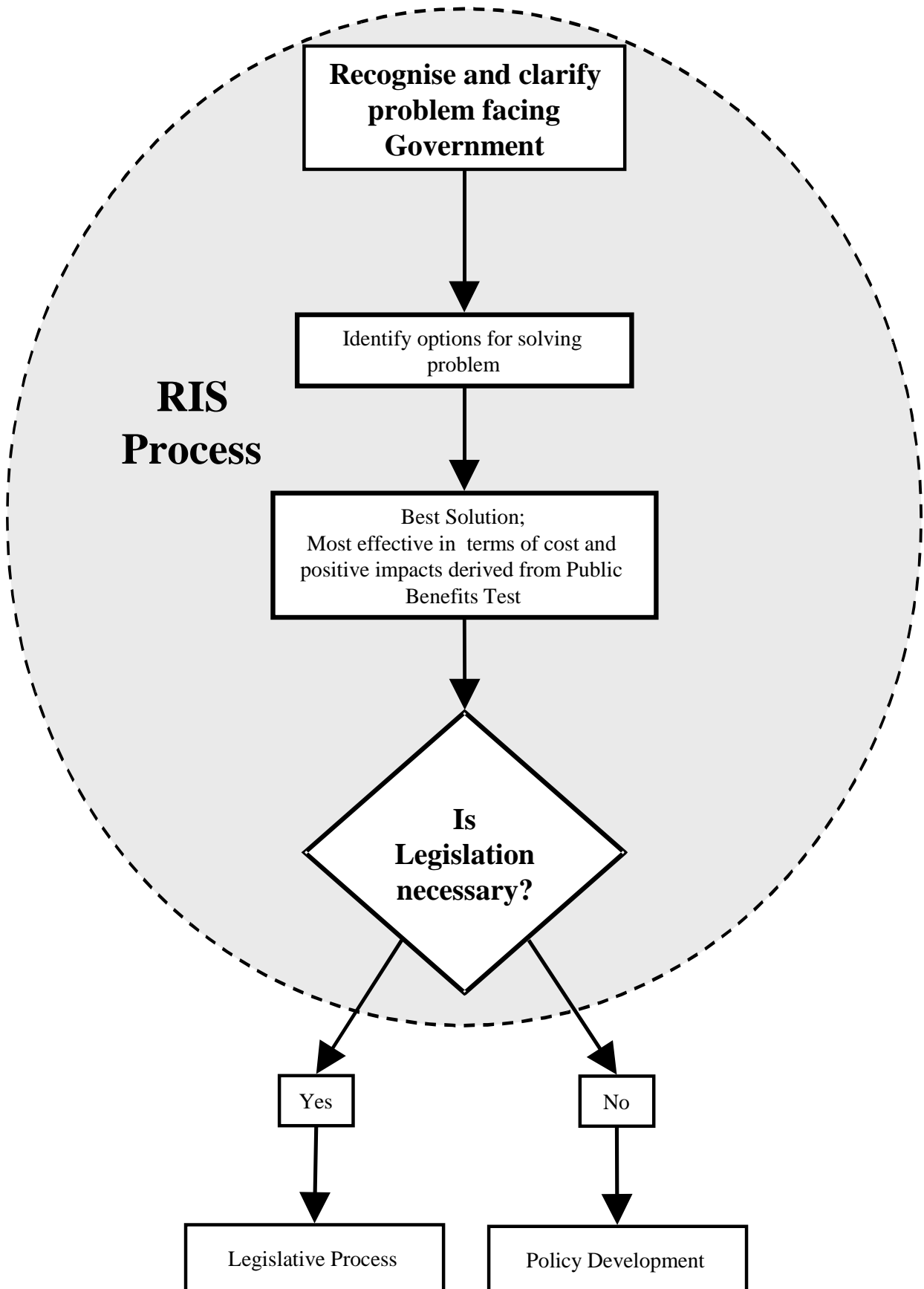
To ensure that the RIS meets these objectives, it must be given considerable thought and time. It is a document that should be prepared in consultation with stakeholders at every stage of its development. Hence, it is a document that cannot be left to the last minute to be prepared. It must be prepared once a decision is made that regulation may be necessary, but before a decision is made as to what form regulation may take.

A RIS, when developed in consultation with stakeholders, should identify:

1. the problem or issues which give rise to the need for action;
2. the desired objective(s);
3. all options (regulatory and/or non-regulatory) that may present viable means for achieving the desired objective(s);
4. any mutual recognition issues;
5. a cost-benefit analysis of the impact of each option on potentially-affected stakeholders including, consumers, business, government, the community, the region and the environment;
6. a recommended option; and
7. a strategy to implement and review the preferred option.

Consultation with the Microeconomic Reform Section within the Department of Treasury at the beginning of the RIS process will ensure that guidance and advice can be provided to enable the preparation of a sound regulatory impact statement.

RIS AS A DEVELOPMENTAL TOOL



WHY SHOULD A RIS BE PREPARED?

All regulation has an impact on society, both financial and non-financial. Legislation should be viewed as a last resort when all alternative options are ineffective, inefficient and/or have greater impacts on society. However, the option with the least costs may not necessarily be the best option.

Occasionally there are policy options with greater benefits to society than legislation that have not been explored. A RIS is a rigorous process for analysing the most feasible (efficient and effective) options available, including the possibility of regulation, to produce the greatest net benefit to society, while meeting the needs of government.

The RIS should be prepared once an administrative decision is made that regulation may be necessary, but **before** a policy decision is made on the nature of the regulation needed. Undertaking the RIS process minimises the likelihood of unnecessary regulation and maximises the potential for delivering benefits to the community.

In addition to its contribution to better policy-making, there are also executive, statutory and intergovernmental requirements to undertake a RIS, specifically:

- *ACT Government Cabinet Handbook (April 2002)*;
- *Legislation Act 2001*; and
- National Competition Policy.

Cabinet Handbook

Chapter 7 of the *ACT Government Cabinet Handbook* prescribes that where **any** new or amended legislation or government direction is proposed, a RIS must be completed as part of the policy development process. Cabinet submissions must address the issues raised by this process and the RIS must accompany the submission. Other departments and agencies are then able to assess the costs and benefits of the proposal, and provide further comment or advice on matters that may not have been considered.

Legislation Act 2001

Sections 34–38 of the *Legislation Act 2001* (“the Act”) state that for a proposed subordinate law (such as a regulation) or disallowable instrument that is likely to impose appreciable costs on the community, or a part of the community, then a RIS must be prepared.

