

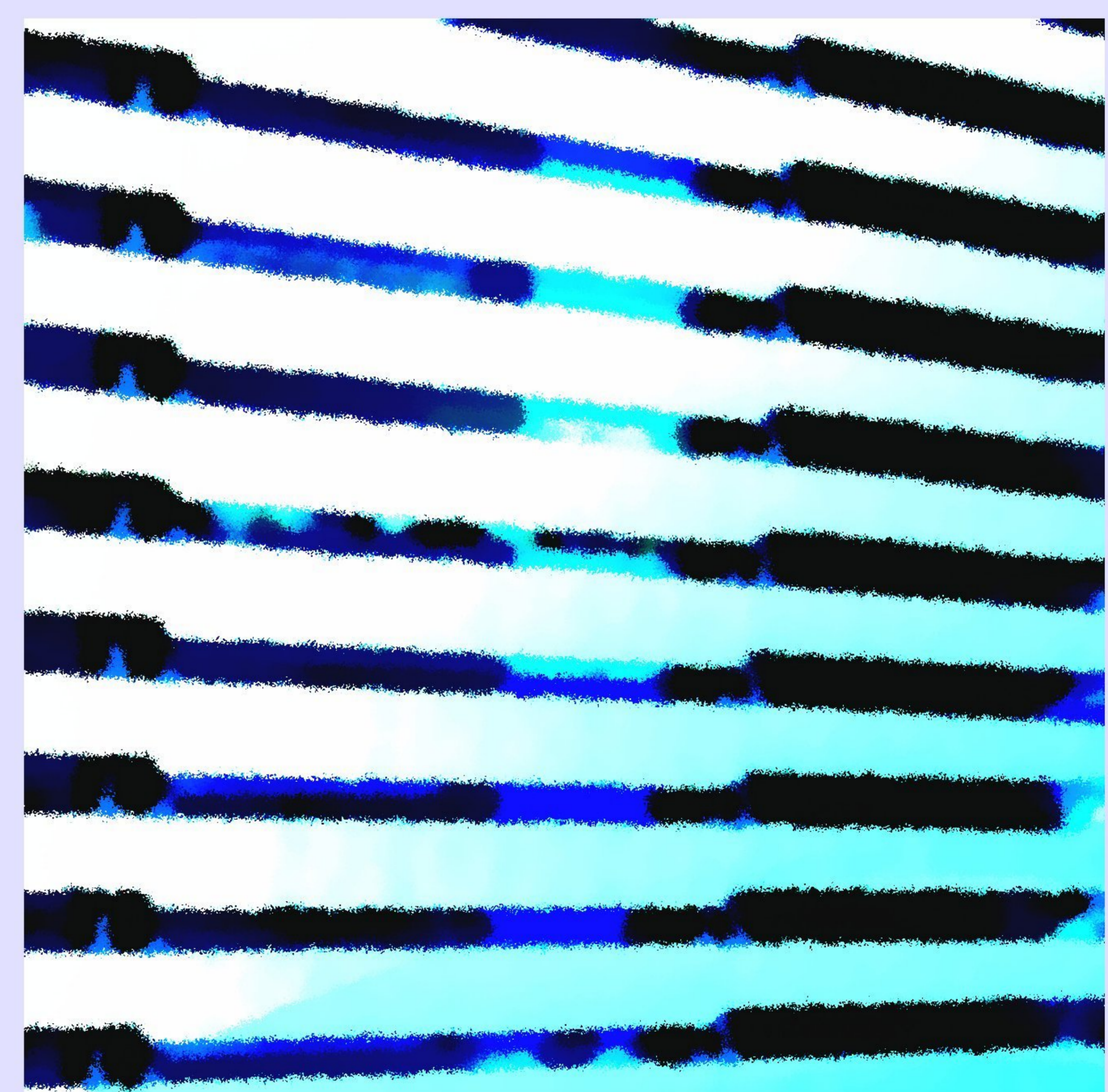
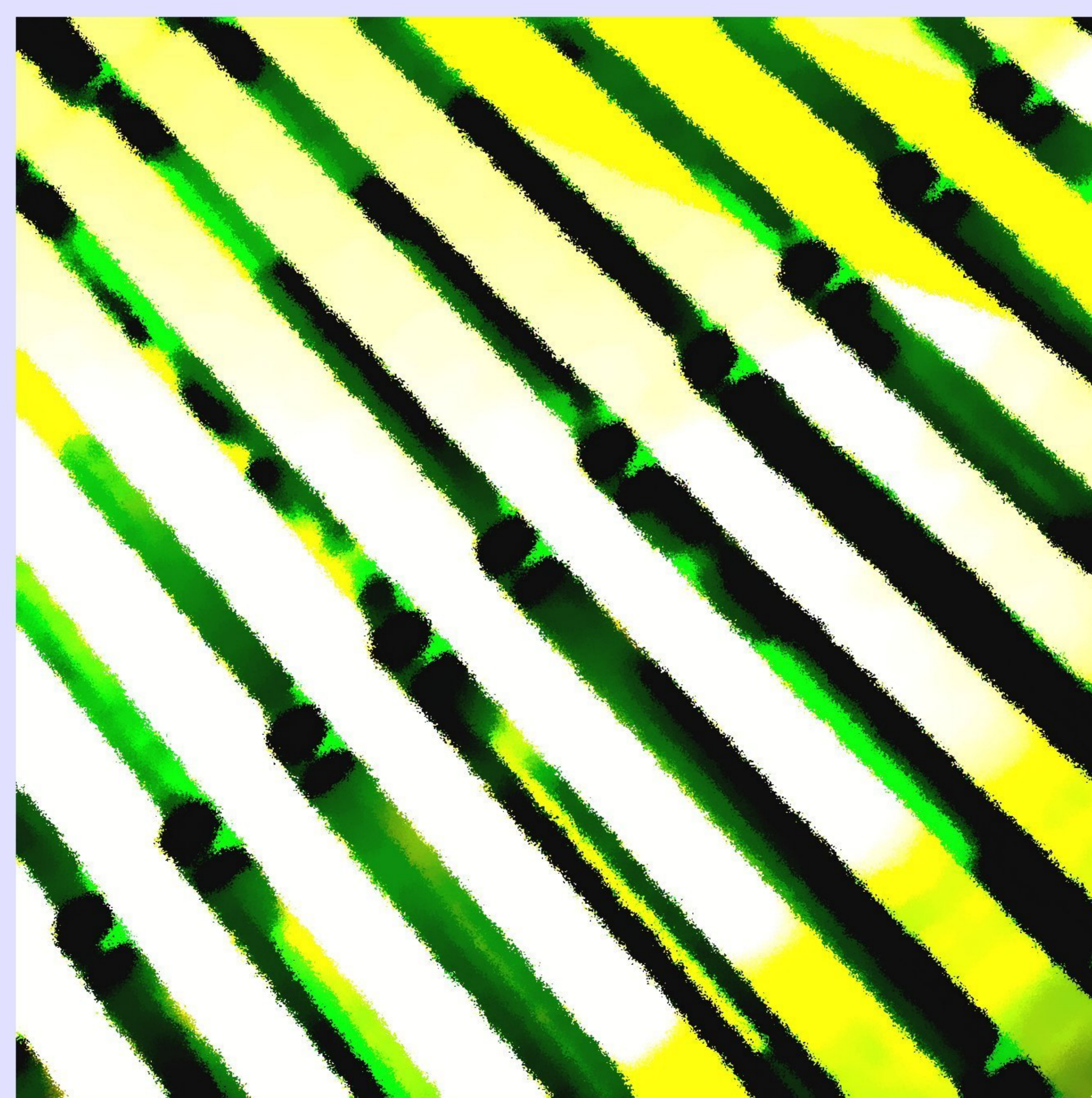