‘Appreciable cost’ is not defined in the Act on the basis that any definition cannot be sufficiently broad to capture all concepts of cost. Rather, in attempting to classify and quantify the effects of their proposals, agency staff are encouraged to think beyond the usual notions of costs as financial measures and consider more intangible or imprecise variables such as ‘public health’, ‘environment’ and ‘time’. *Appendix C: Cost-Benefit Assessment* provides further discussion on how costs can be classified and quantified and the Microeconomic Reform Section can provide additional guidance and advice.

Section 36 of the Act also specifies when the preparation of a RIS is not required. For example, proposed ACT law may arise from a decision to adopt an existing Australian Standard. In this instance, if an assessment of the benefits and costs has already been made in another jurisdiction and the assessment is relevant to the ACT, then a RIS is unnecessary.

National Competition Policy

Regulatory proposals also need to consider their competition policy implications. In 1995 all Australian governments agreed to a package of microeconomic reform initiatives collectively known as National Competition Policy (NCP). Under three intergovernmental agreements which comprise NCP, the Commonwealth agreed to make ongoing national competition payments to each State and Territory, in return for them undertaking a series of reforms.

NCP requires that new or amended legislation should not restrict competition unless it can be demonstrated that:

- the benefits of the restriction to the community as a whole outweigh the costs (often referred to as the public benefit test)
- the objectives of the legislation can only be achieved by restricting competition.

Proposals for new legislation that restricts competition need to be accompanied by evidence in the form of a RIS that the legislation is consistent with the above criteria. Failure to comply with this requirement means the ACT is not meeting its obligations under the Agreement it co-signed, and may jeopardise its full competition policy payment entitlement.

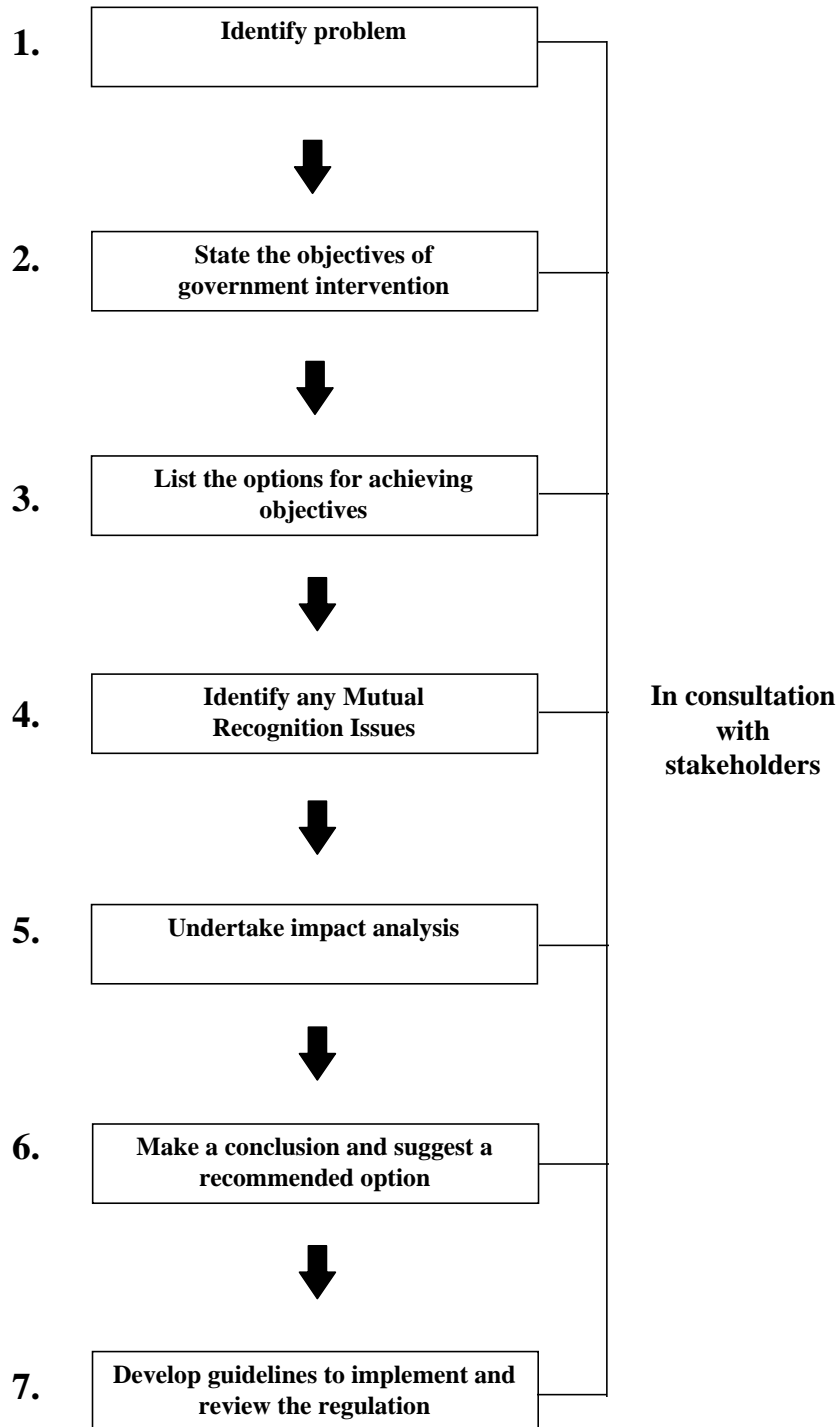
The Microeconomic Reform Section has responsibility for carriage of National Competition Policy in the ACT, including the annual report to the National Competition Council on the ACT Government's progress in implementing the NCP Agreements. The Section, therefore, has a primary role in supporting departments and agencies when they are preparing a RIS, to ensure the ACT's obligations are met.

The Review of ACT Business Regulation, undertaken in 2002, identified a large number of non-legislative based codes of practice, guidelines, protocols and standards that agencies had attempted to enforce as if they had statutory backing. It was subsequently recommended to, and accepted by, Government that these non-legislative 'regulations' be systematically reviewed to either formalise their status under legislation, discontinue their use or allow them to continue to operate as purely voluntary arrangements with no government enforcement activity.

Non-legislative regimes are classified as 'self-regulatory' or 'quasi-regulatory' and do not have the coercive power to force compliance that more formal regimes possess. In seeking to affect the behaviour of individuals or groups, however, a RIS should be undertaken to determine the most effective non-legislative model to achieve compliance.

REQUIREMENTS OF A RIS

The diagram below illustrates the minimum requirements of a RIS and provides a guide to the main headings to be used to structure the document. Each heading is expanded upon in the following chapter.



Consultation

- Who are the potentially affected groups or individuals of the proposals?
- What are the views of the main affected parties?
- Where consultation was limited or not undertaken what were the reasons?