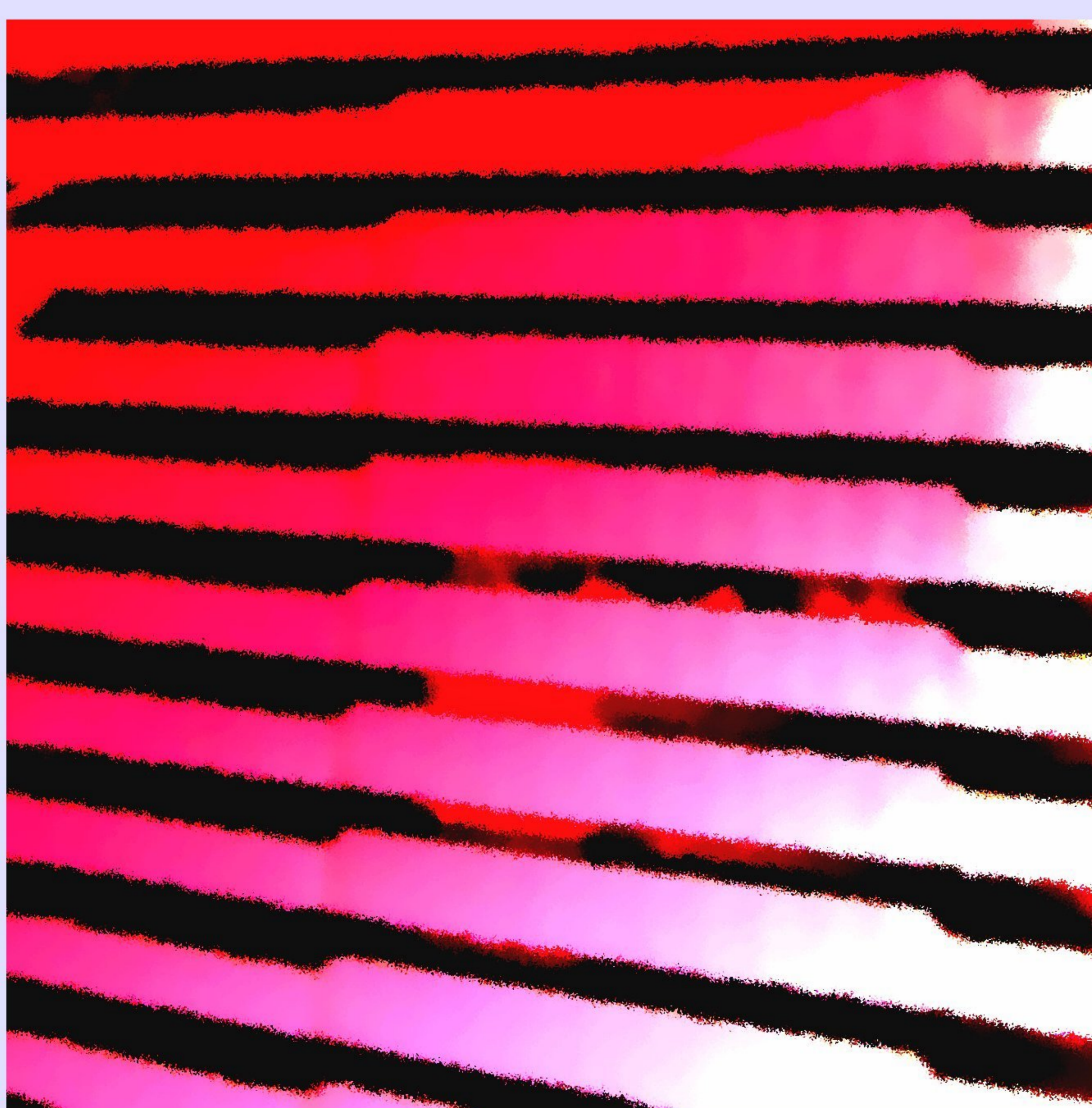
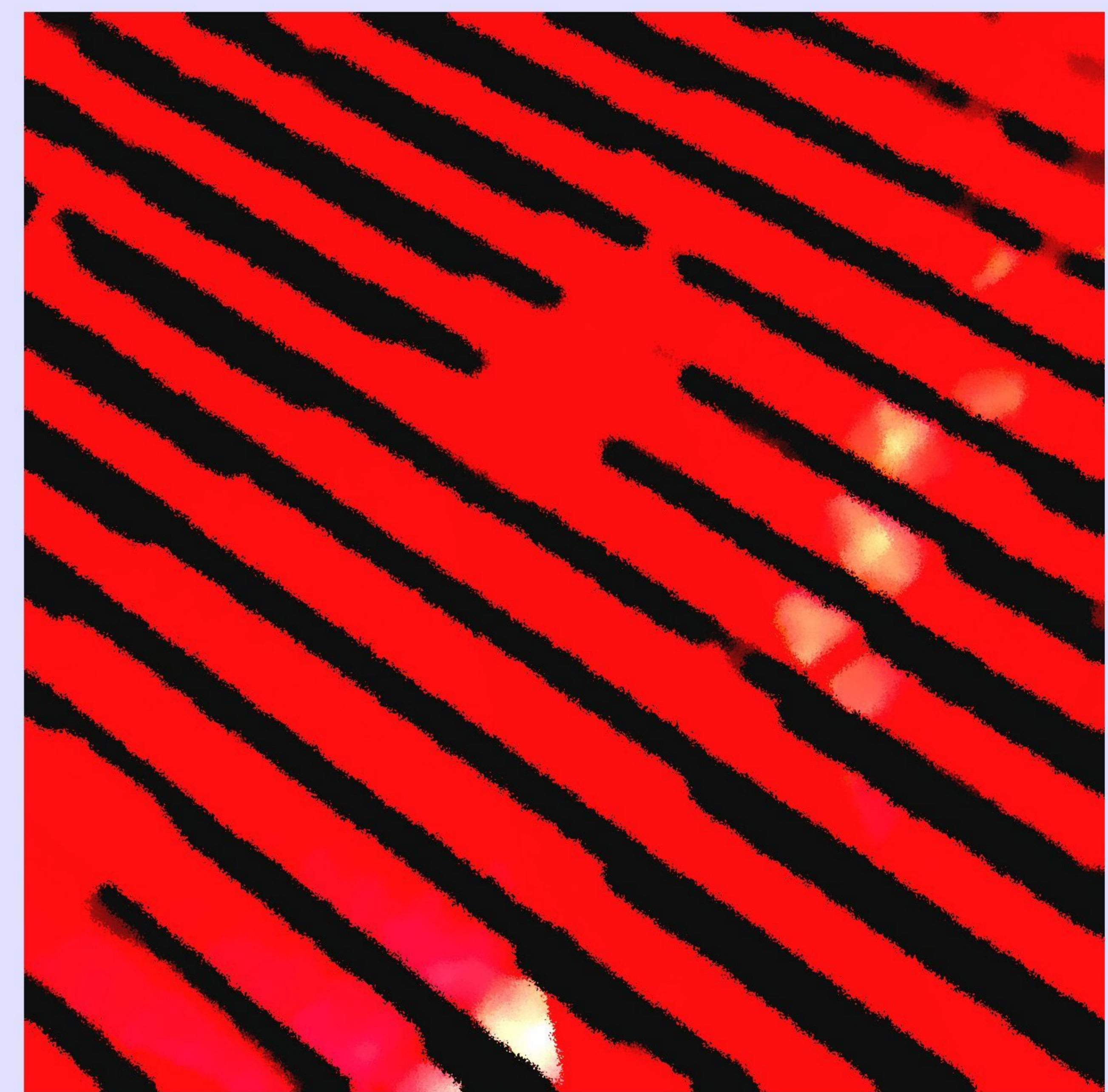
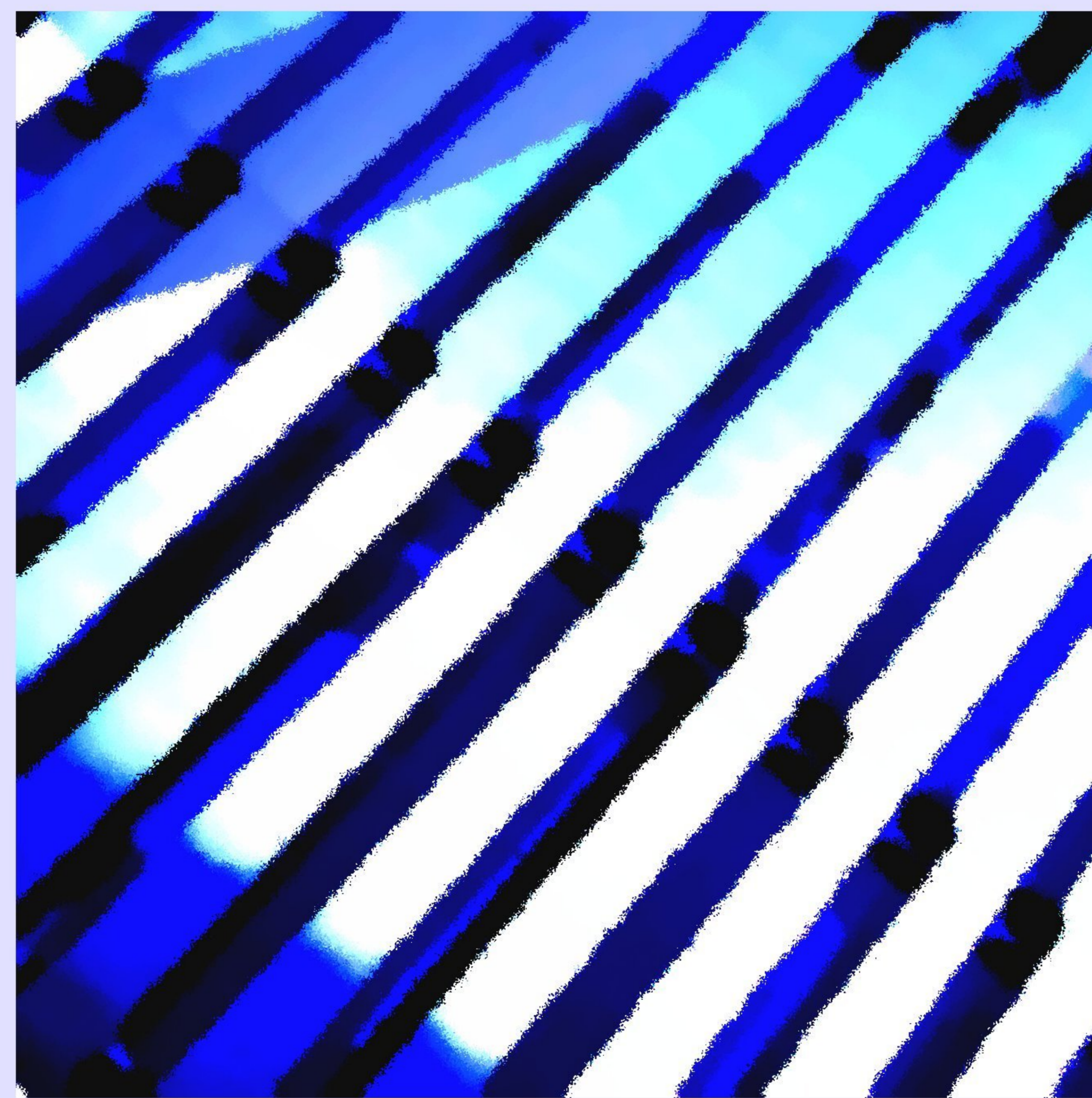


Department of the Taoiseach

Revised

RIA GUIDELINES

How to conduct a Regulatory Impact Analysis



June 2009



Roinn an Taoisigh
Department of the Taoiseach

REVISED RIA GUIDELINES

How to conduct a Regulatory Impact Analysis

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REVISED RIA GUIDELINES

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Introduction and Background

Purpose of Revised Guidelines

- 1.1 Regulatory Impact Analysis (RIA) is used by all Government Departments and Offices and applies to:
- (i) proposals for primary legislation involving changes to the regulatory framework
 - (ii) significant Statutory Instruments
 - (iii) proposals for EU Directives and significant EU Regulations when they are published by the European Commission
 - (iv) Policy Review Groups bringing forward proposals for legislation are also expected to carry out RIAs

In addition, where legislative proposals are to be considered by Cabinet Committees, RIAs should be prepared by Departments, for consideration by relevant Senior Officials Groups, prior to their discussion by such Committees. **See also par. 2.19 on the use of RIA by other Bodies.**

- 1.2 In line with the terms of the Social Partnership Agreement, *Towards 2016*, an independent Review of the operation of RIA was completed in 2008. The Review, *Regulatory Impact Analysis: An Operational Review* (Department of the Taoiseach 2008), can be accessed at www.betterregulation.ie. While the Review indicated that, overall, good progress had been made in relation to the implementation of Regulatory Impact Analysis across Departments, it gave rise to a range of recommendations in relation to how the RIA model could be amended and improved. Some of these recommendations impact, directly and indirectly, on the RIA Guidelines themselves.
- 1.3 This version of the Guidelines replaces the original RIA Guidelines which were published in 2005, drawing on the experience of the RIA piloting process which took place in 2004 and 2005. Among the key changes is the removal of separate advice on screening and full RIA processes. This reflects the recommendation contained in the Review, that this distinction should be removed. Other recommendations pointed to the need for a more detailed consideration of methodological issues, particularly where qualitative data is involved, and the importance of including advice on public service implementation costs and administrative costs within the Guidelines. All of these issues have now been taken on board.
- 1.4 These Guidelines are intended to provide assistance to officials conducting RIAs and build on a range of other supports, including the RIA Network, training courses and presentations, and the RIA Helpdesk operated by the Better Regulation Unit in the Department of the Taoiseach. For further information on RIA supports, please see www.betterregulation.ie.

What is RIA?

- 1.5 **Regulatory Impact Analysis is a tool used for the structured exploration of different options to address particular policy issues. It is used where one or more of these options is new regulation or a regulatory change and facilitates the active consideration of alternatives to regulation or lighter forms of regulation.** It involves a detailed analysis¹ to ascertain whether or not different options, including regulatory ones, would have the desired impact. It helps to identify any possible side effects or hidden costs associated with regulation and to quantify the likely costs of compliance on the individual citizen or business. It also helps to clarify the costs of enforcement for the State.
- 1.6 There is no single generic model of RIA used internationally but RIAs tend to include a clear identification of objectives, structured consultation with stakeholders, detailed examination of impacts and consideration of the use of alternatives to regulation. The model described in these Guidelines has been specifically tailored to the Irish context and is outlined in more detail in the chapter on conducting a RIA.
- 1.7 It is important to note that RIA is not a substitute for decision-making. Instead, RIA is best used as a guide to improve the quality of political and administrative decision-making, while also serving the important values of openness, public involvement and accountability. Where legislation has already been committed to by Government, for example in the Programme for Government or a Social Partnership Agreement, the RIA process should still be used, although the focus of the RIA will be different (see also para.2.2 and Question 8 in the Frequently Asked Questions).

Benefits of RIA

- 1.8 The benefits of RIA can be summarised under three headings;
- Performance of the economy and consumer welfare;
 - Quality of governance; and
 - Efficiency and effectiveness of the public service.
- 1.9 RIA can contribute to economic efficiency by highlighting aspects of regulation which limit consumer choice and the level of competition in an economy. It helps to identify potential burdens on business and ensure that they are kept to a minimum. RIA can also identify potentially anti-competitive or protectionist regulations before these are enacted. Because it includes consultation with a wide range of stakeholders, it also provides an opportunity for those potentially affected by regulations to highlight any unforeseen consequences that may not previously have been considered.
- 1.10 RIA is also a means of improving the quality of governance by increasing the transparency and legitimacy of the regulatory process. The inclusion of consultation ensures that the interests of citizens are more systematically included within the regulatory process and the focus on enforcement and review encourages a more strategic approach to the monitoring and enforcement of regulations. This, in turn, increases the accountability of the regulatory process.
- 1.11 Furthermore, RIA is designed to increase the efficiency and effectiveness of the public service. It will improve the quality of policy advice given to Ministers through promoting increased use of evidence in policy-making and providing more information on the likely implications of regulatory proposals. RIA also contributes to achieving value for money and efficiency by generating more detailed information in relation to

¹ The level of analysis involved should be proportionate to the significance of the proposal in question. Further guidance on this issue is set out in the chapter on significance and proportionality.

cost and allowing more extensive analysis of alternative options for achieving policy objectives.

- 1.12 Finally, and significantly, RIA should contribute to achieving the six principles of Better Regulation identified in the Government White Paper *Regulating Better* (Department of the Taoiseach, 2004). These are necessity, proportionality, consistency, effectiveness, transparency, and accountability. These principles should always be taken into account when evaluating different options and deciding whether a particular regulatory option should be pursued.

When is a RIA required?

Introduction

- 2.1 As discussed in para.1.5, RIA is a tool used by officials to explore different policy options, both regulatory and non-regulatory, in a structured way. One of the fundamental goals of the RIA process is to reduce the unnecessary use of regulation through an examination of the possible use of alternatives. This means that **RIA should be conducted at an early stage and before a decision to regulate has been taken. Ideally, RIA should be used as the basis for consultation.** In this way, it is possible to consider the use of alternatives to regulation (e.g. information campaigns) or lighter forms of regulation (e.g. self-regulation) as required by the RIA model, even if they are not necessarily considered to be the most appropriate approach in the long run.