Consultation is a vital part of the RIS process. By discussing a regulatory proposal with all the affected groups, any recommendations concluded by the RIS will be more appropriate and thorough. A **consultation statement** should be included in the RIS and provide details of the extent of consultation and the main views expressed. The statement should also note the extent of intergovernmental consultation.

Consultation should be within government and, unless the need for action is urgent or the subject is particularly sensitive, also with outside interests. Potential stakeholders could include:

- consumer groups
- service providers
- peak representative organisations
- community support groups
- community members who may be affected by, or interested in the outcome of the decision; and
- other government agencies.

The first point of consultation should be with the Microeconomic Reform Section. The Section can assist agencies with procedures, including the provision of advice on different regulatory/control approaches, best practice on regulatory reform and facilitating RIS training for staff. Advice can also be provided on evaluating the extent to which existing regulations are meeting the regulatory reform objectives of the government. Consultation with the Section during the development of the RIS will allow any potential problems to be identified and addressed at an early stage. This will facilitate the RIS' passage when legislation is circulated for department and agency comment.

The Community Policy Unit (CPU) within the Office of Multicultural and Community Affairs, Chief Minister's Department can assist agencies to plan more effective community consultations. The CPU can offer suggestions and ideas to draw up a consultation process that is appropriate for the particular project. A manual prepared by the CPU to assist in the planning and undertaking of consultation is available at:

<http://www.cmd.act.gov.au/community/Publications.htm>

Further information regarding consultation strategies can be obtained from the CPU on 6205 0404.

1. Identify the problem

- What is the problem being addressed?
- Why is government action needed to correct the problem?
- What are the potential risks?

This section of the RIS should clearly specify the problem that needs to be addressed to ensure that the appropriate action is taken. When identifying the nature and magnitude of the problem, both empirical evidence and perceptions should be considered.

As no government action is without direct cost or indirect costs through shifting resources, the onus is on the department or agency proposing the action to justify the need for government intervention. Economic theory suggests that government involvement is needed in cases of market failure, institutional failure or regulatory failure. A brief explanation of each failure is provided at *Appendix A: Types Of Market Failure*. This section of the RIS should specify the precise nature of the failure.

Consultation with potentially affected stakeholders should begin at this stage.

2. State the objectives of government intervention

- What are the objectives of government action?
- Is there a regulation/policy currently in place? Who administers it?

This section of the RIS needs to specify the outcomes, goals or targets sought in relation to the identified problem.

The objective must be clear, concise and as specific as possible. It should be specified broadly enough to allow consideration of all relevant alternative solutions but not broad or general enough that the range of alternatives becomes too large to assess or the extent to which the objective has been met becomes too hard to establish.

The objective should allow for an examination of alternative solutions to the underlying problem. Care should be taken to ensure the objective is not specified in such a way that it pre-justifies a preferred solution.

A common error is to confuse the desired final outcome of the proposal with the means of obtaining it. Accordingly, be mindful of confusing ‘ends’ with ‘means’.

Details of existing regulations should also be identified, along with relevant government policy.

3. List the options

- What are the options?
- Which is the most appropriate regulatory model?
- Which can be eliminated as not feasible?

The RIS should assess the relative merits of alternative non-regulatory and regulatory measures for achieving the stated objectives.

Following is a non-exhaustive list of non-regulatory and regulatory options. Further information on each option is given at *Appendix B: Non-regulatory And Regulatory Options*.

Non-regulatory options	Regulatory options
<ul style="list-style-type: none"> • Do nothing • Information disclosure • Economic incentives • Tradeable property rights • Risk-based insurance or risk pricing • Persuasion • Voluntary agreements 	<ul style="list-style-type: none"> • Self regulation • Quasi-regulation • Co-regulation • Explicit government regulation

The following checklist provides guidance to help determine which regulatory forms are worth considering.

Checklist for the assessment of regulatory forms for their suitability

1. Self-regulation should be considered where:

- there is no strong public interest concern, in particular, no major public health and safety concern;
- the problem is a low risk event, of low impact/significance; and
- the problem can be fixed by the market itself. For example, there may be an incentive for individuals and groups to develop and comply with self-regulatory arrangements (industry survival, market advantage).

The likelihood of self-regulatory industry schemes being successful is increased if there is:

- adequate coverage of industry concerned;
- a viable industry association;
- a cohesive industry with like minded/motivated participants committed to achieve the goals;
- evidence that voluntary participation can work – effective sanctions and incentives can be applied, with low scope for the benefits being shared by non-participants; and
- a cost advantage from tailor-made solutions and less formal mechanisms such as access to quick complaints handling and redress mechanisms.

2. Quasi-regulation should be considered where:

- there is a public interest in some government involvement in regulatory arrangements and the issue is unlikely to be addressed by self-regulation;
- there is a need for an urgent, interim response to a problem in the short term, while a long-term regulatory solution is being developed;
- government is not convinced of the need to develop or mandate a code for the whole industry;
- there are cost advantages from flexible, tailor made solutions and less formal mechanisms such as access to a speedy, low cost complaints handling and redress mechanisms; and
- there are advantages in the government engaging in a collaborative approach with industry, with industry having substantial ownership of the scheme. For this to be successful, there needs to be:
 - a specific industry solution rather than regulation of general application;
 - a cohesive industry with like minded participants, motivated to achieve the goals;
 - a viable industry association with the resources necessary to develop and/or enforce the scheme;
 - effective sanctions or incentives to achieve the required level of compliance, with low scope for benefits being shared by non-participants; and
 - effective external pressure from industry itself (survival factors), or threat of consumer or government action.

3. Explicit government regulation should be considered where:

- the problem is high risk, of high impact/significance, for example a major public health and safety issue;
- the government requires the certainty provided by legal sanctions;
- universal application is required (or at least where the coverage of an entire industry sector or more than one industry sector is judged as necessary);
- there is a systemic compliance problem with a history of intractable disputes and repeated or flagrant breaches of fair trading principles and no possibility of effective sanctions being applied; and
- existing industry bodies lack adequate coverage of industry participants, are inadequately resourced or do not have a strong regulatory commitment.

Sometimes it is too costly and unreasonable to assess every possible alternative solution. Accordingly, it may be necessary to consider in detail only the most feasible options, however, the reasons for rejecting options without detailed analysis should be clearly stated.

Eliminating options

Initially, a broad range of options should be considered, including forms of quasi-regulation and self-regulation. Regulation through legislation may not be the best solution and others should be considered.

By focusing on the options that are most effective in achieving the stated objectives, the range of the options being considered can be narrowed. This can be achieved by examining the broad constraints under which each option operates.