RIA and Existing Commitments

- 2.2 By its very name ‘Regulatory Impact Analysis’ implies a focus on the regulatory framework i.e. primary and secondary regulation. Therefore, while ideally the RIA process should be commenced before the decision to regulate is made, officials may be asked to apply the RIA process when a decision to introduce legislation has already been made and perhaps committed to in a Programme for Government, Social Partnership Agreement or in another policy document. There is no exemption from RIA in these circumstances but the focus of the RIA might more practically be on different options relating to issues within the scope of the legislation (e.g. how a particular scheme might be funded or administered), rather than on the broader question of whether or not to regulate. For example, where a decision to regulate for free transport for everyone under 21 has been made, your options and consultation will focus on how to best implement this commitment (see also Appendix A). Where a legislative proposal relates to an announcement made in the Budget, a RIA will most usefully focus on the implementation of that commitment.

Primary Legislation

- 2.3 Where primary legislation (a Bill) is proposed, a Memorandum is brought to Government seeking approval for the General Scheme of the Bill (also known as the Heads of a Bill). As described in para. 1.5, a RIA should be commenced at the earliest possible stage (even if it is initially in a very rough format) and must be conducted before this Memorandum goes to Government seeking permission to regulate. The Memorandum and Scheme/Heads must be accompanied by a draft RIA (see further information on the use of eCabinet in this context at Appendix C). The level of detail in the RIA will depend on the significance of the proposal (see chapter on proportionality and significance). The RIA must be summarised in the Memorandum and the RIA document itself included as an attachment to the Memorandum. An updated version of the RIA must also be attached to the Memorandum accompanying the Bill as drafted, when it is brought back to Government for approval.
- 2.4 Once the text of the Bill has been agreed by Government, the RIA must then be published on the legislation or RIA page on the Departmental website along with a link to the published Bill. Where an earlier version or versions of the RIA have already been published, for example as part of a consultation procedure, then it should be updated and re-published at this stage. As a matter of good practice, RIAs should also be actively disseminated to key stakeholders as they are updated. See section 8 of the chapter on conducting a RIA for further information on the issue of publication.
- 2.5 Where further Memoranda are brought to Government seeking substantive Government

amendments to the Bill as published, an updated RIA, reflecting those changes must be attached and published along with an updated Bill.

The RIA process for primary legislation is summarised in Figure 2.1 below.

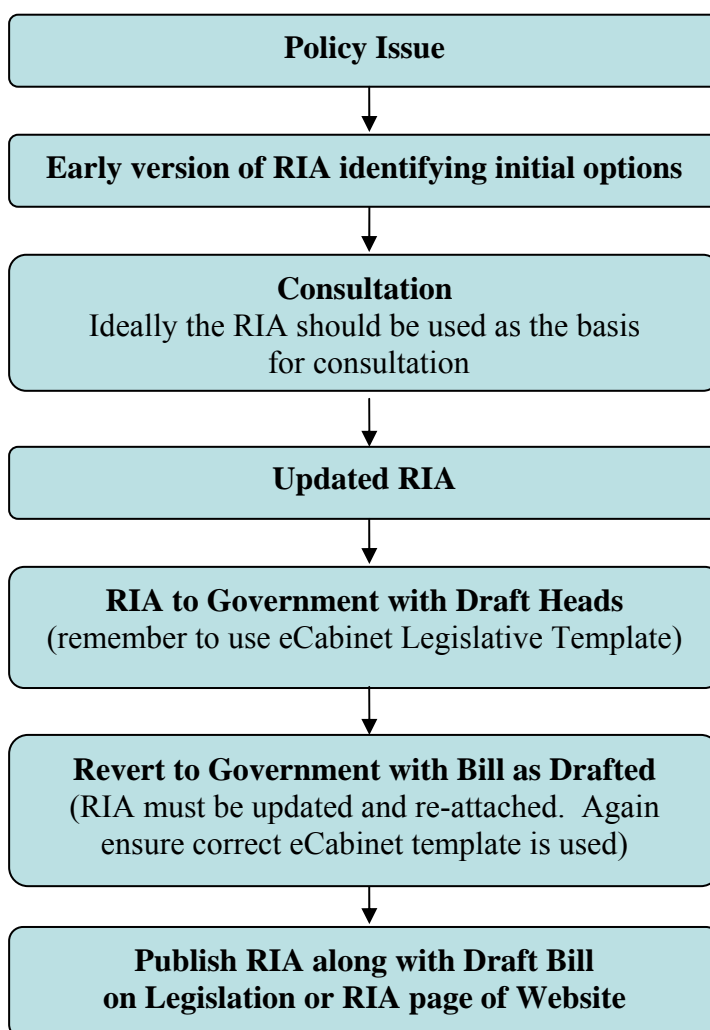


Fig 2.1 Primary Legislation and RIA

- 2.6 Appendix B lists some examples of previous RIAs which will be of interest to officials involved in preparing a RIA and a list of published RIAs is also included at Appendix I. There are certain **limited** exceptions to the requirement to conduct RIAs on primary legislation and further information on these exceptions is set out at par. 2.20.

An example of a RIA conducted on Primary Legislation is that prepared on the Nursing Homes Support Bill 2008 which is available on the website of the Department of Health and Children along with the Bill and other material relating to the Bill at www.dohc.ie.

Where primary legislation is proposed, conduct RIA in advance of the Memorandum which is brought to Government seeking permission to regulate. Summarise the RIA within the Memorandum and include the RIA as an attachment. Remember to attach an updated RIA when returning to Government with a draft Bill for approval.

EU Directives/Regulations

- 2.7 **RIAs must be conducted on all EU Directives and on significant² Regulations³ before they are agreed.** ⁴ The RIA Review found, however, that few RIAs were, in fact, carried out by Departments in relation to draft EU legislation. RIAs prepared in this context are particularly important because while EU Commission Impact Assessments take account of certain national and regional impacts⁵, they may not take account of all impacts which are of particular interest to Ireland e.g., having regard to its peripheral location and the small size of the economy. Therefore, the RIA process should be commenced as early as possible and **certainly no later than four weeks⁶** from when the Commission publishes the proposed legislation and its own impact assessment. While the Commission impact assessment may provide some useful information for the Irish RIA, it is also important to note that the Commission is increasingly seeking an input into their impact assessments and by starting Ireland's own RIA as early as possible, Irish officials are better placed to provide useful information to the Commission in a structured way.

Commence RIAs on proposed EU Directives/significant Regulations as early as possible after the publication of the proposal (and no later than 4 weeks after) in order to inform Ireland's negotiating position.

- 2.8 The RIA should contain a sufficient level of analysis of key issues to properly inform Ireland's negotiating position, thereby minimising any potentially negative implications for Ireland. In this context, officials are encouraged to update the RIA periodically to take account of significant changes introduced at the various stages of the proposal's development (e.g. significant changes resulting from consideration of the proposal by Parliament). However, it is recognised that in many cases such changes are introduced rapidly and officials may find it most useful to simply keep a clear record of those changes on file so that the RIA can be fully updated prior to its publication⁷. The RIA need only be updated to reflect significant changes. Other more technical changes do not need to be analysed in this way. If a clear record of changes is kept and the RIA is updated in this way, the RIA will provide useful information as to whether a derogation or exemption from provisions of an EU Directive/Regulation should be availed of where such is possible. Further guidance on the preparation and timing of RIAs relating to draft EU legislation is also set out at **Appendix H**.

² For further information on the meaning of significant in this context, see the chapter on proportionality and significance.

³ RIAs are also required on EU Framework decisions where appropriate.

⁴ In recent years the EU Commission has brought forward a considerable number of proposals for Directives which are designed to consolidate existing EU legislation. If you are involved in negotiating such a Directive you will need to consider whether the proposal introduces any new regulatory requirements. It is only in cases where new requirements are being introduced that a RIA needs to be conducted. Any RIA produced in these circumstances should focus on these new requirements.

⁵ The EU Commission Impact Assessment Guidelines are published at http://ec.europa.eu/governance/impact/key_en.htm

⁶ Title IV Measures do not apply to the State unless Government notifies the Council that they are opting in. In such cases the RIA must commence no later than 4 weeks from the date of opt in.

⁷ The RIA should be published once the agreed text of the legislation is published by the EU.

An example of a RIA on a draft Directive is that prepared on the Proposed Directive on Industrial Emissions by the Department of Environment, Heritage and Local Government which is available on the Department's website at www.environ.ie together with the proposed Directive. Further examples are available at Appendix I.