Possible constraints may be:

- technological - that which is possible within present and predicted levels of technology;
- legal limitations on a department or on an agency's actions; or
- distributional - the government's objectives and the distribution of the effects of the proposal amongst the different segments of the community.

If it is uncertain whether an option should be eliminated, it should remain as a possible option and assessed with the other options in step 5 of the RIS, *Undertaking Impact Analysis*.

4. Identify any Mutual Recognition Issues

- | |
|--|
| <ul style="list-style-type: none">• Is there any legislation prepared by other jurisdictions that may meet ACT requirements?• Is the intended regulation overridden by or permanently exempt from existing mutual recognition agreements? |
|--|

Mutual recognition agreements allow goods and occupational qualifications that are produced or registered in one state or territory to be accepted in other states and territories. For example, a practitioner registered in one jurisdiction is entitled to automatic registration for an equivalent occupation in a second jurisdiction. As such, efficiency gains that allow regulatory consistency between jurisdictions can aid business and consumers. Relevant agreements are the Mutual Recognition Agreement (MRA) between all Australian States and Territories and the Trans-Tasman Mutual Recognition Arrangement (TTMRA) between Australia and New Zealand.

Laws implementing mutual recognition may also override other laws such as those that regulate the manufacture or sale of goods. Examples of laws overridden include requirements relating to production standards, packaging and labelling, and conformance assessment requirements relating to the sale or manufacture of goods.

Hence, before preparing regulatory measures, agencies should examine legislation prepared by other jurisdictions that may meet ACT requirements.

In relation to the development and adoption of national codes/standards, a national RIS process, usually overseen by the relevant Ministerial Council is required. Preparation of a RIS at the national level may obviate the need to prepare a RIS at the State/Territory level.

Agencies should contact the MRS to discuss any regulatory proposals that are being contemplated at a national level.

5. Undertake impact analysis

- Who is affected by the problem and who is likely to be affected by the proposed solution(s)?
- What are the quantified costs and benefits imposed on the affected parties?
- What are the assumptions and data sources used in making these assessments?
- What are the outcomes for each option?

The principal requirement of this section of the RIS is that a comprehensive assessment of each option's expected impact is prepared. In general, the degree of detail and depth of analysis should be commensurate with the magnitude of the problem and with the size of the potential impact of the regulatory proposals.

Qualitative and quantitative evidence should be utilised to adequately assess the costs and benefits of each option in order to determine the option that most efficiently and effectively addresses the problem.

As a minimum, a qualitative assessment of all the expected effects of a proposed option is required. In addition, quantitative data can provide useful information and help demonstrate the need for regulatory action. A more detailed and comprehensive quantitative analysis is necessary if:

- options appear to result in similar levels of benefits and costs, so that no one proposed solution is clearly superior to other alternatives;
- there is a possibility that an option could impose a net cost on the community;
or
- the proposed solution is expected to have a large or far reaching impact on the economy.

Who is affected?

Input from stakeholders is fundamental in identifying the qualitative and quantitative benefits and costs of a regulatory proposal. Accordingly, those affected by the problem and those who will be likely affected by the solution should be identified early in the reform process. The stakeholders should be listed in this section and used to categorise the costs and benefits accordingly.

Stakeholders should be classified in terms of how they are affected by each regulatory option. Classifications should be as specific as possible to ensure accurate identification of groups and subsequent assessment of costs and benefits, e.g. business can be classified in terms of being large, medium or small.

Identifying and assessing the 'costs and benefits'

This section of the impact analysis will involve the most effort and consultation with the stakeholders. It will involve identifying the costs and benefits, or the advantages and disadvantages of the regulatory and non-regulatory proposals and then quantifying their impact.

A **benefit** is described as the positive effect or the advantages of a proposal, and may include any item that makes any person better off regardless of whether it can be quantified.

A **cost** is any item that makes someone worse off or that reduces a person's sense of well-being.

To facilitate the process, benefits and costs can be further classified as allocative or distributional, direct or indirect and tangible or intangible. *Appendix C: Cost-Benefit Assessment* provides a brief description of each of these classifications.

The Competition Principles Agreement (CPA) provides a list of indicative factors a government could consider in evaluating the benefits and costs of particular actions, while not excluding consideration of any other matters in assessing the public interest. Some of the factors to consider include:

“Without limiting the matters that may be taken into account, where this Agreement calls:

- a) for the benefits of a particular policy or course of action to be balanced against the costs of the policy or course of action; or
- b) for the merits or appropriateness of a particular policy or course of action to be determined; or
- c) for an assessment of the most effective means of achieving a policy objective;
- d) government legislation and policies relating to ecologically sustainable development (See *Appendix D: Sustainability* and *Appendix E: Commonwealth Ecologically Sustainable Development Statement*);
- e) social welfare and equity considerations, including community service obligations;
- f) government legislation and policies relating to matters such as occupational health and safety, industrial relations and access and equity;
- g) economic and regional development, including employment and investment growth;
- h) the interest of consumers generally or of a class of consumers;
- i) the competitiveness of Australian businesses; and
- j) the efficient allocation of resources.”

The CPA states that these factors (and any others) may be considered in balancing the benefits of a particular policy or course of action against its costs, to determine the appropriateness or most effective means of achieving a policy objective.

The critical issue, however, is the weighting that needs to be applied to the factors listed above, and the extent to which the interests of the whole community should be traded off against the interests of particular groups. Hence, weighting benefits and costs involves difficult judgements, which can only be assessed on a case-by-case basis.

Appendix C: Cost-Benefit Assessment also provides guidance on possible cost-benefit assessment techniques, such as Cost-Benefit Analysis, quantifying benefits and costs and points to consider when undertaking such analysis.

The text below provides possible costs and benefits for the sectors of government, business and the community. These costs and benefits are not exhaustive and will not include costs or benefits unique to specific situations. Also note that the impact analysis should not only consider the direct costs and benefits, but should also include the costs of implementation and review.

Government

When considering the costs and benefits to government of a particular proposal it is also necessary to consider all the incidental costs and benefits associated with the development, implementation and review of regulation. As no government action is without cost, the onus is on the department or agency proposing the action to justify the need for government intervention.

Examples of costs and benefits		
SECTOR	COSTS	BENEFITS
Government	<ul style="list-style-type: none"> • administration, resource allocation, training, printing and public education • the actual costs involved in consultation and cost/benefit analysis in the process of establishing the legislative regime • inspection/compliance • enforcement or prosecution • review of the regulation 	<ul style="list-style-type: none"> • protect public interest issues • provide community service obligations • influence market behaviour e.g. increases competitiveness in the marketplace • receive revenue

Business

The RIS process is particularly suited to identifying the regulatory impacts of proposals on business.