- 2.9 It is important to remember that the RIA which is conducted during the negotiation process will inform the RIA subsequently produced on transposition options. Therefore, the RIA which is finalised and published at the end of the negotiation process should include a clear narrative-style summary of how the process evolved and of its implications for Ireland. Again this summary does not need to cover every single issue which arose during negotiations but should instead be concerned with significant changes and developments. Some Departments may choose to publish a RIA at the time that a draft EU Directive or Regulation is first published. This version of the RIA could be used as a basis for consultation and negotiation. While this represents good practice, it is not compulsory. However, the RIA must be published on the legislation or RIA page on the relevant Departmental website once the final Directive or Regulation as agreed is published by the EU. You might also consider the active distribution of your RIA. (see also section 8 of the chapter on conducting a RIA which relates to publication).
- 2.10 The European Union (Scrutiny) Act 2002 requires that Departments/Offices prepare an information note on draft EU measures⁸ within four weeks of formal circulation by the General Secretariat of the Council. This information note must outline the nature and purpose of the proposal and should contain an initial indication of possible implications for Ireland (Guidelines for Oireachtas Scrutiny of EU Business). Given that the RIA process must also be commenced at an early stage, Departments should take account of the RIA model in preparing these information notes. In order to avoid duplication of effort, information for the RIA could be taken into account when completing Section 9 of the Information Note, "Short summary and aim of the proposal". While all information may not be available at this early stage of the EU negotiation process, the inclusion of some information on cost, benefits and impacts should be considered within section 14 of the information note which deals with "Implications for Ireland". The RIA can also inform a Department's further briefing of an Oireachtas Committee, where the draft EU proposal has been referred to a specific sectoral Oireachtas Committee for further scrutiny. **Further guidance on the scrutiny process is available from the European Union Division in the Department of Foreign Affairs.**

Take account of the RIA model in preparing information notes under the European Union (Scrutiny) Act 2002

RIA and the Transposition of EU Legislation

- 2.11 Drawing on the RIA produced during the negotiation process, officials responsible for the transposition of EU Directives should prepare a separate RIA on the available transposition options (both legislative and non-legislative). This RIA should distinguish between those elements of each of the proposed options which are prescriptive or mandatory and those which are optional or have been added as a result of specific national concerns (this is sometimes referred to as gold-plating). It should

⁸ Regulations, Directives, joint actions and common positions under Article 15 of the Treaty of the European Union or measures requiring prior approval of both Houses of the Oireachtas pursuant to Article 29.4.6 of the Constitution.

state clearly whether any of the proposed options will result in more burdens being imposed than are required by the Directive. Any such additional burdens which relate to the selected policy option should be justified by extensive analysis and extensive consultation with stakeholders (see also Appendix E on administrative burden measurement).

- 2.12 The RIA should be published as early as possible. If a Statutory Instrument (SI) is chosen as the transposition instrument, publication should occur no later than when the SI itself is signed and published. If primary legislation is selected, the RIA must be published once the Bill itself is published.

Drawing on the RIA produced during the negotiation process, officials responsible for the transposition of EU Directives should prepare a separate RIA on the available transposition options (both legislative and non-legislative) and the impacts associated with same.

Statutory Instruments/Secondary Legislation (SIs)

- 2.13 Approximately 700 to 900 SIs are introduced in Ireland each year. Many SIs are relatively minor in their scope and impact so to ensure proportionality, only significant Statutory Instruments are to be subject to RIA. It is primarily a matter for Departments themselves to decide which SIs are significant, and the chapter on proportionality and significance gives guidance as to what should be considered significant in this context. However, it is also open to Government, when approving the draft of a Bill, to prescribe that secondary regulation which gives effect to certain aspects of the Bill should be subject to the RIA process.
- 2.14 Many Acts provide for secondary legislation to give effects to various aspects of the Act itself. In some cases, the SIs which are subsequently prepared on foot of the Act will be technical in nature and do not require a RIA. Commencement Orders are a good example of this type of technical SI as are SIs which are brought forward to allow for the amendment of a schedule of the primary legislation to which it relates. However, many significant policy measures are given effect by SIs and the RIA process must reflect this.
- 2.15 There are a number of published examples of RIAs which have been conducted on significant statutory instruments. A list of published RIAs is at Appendix I.

An example of a RIA conducted on a Statutory Instrument is that relating to the Health, Safety and Welfare at Work (Construction) Regulations 2006. A copy of the RIA is available at www.entemp.ie together with the Regulations.

- 2.16 Statutory Instruments are sometimes also used to transpose EU Directives in Ireland. The RIA requirements in relation to EU Directives detailed in sections 2.7-2.11 above mean the regulatory initiatives contained in SIs which transpose EU Directives will have already been subject to the RIA process before they reach the national regulatory system. In such cases, this assessment can be used to inform the separate RIA, focusing on the transposition options which must be prepared.
- 2.17 RIAs relating to SIs must be published on the dedicated RIA webpage of the relevant Departmental website once the SI has been signed by the Minister. As a matter of best practice, RIAs should be actively distributed to stakeholders, particularly those who have responded in the context of consultation processes.

Conduct RIAs on significant Statutory Instruments

Policy Review Groups

- 2.18 Regulations are sometimes initiated in response to the recommendations of a particular Policy Review Group. When these Groups have reported, the expectation tends to be that their recommendations will be accepted and this means that subsequent scope for the use of alternatives is limited. Therefore, when any Policy Review Group is formed, its terms of reference must include a requirement to take account of the principles of Better Regulation⁹ (see *Regulating Better*, Department of the Taoiseach, 2004 for further details). In particular, its terms of reference must specify that consideration be given to the potential for the use of alternatives to regulations prior to recommending regulatory solutions. Any Reports or Reviews produced by the Group should then indicate how it took account of the Better Regulation principles in conducting its work. Where primary legislation or significant regulatory change is being proposed, a RIA should be produced as part of the work of the Review Group. The Group's final Report would then include a RIA, if appropriate.

An example of a RIA carried out by a policy review group is that prepared by the Company Law Review Group as part of their Report on the General Scheme of the Companies Consolidation and Reform Bill 2007 which is published on their website at www.clrg.ie and linked to the website of the Department of Enterprise, Trade and Employment at www.entemp.ie

Use of RIA by Other Bodies

- 2.19 The 2007 Regulatory Bodies in Ireland Report¹⁰ indicated that there were some 213 Bodies with regulatory powers in Ireland of which 205 were public sector bodies, including 114 local authorities. It is important that the regulations produced by such Bodies have regard to the Government's broader policies on Better Regulation and that they are developed having regard to all relevant impacts. Therefore, while the Government decision in relation to RIA applies only to Government Departments and Offices, these other regulators should, as a matter of best practice, use RIA as a regulatory tool to assist in identifying the costs, benefits and impacts of their regulations since these can have significant impacts. While RIA is something which is frequently associated with economic regulatory decisions and as such is a tool already used by some independent regulators e.g. ComReg who have published guidelines on their own approach to RIA, it should also be considered by officials working on other policy areas.

Exceptions

- 2.20 Although RIA can potentially benefit all policy areas/regulations, it is not compulsory to apply RIA to the Finance Bill, emergency, security and some criminal legislation. These exceptions are interpreted very narrowly. For example, most criminal legislation should be put through the RIA process, given its wider societal implications and the fact that significant costs may be involved. Even where a RIA is not formally required, however, Departments may use the process as a matter of good practice. Where emergency legislation is required (e.g. to stop the spread of disease; to immediately replace legislation struck down as unconstitutional or for other purposes of law enforcement or security) there is no requirement for RIA to be applied.

⁹ Necessity, effectiveness, proportionality, transparency, accountability, consistency

¹⁰ Department of the Taoiseach, 2007

- 2.21 In addition, the publication of a RIA may not be appropriate in the case of tax law/regulations or the imposition of charges because of their sensitivity and the need to guard against possible evasion or avoidance.
- 2.22 In the case of a regulatory proposal which is consolidating existing legislation and where no regulatory changes are being introduced, it is not necessary to conduct a RIA. It is important to remember that in many cases where existing legislation is being consolidated, new regulatory requirements are also introduced. In such cases a RIA should be carried out focusing on these new requirements.
- 2.23 If legislation is drafted as a direct consequence of a Court decision and leaves no discretion to consider alternative options or allow for meaningful consultation, then there is no need for RIA to be conducted.
- 2.24 There are cases where primary legislation is required to ratify international treaties which the Government has already approved and the State has signed up to. There is no RIA required if the proposed legislation does not go beyond the Treaty Provisions and is only ratifying the Treaty. If there are any additional regulatory requirements a RIA must be conducted on those requirements.
- 2.25 If you think that your proposal falls within the limited exceptions outlined above, it is important that you clarify the position with your RIA Network member or the Better Regulation Unit as early as possible (see www.betterregulation.ie for contact details).