In its report to the government in September 2002, the Business Regulation Review Committee noted that, “...*the RIS process provides an effective means of reducing unnecessary regulation and improving the quality and effectiveness of legislation that is enacted*”. Accordingly, the impact of a regulation on business should be identified and rigorously costed.

Compliance and paper burden costs are the additional (incremental) costs incurred by businesses when satisfying regulations. Compliance costs can usually be divided into two broad categories:

- one-off costs, such as acquiring sufficient knowledge to meet their regulatory obligations, purchasing/leasing additional equipment and buildings, legal/consultancy fees and training expenses; and
- recurring and ongoing costs, such as staff costs or time, consumable materials, inspection fees/licences and enforcement costs (ie costs arising from need to devote additional time and resources to satisfying regulatory requirements).

RIS’ should include estimates of both one-off and ongoing compliance costs. Where detailed information about compliance costs is not available, such costs should be estimated by developing plausible assumptions and using available data on business costs and on the number of businesses likely to be affected by a regulatory proposal.

To estimate the incremental change in compliance costs resulting from a proposed regulatory change, it may be appropriate to consider how the change impacts on

particular types of business (for example, small, medium and large, rural or urban business etc). For each type of business considered, estimate the incremental change in compliance costs for a typical business in each type or class of business; then multiply this estimate by the number of businesses of that type/class. This will provide an estimate of total additional compliance costs incurred by business in complying with a new or amended regulation. Undertaking this analysis will also provide information in the appropriate format for annual reporting by agencies on the costs and benefits of regulatory reform – another recommendation from the Business Regulation Review Committee accepted by government.

The consideration of compliance costs in a RIS is very important because such costs can:

- distort economic decision making away from the most efficient and effective use of resources;
- divert resources into non-productive uses;
- diminish the viability of business; and
- be passed on to consumers through higher prices, with possible distributional and equity consequences.

Where possible, ways to reduce or minimise such compliance costs should be discussed. In addition, any trade-offs between compliance costs and administrative costs of government, such as the costs of implementing and monitoring regulations, should also be explicitly identified.

Again, early consultation with business will readily allow identification and quantification of the costs and benefits of regulatory proposals.

Examples of costs and benefits		
SECTOR	COSTS	BENEFITS
Business	<ul style="list-style-type: none">• administration such as record keeping and obtaining advice on new regulation from professionals• compliance such as health and safety• production/distribution/marketing such as new equipment• licence costs• stifling of innovation• adverse impact on the ability to export• placing a higher burden on local industry compared to outside industry• training requirements	<ul style="list-style-type: none">• reduce unsafe or unethical behaviour• clarify operating conditions• protect ethical operators• maintain standards

Information on compliance costs for business can also be presented in a tabular form, as illustrated below.

Estimating the compliance cost of regulation				
Type of compliance costs	Small business	Medium business	Large business	Total
One off (non recurring) costs				
Ongoing (recurring costs)				
Total				

Community

As for the other stakeholder groups, it is also useful to consider the impact of a regulatory proposal across a number of sub groups according to age, geographical location etc.

Examples of costs and benefits		
SECTOR	COSTS	BENEFITS
Community	<ul style="list-style-type: none"> • higher prices for goods or services • licence costs • restricted purchasing opportunities and/or reduced choice • compliance costs 	<ul style="list-style-type: none"> • consumer protection of goods and services • maintenance of standards in goods and services • protection of safety, health, the environment and other public interest issues • disclosure of information

Summary

Once the impact analysis has been completed the information should be summarised, listing each alternative proposal and the main results. The following table is an appropriate format to present the information but should be modified to include issues unique to specific situations.

Sector	Option 1			Option 2		
	Expected Costs	Expected Benefits	Net Benefit/ (Cost)	Expected Costs	Expected Benefits	Net Benefit/ (Cost)
Community						
Business						
Government						

6. Make a conclusion and suggest a recommended option

- What is the preferred option?
- Why was this option preferred and the others rejected?

This section of the RIS draws together the key outcomes. It should include a brief summary of each option and state the reasons for the preferred option and the reasons for rejecting the other options. It can also be useful to show the sensitivity of the results to any assumptions that have been made.

Finally a recommendation should be made stating the option that provides the greatest net benefit across all stakeholder groups, or the option that yields the greatest net public benefit.

7. Develop guidelines to implement and review the regulation

- How will the preferred option be implemented?
- Is the preferred option clear, consistent, easily understood and accessible to users?
- What is the impact on business and how will compliance and the paper burden costs be minimised?
- How and when will the effectiveness of the preferred option be assessed?
- If the option takes the form of regulation, is there a built in provision to review or revoke the regulation after it has been in place for a certain length of time?

After establishing the best option that will address the problem, the final stage in the RIS process is to state how the option will be implemented and enforced, and how it will be reviewed after a period of implementation. Note, however, that these issues should be considered when identifying and quantifying the costs and benefits of the proposals and incorporated in the impact analysis.

The following issues should be addressed when deciding how to implement the option:

- administrative issues such as the body responsible for administering the regulatory policy;
- extra activities that regulated parties will have to undertake such as maintaining additional information;
- the departments and agencies that will have a role in implementing the proposal;
- any duplication of resources involved in administering the new proposal; and
- plans for the enforcement and monitoring of the proposal.

This section should specify how the preferred option will be monitored and assessed against achieving its objectives. When the proposal has been in place for a reasonable length of time, the following questions should be asked:

- Is there still a problem?
- Are the objectives being met?
- Were the impacts as anticipated?
- Is action still required?
- Could more appropriate action be taken, i.e. implementing a modified or different regulatory model?

Measures for an ongoing review could include:

- establishing a complaints/feedback mechanism;
- establishing arrangements for ongoing consultation;
- provision for regular reporting; and
- inserting a review or sunset clause in the legislation.

A sunset clause in legislation is a date at which the legislation expires. Prior to expiry the regulation should be reviewed and re-enacted if appropriate. This clause is particularly suited to regulation implemented to address an emergency.