Proportionality and Significance

The Principle of Proportionate Analysis

- 3.1 RIA must be applied to all proposals for significant legislation i.e. those which involve a change to the regulatory environment. This includes almost all primary legislation, significant Statutory Instruments, EU Directives and significant EU Regulations.¹¹ It therefore covers a wide range of regulatory initiatives across numerous and different policy areas. Therefore, while the overall model can be followed in each case, the exact analytical approach and level of detail required has to be decided on a case-by-case basis, having regard to the significance of the proposal. The greater the importance or significance of the proposal, the more analysis will be required.
- 3.2 Proportionality applies not only to the analysis of costs, benefits and impacts but to the entire RIA process, including the number of options considered, the nature of the consultation process and the treatment of enforcement, compliance and review.

Significance

- 3.3 In general, the more significant the impacts are likely to be, the deeper the analysis should be. Greater efforts for data collection, stakeholder consultation and quantification of impacts will also be needed. The significance of proposals might derive from their overall economic, social or environmental importance but may also be related to their impact on one particular sector. For example, if the proposal concerned has little impact on businesses in general but has major implications for one particular sector, it should still be considered significant. The RIA should provide sufficient evidence to respond to concerns and objections that can be anticipated in the context of the decision-making process and in terms of public reaction. Reflecting the reality of policy making, there is no absolute division between what is significant and insignificant for the purposes of RIA. Instead, there is a judgment call for officials involved in preparing the RIA as to the level of its significance based, amongst other things, on the economic or social importance of the proposals and whether they are likely to be controversial. In this context, it will be useful for officials to examine whether significant impacts exist under any of the following headings:

- National competitiveness;
- The socially excluded and vulnerable groups;
- The environment;
- Whether there is a significant policy change in an economic market, including consumer and competition impacts;
- The rights of citizens;
- Compliance Burdens, including Administrative Burdens;
- North-South and East-West Relations.

A formal Cost Benefit Analysis is required in the case of the most significant proposals.

¹¹ See FAQ 8 and s.4.20 for information on exceptions

What is Not Significant?

- 3.4 Certain pieces of legislation, i.e. some insignificant Statutory Instruments and draft EU Regulations, are not subject to RIA. Significance in this context should be interpreted restrictively and only refers to regulations which do not result in any substantive change to the relevant regulatory environment. For example, while small price increases commensurate with inflation might be considered insignificant in most cases, a large price increase would be deemed significant.

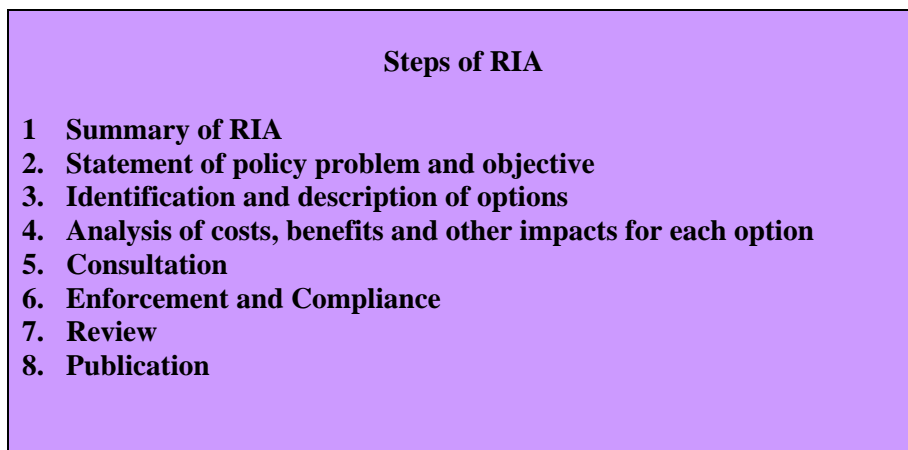
What is Proportionate?

- 3.5 Of their nature, no two regulatory proposals will be exactly the same, so the length of the RIA and the level of analysis necessary will also vary somewhat in each case. As a general rule, the RIA should provide decision-makers with a solid factual evidence base about the costs, benefits and other impacts of a range of feasible policy options relating specifically to the identified issue or problem. It should contain enough detail to support the proposal being made and the ensuing Oireachtas debate, where relevant. In doing so it should be as clear and concise as possible. It should not go into a level of detail or areas of analysis that would not alter the conclusions or their certainty.
- 3.6 Deciding on the proportionate level of analysis is primarily a task for the officials responsible for conducting the RIA, given their sectoral expertise in the relevant area. This is because the proportionate level of analysis has to be defined individually for each RIA, taking into account all the circumstances surrounding it. However, advice on this issue is available from your RIA Network member or from the Better Regulation Unit (see www.betterregulation.ie for contact details) who should be contacted, if necessary, as early as possible in the development of the RIA. Finally, it is important to remember that defining the proportionate level of analysis is not necessarily a once-off decision taken at the beginning of the RIA process, but often an iterative process which must take account of stakeholder input.

Conducting a RIA

Overview

- 4.1 It is important to remember that the RIA process should be started as early as possible in the regulatory proposal development process and used as the basis for consultation, where possible. **The RIA document is a living document subject to continuous change which could result in numerous drafts before the final version of the RIA is complete.** This is particularly true in cases where the initial work on the RIA reveals some significant impact relating to the proposed legislation. Early versions of RIAs may contain gaps under a number of the headings, set out in these Guidelines, given that it will be prepared at an early stage, but information which is available should be included as it helps stakeholders to provide more informed responses in the context of consultation.
- 4.2 To ensure that RIA is proportionate and does not become overly burdensome, a proportionate level of analysis should be conducted for RIA on case-by-case basis, having regard to the significance of the measure. For further guidance on the principle of proportionate analysis see the chapter on proportionality and significance.
- 4.3 The structure of a RIA is summarised below. More detailed guidance on each of the steps is provided later in this chapter.



Section 1: Summary of the RIA

- 4.4 A summary sheet must be prepared for all RIAs in line with the following template. The sheet is designed to capture key information about the regulatory proposal being brought forward and the options considered. For further information on completing the summary sheet, see **Appendix A**.

Summary of Regulatory Impact Analysis (RIA)

Department/Office:

Title of Legislation:

Stage:

(e.g. internal draft, consultation, General Scheme of Bill, Text of Bill)

Date:

Related Publications:

Available to view or download at:

<http://www.>

Contact for enquiries:

Telephone:

What policy options have been considered? Please summarise the costs, benefits and impacts relating to each of the option below and indicate whether a preferred option has been identified.

- 1.
- 2.
- 3.
- 4.

Preferred Option:

OPTIONS

	COSTS	BENEFITS	IMPACTS
1			
2			
3			
4			

Section 2: Description of Policy Context and Objectives

4.5 This step of the RIA process consists of two main elements:

- (i) A brief description of the policy context;
- (ii) An explicit statement of the objectives that are being pursued.

Policy context

4.6 The RIA should begin by describing the policy context. This is the background to the issue, what the particular policy problem or challenge is, and the conditions/imperatives that mean it must be addressed at this particular time. This should include a brief (1-2 pages at most) summary of the existing regulatory framework and its drawbacks and may necessitate reference to relevant EU or international obligations.

Describe the policy context i.e. the background to the issue, the policy problem and why it must be addressed now.

4.7 Although there is likely to be a large amount of background material and a lengthy historical context for most issues, only include the key and most relevant information within the RIA. The purpose of this part of the RIA is to give readers who are unfamiliar with the policy area a brief background to the issue rather than to overload them with facts, figures and historical detail. If it is considered necessary to provide additional background information on the issue, include this as an Appendix to the RIA.

Include only key and relevant information. Where necessary additional background material can be provided as an Appendix to the RIA.

Example 1: The Policy context

Extract from RIA on Safety, Health and Welfare at Work Regulations 2006

“Certain workplaces are more hazardous than others owing to exposure, working environment, and the attitude to preventative actions. Statistics maintained by the Health and Safety Authority (HSA), illustrate that the Construction Industry has a consistently poor record on worker health, safety and welfare relative to other industries. Construction activities are typically labour-intensive and high-risk. Growth in the Irish economy has seen the construction industry expand to a workforce of 240,000 (CSO figure) mid 2005, up from 125,000 in 1998. In 2005, 23 fatalities were recorded in the sector, this compares with 16 in 2004 and 18 in 1998. ...”

Source: www.entemp.ie

Statement of objectives

4.8 Once the context has been provided, the objectives of the proposed action should be identified. In other words, what are the regulations or alternative policy tool intended to achieve? Here, it is important to recognise the difference between *general* or *ultimate objectives* and *immediate objectives*. Both should be included in the RIA.