RIS CHECKLIST

Step	Description	Task	Completed Y/N
At every stage of the RIS	Consultation	<ul style="list-style-type: none"> Find out the views of the main affected parties Give reasons why, if relevant, full consultation is not appropriate Has a consultation statement been completed? 	
1	Problem	<ul style="list-style-type: none"> Identify the problem Explain the need for government intervention 	
2	Objectives of government intervention	<ul style="list-style-type: none"> Define the objectives of government intervention Identify current regulation/policy 	
3	Options	<ul style="list-style-type: none"> Describe the options to be explored Identify the broad constraints that may eliminate some options 	
4	Mutual recognition issues	<ul style="list-style-type: none"> What are the positive and negative cross-border effects? Is it possible to harmonise regulatory regimes among States/Territories? 	
5	Impact analysis	<ul style="list-style-type: none"> Identify the affected parties Identify and categorise the expected impacts on these groups for each option Quantify these effects where possible Identify the assumptions and undertake sensitivity analysis if appropriate Summarise the outcomes for each option and explain the reasons for the preferred option 	
6	Conclusion and recommendation	<ul style="list-style-type: none"> Provide a brief summary of the assessment of each option Reiterate the reasons underlying the preferred option Outline the assumptions that the conclusion rests upon 	
7	Implementation and review	<ul style="list-style-type: none"> Describe how the preferred option will be implemented Quantify the impact on all types of business Describe the measures that will be taken to monitor and review the regulation 	

APPENDICES

APPENDIX A: TYPES OF MARKET FAILURE

APPENDIX B: NON-REGULATORY AND REGULATORY OPTIONS

APPENDIX C: COST BENEFIT ASSESSMENT

APPENDIX D: SUSTAINABILITY

**APPENDIX E: COMMONWEALTH ECOLOGICALLY SUSTAINABLE
DEVELOPMENT STATEMENT**

APPENDIX A: TYPES OF MARKET FAILURE

	Market failure	Need for government intervention
Public goods	Public goods are typically ones where once the good or service is produced, the supplier cannot exclude others from enjoying the benefits of the good, e.g. street lighting, and any number of persons may enjoy the benefits of the good without reducing the level of benefits for others e.g. a free to air radio program.	To ensure the provision of such goods the government may: <ul style="list-style-type: none"> • directly provide the good - as is the case with defence and community parks; or • create private property rights such as copyright to provide the private sector an incentive to provide the good.
Externalities	Externalities arise where an activity, service or good confers spillover benefits or imposes spillover costs on third parties. As the spillover is not borne by the originator, there is little incentive to engage in the activity in the case of a positive externality or decrease the activity in the case of a negative externality.	The government can reduce the incidence of spillover costs by: <ul style="list-style-type: none"> • prohibiting the activity outright e.g. drink driving • imposing a tax or charge on the activity • imposing minimum safety standards • creating tradeable property rights such as the right to develop land within overall zoning constraints. <p>The government can provide incentives to continue activities with spillover benefits by:</p> <ul style="list-style-type: none"> • subsidising the activity e.g. R&D tax concessions • requiring the activity to be carried out by law • creating private property rights.
Natural monopolies	There may be an abuse of market power on the part of an individual firm or an industry group or sector where there are gains to scale, such that there is the potential for the output price to be minimised with only one business.	The government can prevent abuse of that power by: <ul style="list-style-type: none"> • imposing price controls • creating third party rights to negotiate access to natural monopoly facilities where such access is required to permit competition in upstream of downstream markets. <p>However, the availability of substitutes in the market may limit the economic inefficiencies associated with natural monopoly.</p> <p>Note that the need for government intervention may be lessened as the existence and extent of natural monopoly changes with changes in production technology or demand.</p>
Information asymmetries	In some markets, sellers have more information about quality than buyers e.g. used cars. This may result in lower quality products driving higher quality products out of the market or consumers being unable to make rational, informed decisions about price and quality.	Governments can ensure that consumers are better informed about the quality of products by: <ul style="list-style-type: none"> • licensing and thus facilitating the ‘signalling’ of appropriately qualified suppliers; • imposing minimum standards on production; • imposing minimum information requirements; or • encouraging appropriate industry self-regulation.

APPENDIX B: NON-REGULATORY AND REGULATORY OPTIONS

The points below provide explanations on the non-regulatory and regulatory options listed on page 11.

Non-regulatory options

Below is a list of regulatory and non-regulatory options to addressing a particular problem. Please note that the list is not exhaustive.

- **Do nothing**

The case for government intervention should be assessed to determine whether the benefits outweigh the costs of such action. If this is not true, alternative options such as consumer choice, customer loyalty, competition and innovation may be a more efficient solution to the problem(s) identified.

- **Information disclosure**

If the problem requiring action is due to information asymmetry in the market, that is, sellers having information that buyers do not, the solutions might be best based on information disclosure. For example, publishing the results of a hygiene survey of local restaurants provides a non-regulatory incentive to meet the standards.

- **Economic incentives**

Imposing taxes on the activity requiring regulation can change behaviour. For example, emission fees for pollutants or charges for waste disposal are useful instruments for altering behaviour. This approach can be cost-effective, stimulate innovation and avoids frequent revisions.

- **Tradeable property rights**

Tradeable property rights allow the trading of the rights and obligations created by regulation. Governments have found that the use of licenses and permits to limit business activities when production or consumption must be limited in the public interest is more efficient when the licences and permits are tradeable. Tradeable property rights include pollution permits or takeoff and landing rights at crowded airports. The benefits arise from the fact that the market will reallocate ownership of permits to those firms who can use them most efficiently.

- **Risk based insurance or risk pricing**

Requiring business to insure itself against injury or damage is an alternative to direct regulation. Although this allows the market to put its own price on risk, it is appropriate in circumstances where damages can be attributed to the responsible party.

- **Persuasion**

Persuasion, through the use of information-based strategies in which government seeks to leverage values of good citizenship, self-preservation or peer pressure are also options for achieving a particular end.

Persuasion is appropriate when public consensus about the need for authoritarian action is insufficient or when regulation has reached its limits. Examples include programs to discourage drink driving and smoking, or conserve energy.

- **Voluntary agreements**

This option is particularly appropriate when public and private interests coincide. Examples include non-mandatory codes of practice, agreements on standards, or information disclosure such as labelling. The benefits of this approach are that it avoids adversarial actions, involve a wide cross-section of the community and may improve compliance because rules rest on consensus rather than coercion.

Regulatory options

Explicit government legislation

Common characteristics of such regulation are that it:

- details how certain entities should behave
- relies on monitoring by government representatives to detect non-compliance
- imposes penalties for non-compliance.

Although such regulation offers more certainty and can be more effective relative to other forms of regulation, there are a number of drawbacks, such as the inability of the regulation to reflect changes in the external environment that occur over time.

Self regulation

Self-regulation can be defined as an arrangement in which an organised group regulates the behaviour of its members. There are number of co-operative arrangements in which private organisations and government share regulatory authority and oversight. Such an approach can be appropriate where an outside body with a regulatory role has expertise that government lacks. However, while government may provide for a transfer of regulatory power, it remains accountable for the outcome.