General/ultimate objectives are the overall strategic policy objectives while more immediate objectives can be directly linked to the policy intervention. For example, it could be said that an ultimate objective of the smoking ban was to reduce the levels of smoking related illnesses and death. However, the ban was just one contributory measure to achieve this. A more immediate objective was to protect workers from second-hand

smoke by eliminating smoking from the workplace. Although ultimate objectives may be referenced in the RIA, the key emphasis must be on immediate objectives – what specifically the particular policy action or regulation is seeking to achieve.

Explicitly state the objectives. Differentiate between ultimate objectives and immediate objectives and focus on immediate objectives.

4.9 International guidance also stresses that objectives should be:

- **Specific**
- **Measurable**
- **Accepted**
- **Realistic**
- **Time-dependent**

The objectives should be clearly and specifically linked to the policy context described at the outset of the RIA and vice versa.

Ensure that the objectives are SMART and clearly related to the policy context already described.

4.10 There will be some cases where the main imperative behind enacting regulations is to transpose EU Directives or meet international obligations. In these circumstances, transposing or meeting the international obligations should not be framed as the objective behind the policy action although these might be its drivers. The objectives behind the particular EU Directive/Regulation or international action should be framed as the objectives in such cases. An example of clear statement of policy objectives is set out below.

Example 2: Statement of policy objectives

Extract from RIA on Nursing Homes Support Scheme Bill 2008

Long-term Objective: To put in place an infrastructure of high quality and sustainable long-term residential care services for older people.

Immediate Objectives: To equalise State support for public and private long-term residential care recipients;

To render private long-term residential care affordable and anxiety-free, and ensure that no-one has to sell their home during their lifetime to pay for their care;

To remove the incentive to avail of public rather than private long-term residential care, thereby helping to alleviate the problem of delayed discharges from the acute hospital sector.

Source: www.health.gov.ie

Section 3: Identification of Policy Options

- 4.11 Once the context and objectives have been detailed, then the policy options for achieving the objectives must be described. International best practice indicates that the ‘do nothing’ or ‘no policy change’ option should be included as an option for consideration. Even where doing nothing is not a viable option in practice, it can serve as a useful benchmark against which other options can be compared. However, particularly for the purpose of less detailed RIAs, it may be disproportionate to analyse the ‘no action’ option in detail. In such cases, state clearly the approach being taken e.g.:

(For an EU draft Directive) *“The do nothing option is primarily being included for benchmarking purposes. Therefore it will not be examined in great detail as part of this RIA because it is not envisaged that this option will be pursued in practice. To take no action would mean a failure to comply with our EU obligations and could result in prosecution by the European Commission.”*

Include the ‘no policy change’ option as a benchmark for comparison.

Having said this, there is often a variety of options available to fulfill the requirements of EU Directives/Regulations. In such cases, the full range of options should be examined.¹²

- 4.12 Depending on the policy context and objectives, there are a number of classes of alternatives or options. Some of the most common are summarised below. Further detail on alternatives to regulation and alternative models of regulation are set out in Appendix J. All policy/regulatory proposals should facilitate the consideration of options under at least one of the headings identified. As detailed earlier in these Guidelines, even where the Government has committed to regulate and to introduce certain measures, there are usually a number of different options/models available for implementing these measures. Sometimes it may be most appropriate to compare these options/measures (see example 3 below).

All RIAs must include an analysis of options. These may be alternatives to regulation, alternative forms of regulation or alternative implementation options.

¹² In most cases, it would be expected that at least 3 options would be considered.

Examples of regulatory options /alternatives	
Alternatives to regulations	
Types	Example(s)
Taxes	Plastic bag tax (Ire)
Subsidies	Capital depreciation allowances for abatement technologies (US)
Information campaigns	Road Safety advertisements (Ire)
Emissions trading	CO ² Trading Scheme (EU)
Alternative forms of regulation	
'Command-and-control' – regulations which prescribe/proscribe certain actions	Most regulations
Self-regulation – Control of activities by the private parties concerned without the direct involvement of public authorities.	Advertising Standards Authority (Ire)
Co-regulation – Control of activities by a combination of action from private parties and public authorities.	Medical Council (Ire) Law Society
Performance-based regulation – where the Regulator sets standards and leaves it to the regulated entity to determine how best to meet these standards	Regulations which set emission standards for vehicle manufacturers but leave it to the manufacturer to determine how best to meet these standards (US)
Alternative options within regulations	
The State decides to regulate and introduce a particular measure but there are different options for implementing the particular measure	Many EU Directives
<i>Source: Definitions from Mandelkern Report 2001 82-83; OECD 2002 Annex 2</i>	

Example 3: Identification of options

Extract from RIA Single Electricity Market Act 2007

- **Option 1: The “no change” option**

The current bilateral contracts market has been in place since the first tranche of market opening in 2000. While this market is functioning, a number of difficulties are apparent, in particular as regards encouraging new investment into the market and transparency and accuracy of price signals.....

- **Option 2: New Trading Arrangements for Ireland**

The development of new Irish trading arrangements, as an alternative to the development of the SEM, would, at a minimum, provide the opportunity to address issues associated with the existing bilateral contracts market. The Commission conducted an extensive consultation on the development of a new market design for the Irish market in 2002-2004. While significant progress was made in the development of the Market Arrangements for Electricity (MAE) project, this project ultimately ran into implementation difficulties including the interface issues with Northern Ireland. The development of the SEM, as an alternative to an Ireland-only market, is seen to address these interface issues as well as providing access to a larger overall market for suppliers as well as access to alternative generation.

- **Option 3: Move to a single all-island wholesale trading arrangement now (SEM)**

Given the already acknowledged need to replace the existing trading arrangements, the concept of a single all-island electricity market has been developed which is considered to be the preferred option. The SEM will join the markets of Ireland and Northern Ireland providing, over time, for a number of significant advantages and cost savings for the electricity consumer. The decision to choose Option 3 led to consideration of a further two consequential options, namely:

- **Option 3a:** to plan for a SEM that would be regulated under existing statutory duties aided by memoranda of understanding and managed on the basis of revised licensing and contractual and other industry arrangements and documentation; or

- **Option 3b:** plan for a SEM with revised trading arrangements that would be underpinned by common legislative powers and duties in Ireland and Northern Ireland.

Source: www.dcenr.gov.ie

Section 4: Analysis of the Costs, Benefits and Impacts of each Option

Costs and Benefits

Introduction

- 4.13 Once the options have been outlined, the costs, benefits and impacts of these options should be identified and analysed. It is important that all impacts are analysed to some extent as well as just merely identified. Where possible *monetise* cost and benefits (i.e. place a monetary value on them). Where monetisation is not possible, *costs and benefits* should be *quantified* (expressed numerically e.g. number/proportion of lives saved, reduction in traffic volumes etc). The level of analysis undertaken should be proportionate to the significance of the proposal. **A formal cost-benefit analysis should be conducted in respect of the most significant proposals but it is expected that this may need to be undertaken within the context of a broader multi-criteria approach.** In all cases, it is important to remember that potential regulatory burdens should be considered relative to the risk of not regulating and the benefits attaching to particular regulations.

Identify costs, benefits and other impacts of all identified options. Monetise or quantify these impacts. For significant proposals, conduct a robust and structured analysis and use formal Cost-Benefit Analysis where possible.

- 4.14 A number of categories of costs and benefits exist as well as a variety of analytical techniques for evaluating them. **While some guidance is provided in this chapter on analytical techniques, the material on proportionate analysis at the beginning of this chapter and in Appendix D on the overview of multi-criteria analysis should also be consulted.**

Types of Costs and Benefits

- 4.15 It is important that all the costs, benefits and impacts attaching to particular options are assessed, irrespective of whether it falls to the Exchequer, to business and/or to the citizen. The following are some of the types of costs and benefits which should be considered in the context of RIA:

Tangible costs and benefits are those which can be valued by the market. In other words, they can be monetised.

Intangible costs and benefits cannot be valued by the market. They cannot be monetised.

Direct costs and benefits are those which are related to the primary objective of the regulations.

Indirect costs and benefits are secondary outcomes of the regulations and are not related to its primary objectives.

Real costs and benefits are those derived by the final consumer and add or subtract from the overall welfare of society.

Pecuniary costs arise when the costs borne by one sector of society are matched by a similar level of benefits received by another group. There is no change in the overall welfare of society. Pecuniary costs should not be counted in cost-benefit analysis but should be taken into account in evaluating options more generally.