Quasi-regulation

Quasi-regulation is the rules and arrangements for which there is a reasonable expectation of compliance, and for which there is some government involvement such as endorsement or funding. Codes of conduct/practice are common forms of this type of regulation and are generally adopted and administered by the industry to which they relate. The advantages of codes are that they can be either voluntary or mandatory, are industry specific, flexible and can be easily amended. An example of quasi-regulation is compliance innovation.

- **Compliance innovation**

As monitoring and enforcement is very expensive and difficult to apply, the option of self-enforcement of regulations should be considered first. Combining a compliance program with an information strategy can generate the incentive for self-enforcement. For example, publishing the results of health inspections in city restaurants strengthens the incentives for owners to comply with health standards.

Co-regulation

Co-regulation is where industry develops and administers its own arrangements, but government provides the legislative backing to enable the arrangements to be enforced. It may be the case that legislation sets the government standard but contains provisions that allows the standard to be overridden by an industry code. The following are examples of co-regulation and variations to such regulation:

- **Performance based regulation**

The general principle is that regulations should be expressed in terms of the outcomes they are intended to achieve. The government may specify the desired outcome and allow private sector innovators to continually develop more effective means of achieving that outcome. Hence the regulation becomes focused on creative problem solving rather than on inputs and policy instruments.

- **Safe harbours**

A ‘safe harbour’ provision in regulations allows a firm to comply with performance standards by giving the firm the flexibility to, for example, demonstrate either:

- that their building has an acceptable level of performance; or
- that it uses specified energy-saving designs (fluorescent lights, insulated walls) that would achieve an equivalent performance.

This allows some firms to use innovative designs to meet performance standards but also allows smaller, less adventurous firms to ensure compliance using the standard measures.

- **Waiver or variance provisions**

Waivers or variance provisions are very similar to safe harbours and can be applied to a design standard to allow, on a case-by-case basis, a waiver or variance to a firm that can demonstrate equivalent performance. For example, if an innovative design adheres to the same standards to which the conventional design complies, the design would receive a waiver.

Other points to consider

- **Automatic updating**

Regulators should form rules that are robust and that reflect future needs and changes in the environment. For example, changes in the inflation rate and other economic parameters need to be accounted for when indexing tax formulas, calculating benefits formulas, minimum wage, price controls and other monetary controls.

- **Avoiding ‘new source bias’**

There is a tendency for regulators to scrutinise any new entrants in an industry to ensure that certain standards are adhered to more strictly than is tolerated by existing products or firms. New source bias is counterproductive. The reasoning behind this ‘new source bias’ is that it is better to catch unexpected hazards associated with new technologies earlier rather than later. The result is a general presumption in favour of the status quo of conserving the existing technologies, factories and products.

Technological innovation tends to be safer, greener and more energy efficient. Similarly, new factories tend to be cleaner than old ones. Regulators can avoid new source bias by focusing regulatory attention on the greatest risks, not on the easiest or newest targets.

- **Rewarding good behaviour**

Numerous occasions have arisen when regulatory authorities have unintentionally rewarded ‘bad’ behaviour. Often firms, unable to comply with rules, petition for an exception. Regulators need to keep in mind the negative signal sent to firms that consistently comply with the rules, often at great expense, when competitors are granted relief.

Ideally, regulatory programs should operate so that regulated firms can expect that good behaviour will be rewarded. For example, self-reporting of violations should generally result in a reduction of fines.

- **Market forces and deregulation**

Having concluded that market failure is present, it is important to reconsider whether the proposed regulatory solution is likely to be superior to what the market would do. Ultimately it must be determined whether the absence of government regulation is the cause of the problem or whether existing government regulations are to blame.

APPENDIX C: COST BENEFIT ASSESSMENT

Cost benefit assessment techniques

A tool known as cost benefit analysis (CBA) is used to quantify some of the costs and benefits associated with a particular proposal. This analysis involves calculating the total benefit associated with a proposal and comparing this to its total cost. If a net benefit arises, assuming all non-quantifiable costs and benefits also yield a net benefit, then the proposal is considered potentially attractive. The main issues to consider when undertaking a cost benefit analysis are discussed below.

Classifying costs and benefits

The classification of costs and benefits assist in identifying all the potential effects of a regulatory proposal. The table below defines the various classes.

Classification of costs	
Classification	Definition
Allocative or distributional/transfer effects	Allocative costs are the community's production and consumption opportunities forgone because of proposals undertaken. Distributional or transfer effects are the impact on the different groups and address the issue of who bears the costs of the proposal and who reap the benefits.
Direct or indirect	Direct effects are those that affect the target groups of the proposal while indirect effects accrue to any other party. It is important to assess the indirect effects in order to ensure that the proposal does not generate effects that extend far beyond the target groups.
Tangible or intangible	Tangible effects are easily identified and easily quantified while intangible effects are difficult to quantify e.g. comfort, health. Although the latter effect can be dealt with in a descriptive or qualitative manner, some estimation of these effects can usually be achieved.

Quantifying costs and benefits

Quantifying costs and benefits should be in a standard unit of measurement, and are usually measured in dollar terms. If any costs or benefits are difficult to quantify, other sources can be used to derive their values.

In some cases, the prices or costs of surrogate goods or services may provide a reasonable estimate. If a market does not exist for that good or service, values can be derived from surrogate products in other markets. If this is not possible, a large cross-section of consumers can be surveyed as if they were in a hypothetical market.

Often a value to a benefit cannot be attributed by the methods mentioned above, so a benefit may be expressed in physical units (such as number of lives saved). Costs may still be expressed in dollar terms. This form of analysis involves ranking the options on the basis of their 'cost per unit of effectiveness' or 'units of effectiveness per dollar spent'. This technique is referred to as 'cost effectiveness analysis'.

If there is no method of quantifying a particular cost or benefit, qualitative descriptions may be sufficient to make trade-offs clear and provide sufficient information on which to base a decision.

Discounting future effects

As the value of a dollar today is worth more than a dollar tomorrow, benefits and costs occurring over different time periods need to be discounted using an interest rate. Applying a discount rate to future effects allows them to be valued in today's dollars. These amounts are known as the 'present values' of future streams of benefits and costs. The formula for the net present value is:

$$NPV = \sum_{t=0}^t \frac{(B_t - C_t)}{(1 + r)^t}$$

where B denotes the value of the benefits received in any future year "t", C refers to the costs incurred in any future year, r is the discount rate and t refers to the year (where the current year is denoted year zero).

Subject to a consideration of constraints, a cost benefit analysis will support a proposal if the NPV is equal to, or greater than zero.

Allowing for uncertainty

As there is often a range of reasonable assumptions that could be used in an impact assessment, a 'sensitivity analysis' can be used to account for differences in judgement or uncertainty. Sensitivity analysis involves altering some critical assumptions to create a 'what if' scenario to generate possible best, most likely and worse case scenarios.

The first step in a sensitivity analysis is to substitute the most pessimistic estimates for each variable simultaneously, and see how much the net present value is affected. If the result is still greater or equal to zero, then we are able to say that even under worst-case assumptions, the cost benefit analysis supports the proposal.

The second step is to try to assess how risky the proposal is, that is, which variables have the most influence on the net present value. This can be established by changing each variable independently while holding all other variables constant.

Distributional effects

The distributional effects of a proposal should also be considered when evaluating a regulatory proposal. Although there may be a net benefit arising from regulation, it may be the case that a small group reaps all the benefits while the costs are borne by a larger group, or borne by those who do not benefit at all. An analysis of these effects will assist the government choose among the options.

Risk analysis

Risk analysis involves the quantitative assessment of the magnitudes of the risk associated with a particular proposal. Risk analysis can serve a number of functions. By comparing the risk associated with the status quo with that after government intervention, it can be used to determine more accurately whether intervention is appropriate and/or worthwhile. Risk analysis can also be used as

input into other assessment techniques like cost benefit analysis and cost effectiveness analysis.

Risk analysis is intended to answer two important questions. Firstly, whether the risks that the regulation is intended to address are of significant magnitude compared with other risks. Secondly, the extent to which the regulation reduces the initial risk problem.

The following issues should be addressed in the risk assessment of regulation:

- an appraisal of the current level of risk to the exposed population from an identifiable source;
- the reduction in risk which will result from the introduction of the proposed measures;
- consideration of whether the proposed measures are the most effective to deal with the risk; and
- whether there is an alternative use of available resources, which will result in greater overall benefit to the community.

APPENDIX D: SUSTAINABILITY

In March 2003, the ACT Government launched People Place Prosperity: A Policy for Sustainability in the ACT. This policy explains what sustainability means for the ACT and outlines the government's commitment to sustainability by incorporating the concept into its decision-making processes and applying it to specific issues relevant to the ACT and region.

The policy provides 13 guiding Principles, which assist with implementation of the concept of sustainability.

A RIS should take into account the following principles to ensure that sustainability issues have been considered.

- **Integrating social, environmental and economic factors into decision-making**
Identify and integrate environmental, social economic considerations, and seek to maximise net beneficial outcomes.
- **Taking a whole-of-government perspective**
Take account of the potential implications of decisions for all areas of government, industry and the community, and seek to bring agencies together in the joint delivery of programs and services, thereby ensuring coherence and efficiency.
- **Recognising that a strong and productive economy builds upon and is supported by a healthy environment and healthy society**
A healthy economy is integral to social and environmental well-being.
- **Ensuring equity within and between generations**
Recognise that all people have a right to reach their full potential and lead productive lives in an inclusive and tolerant society. Take into account all benefits and costs of decisions so as not to disadvantage different sectors of society. Take a long-term perspective – beyond this generation – when considering the implications of decisions and policies.
- **Valuing and protecting ecological integrity and biodiversity**
Recognising that all life has intrinsic value and that ecological processes and biological diversity are party of the irreplaceable life support systems upon which a sustainable future depends.
- **Using resources prudently**
Increase efficiency in using resources (such as land, energy, water and materials), generate less waste and replace the use of non-renewable resources with renewable resources.

- **Implementing the precautionary principle**
Where there are threats of serious or irreversible environmental damage, do not use lack of full scientific certainty as a reason for postponing measures to prevent environmental degradation.
- **Empowering people**
Provide access, education, opportunities and assistance to people so that they have the knowledge, capacity and confidence to contribute productively to decision-making and to participate in the community.
- **Engaging the community**
Provide for broad community involvement of those affected by decisions. Encourage collaboration and partnering between individuals, the community, business and governments.
- **Focusing where risks are highest and where the ACT has a capacity to influence**
Invest resources to resolve issues that are of greatest urgency or importance in the ACT and region. Focus on these areas where the ACT can exert influence, including planning, housing, transport, health, education, energy, water, waste and environmental protection.
- **Focusing on the wider region**
Take account the implications of the ACT Government decisions on the wider region. Seek to achieve coherence and co-ordination in the development and delivery of policies between governments in the region.
- **Taking all costs and benefits into account**
Include environmental and social costs and benefits into the pricing of goods and services and asset valuations to allow markets to operate efficiently, and use mechanisms to stimulate sustainable outcomes.
- **Believing in our ability to create a sustainable future**
Seek opportunities, value creativity and diversity, foster innovation, build upon experience, and look for solutions that inspire and reflect the unique culture and character of the ACT community.

APPENDIX E: COMMONWEALTH ECOLOGICALLY SUSTAINABLE DEVELOPMENT STATEMENT

In December 1992, the Council of Australian Governments (CoAG) endorsed the National Strategy for Ecologically Sustainable Development. The seven guiding principles of the National Strategy are:

- decision making processes should effectively integrate both long and short-term economic, environmental, social and equity considerations;
- where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;
- the global dimension of environmental impacts of actions and policies should be recognised and considered;
- the need to develop a strong, growing and diversified economy which can enhance the capacity for environmental protection should be recognised;
- the need to maintain and enhance international competitiveness in an environmentally sound manner should be recognised;
- cost effective and flexible policy instruments should be adopted, such as improved valuation, pricing and incentive mechanisms; and
- decisions and actions should provide for broad community involvement on issues that affect them.

Consideration of ESD impacts is necessary because of a number of recognised market failures associated with some sustainable development issues, such as public goods, externalities, open access resources with undefined property rights and high scientific uncertainty. As such, there is government responsibility to ensure that optimal and efficient environmental and economic outcomes are achieved.

Both short- and long-term economic, social and environmental impacts should be considered in the assessment. Cost-benefit analysis is frequently used in RIS assessments, however when measuring ESD impacts, such analysis may not always be appropriate, due to the difficulty in estimating market values where no market exists. In such circumstances, other alternative methods may be used, such as cost-effectiveness measures and risk analysis (discussed in *Appendix C: Cost Benefit Assessment*).

In addition, new environmental measurement tools and indicators have started to be developed, as some authorities have made the move toward Triple Bottom Line reporting; that is, reporting accountability and performance against three bottom lines – social, environmental as well as economic. For example, the Australian Bureau of Statistics (ABS) has developed an environmental statistical series as an attachment to the national accounts.