Compliance Costs

- 4.16 RIA is designed, inter alia, to help reduce the burden of red tape on business and to ensure that future regulations do not impose disproportionate compliance costs on business or the citizen. Compliance costs are not just merely the direct charges or fees imposed by a proposal. They are any costs which arise from the necessity of having to comply with the regulations in question e.g. facilitating inspection.

Examples of compliance costs

One-off costs	<ul style="list-style-type: none">- information costs (identifying and understanding the new regulatory requirement)- upgrading production processes / equipment / buildings / software etc- buying in of specialist services (e.g. accounting, IT, legal etc.)
On-going costs	<ul style="list-style-type: none">- individual or staff costs or time- inspection fees/ enforcement- licence application process (application form, writing letter, running advertisements etc)- form filling /administration /paperwork (compiling necessary information, time taken etc.)

Source: New Zealand Ministry of Economic Development 2004

- 4.17. While some compliance burdens will be obvious to officials working in particular sectors, others may be less apparent. For example, while you might know what you are charging for mandatory inspections, it is more difficult for you to know how much the time spent on inspections costs in terms of staff time to facilitate inspections and any lost productivity which might arise. It is important that an effort is made to engage with business in this regard.

Tips for Gathering Information on Compliance Burdens

- Use existing databases or ask business representative groups to help you to identify a representative sample of businesses with which to consult.
- Prepare a short survey to distribute to these businesses asking them to detail any compliance burdens which they envisage (it is important that you supply sufficient information on your proposal to accompany the survey- an early draft of your RIA would be very useful in this regard).
- If necessary, establish a small focus group to discuss the survey findings in more detail.
- Use any existing Groups or Fora involving business of which your Department is a member to discuss the impact of your proposals.

- 4.18 Administrative burdens are one type of compliance cost which is incurred when complying with information, obligations stemming from regulation e.g. time spent filling out and filing registration forms. The Department of Enterprise, Trade and Employment is leading a cross-Government process to achieve the target for the reduction of administrative burdens on business by 25% by 2012 which was set by Government in March 2008. This target relates to existing legislation but it is equally important that the administrative burdens associated with proposed new regulations are examined to ensure that additional unnecessary administrative burdens are not created.

Further information on the measurement of administrative burdens in the context of future regulations is set out at **Appendix E**.

- 4.19 It is important to remember that your consideration of compliance costs should be linked with your exploration of compliance and enforcement later in your RIA. In other words, the costs presented should fully reflect the arrangements envisaged.

Public Service Implementation Costs

- 4.20 Regulations and their implementation can involve considerable costs to the Exchequer, particularly where it is proposed to establish a new Agency or regulator, or where an existing Agency or Department will take on additional functions.
- 4.21 It should be noted in this context that the White Paper Regulating Better (2004, p44) commits that:

“where new regulators are proposed, they will be established only if the requirement for a regulator can be clearly demonstrated and if responsibility for the sector in question cannot be assigned to an existing regulator.”

- 4.22 All costs, including staff and accommodation should be taken into account. For further information on the issue of Public Service Implementation Costs, see Appendix F.

Analysing Costs and Benefits

- 4.23 Many regulations or policy goals involve the achievement of non-tangible benefits such as protecting public safety, improving public health, increasing the accountability of regulators etc. It is often mistakenly assumed that because it is difficult, if not impossible, to monetise these benefits that they cannot be analysed. However, there are a variety of techniques available to assess benefits, including Multi-Criteria Analysis. For further information on Multi-Criteria Analysis, please see par. 4.25-4.27 and Appendix D.

Overview of Analytical Techniques

- 4.24 Two analytical techniques are helpful in conducting RIAs:
- Multi-Criteria Analysis
 - Cost Benefit Analysis

Multi-criteria Analysis

- 4.25 For most RIAs, not all of the benefits to be derived from different options are monetisable. In these circumstances, multi-criteria analysis is the appropriate analytical tool. Multi-criteria analysis (MCA) is a decision making technique which allows several different criteria to be considered simultaneously. The regulatory objectives are listed (of which cost efficiency may be one) and used to create a set of weighted criteria. This creates a context to determine preferences amongst alternative options. The performance of each alternative is identified and then evaluated against the listed criteria. The contribution to the criteria is normally assessed through use of a scoring factor. The combined weights and scores for each of the alternatives are then aggregated to derive an overall value, providing a ranking of different options.

- 4.26 Multi-Criteria analysis allows for monetisation where possible of certain costs and benefits and quantification of others within a single analytical framework. Quantification is used in situations where, for example, it might be possible to estimate the number of consumers likely to benefit from a regulation without putting a financial value on the benefit which each consumer would receive. However, where monetisation is possible, it is important that it is pursued.

A hypothetical multi-criteria framework relating to social regulation is set out here for illustrative purposes. **Further information on how to weight and score different options is set out at Appendix D.**

	Option A	Option B	Option C	Option D
Objective 1: Protect the public from harm				
Comprehensive	1.7	3.0	2.6	2.3
Independent	2.1	1.7	1.2	1.0
Responsive	2.1	1.3	2.7	2.5
Average standardised score	1.9	2.0	2.2	2.0
Objective 2 Provide a means of redress				
Transparent				
Equally accessible to all socio-economic groups				
Consistent				
Fair				
Well publicised				
Average standardised score				
Objective 3 Operate efficiently				
Value for money				
Leadership				
Quality assurance				
Average standardised score				

- 4.27 In summary, the vast majority of RIAs will comprise a multi-criteria approach, while some of these will encompass an element of cost-benefit or cost effectiveness analysis. Where major regulatory proposals requiring more detailed RIAs are being brought forward, every effort should be made to employ a cost-benefit analysis approach, within the overall multi-criteria approach, to the maximum extent possible.

For Further information on the use of multi-criteria analysis together with examples, see Appendix D.

Cost Benefit Analysis

- 4.28 Cost benefit analysis seeks to put a monetary value on benefits as well as costs. The advantage of cost benefit analysis is that as all costs and benefits are monetised, a policy proposal can be deemed to be worthwhile if benefits exceed costs. Similarly, choices between policy options can be informed by comparing their costs and benefits using a decision criterion such as a net present value. However, it is not always easy to attach monetary values to all costs and benefits in this way.

- 4.29 **Cost Benefit Analysis (CBA) is required in the case of the most significant regulatory proposals.** This means that where there are significant impacts under any of the headings outlined from par. 4.37 below then a full CBA should be carried out.
- 4.30 If you are unclear as to whether you have reached the impact threshold for a formal cost benefit analysis, please contact your RIA Network member or the Better Regulation Unit (see www.betterregulation.ie for contact details). Further information on the use of Cost Benefit Analysis is contained in the Capital Appraisal Guidelines which are available at www.finance.gov.ie.

Discounting for Cost Benefit Analysis

- 4.31 Most policy options result in costs and benefits that arise at different times and the value placed on costs and benefits depends on when they occur. For example, building a road has an immediate cost, but generates benefits over a long period. When a constant amount of money is received over a set period of time, this sum will be worth more in the early years compared with later years. Conversely, costs to be paid in the future are less onerous. The discount rate is a correction factor reflecting these facts. RIAs on significant proposals involving Cost Benefit Analysis should take account of the time value of money through the use of discounting.
- 4.32 Discounting allows the direct comparison of costs and benefits occurring at different points in time, valuing immediate costs and benefits more highly than those that occur later. When discounting is used, it should be applied to both costs and benefits. Some further information on this issue is set out at Appendix D. However, before discounting costs and benefits, you should seek advice from the Sectoral Policy Division in the Department of Finance as to the most appropriate discount rate. In addition, more information on discounting can be found in publications by the Department of Finance such as the Capital Appraisal Guidelines.

Decision Rules for Cost Benefit Analysis

Information on discounting and decision rules in the context of Cost Benefit Analysis is set out at Appendix D to these Guidelines. However, you should also seek advice from the Sectoral Policy Division in the Department of Finance on issues such as the most appropriate discount rate to use.

General Analytical Issues

Risk and Uncertainty

- 4.33 In the real-world, it is impossible to predict with certainty the impacts associated with a policy option. These impacts will depend on future events, some of which are out of the control of policy-makers. RIAs (and the MCAs and CBAs performed in this context) should reflect these uncertainties by taking account of risk and the various future scenarios which might occur. Any assumptions which are made should be stated. Cost and benefit estimates should be calculated for a variety or range of future values through the use of techniques such as sensitivity analysis. This involves changing the value of one variable or factor which is likely to affect the outcome of the regulations/policy initiative. For example, the costs and benefits of health and safety regulations in a particular sector may depend on the future growth of that sector. Impacts could be estimated using a variety of figures for the number of employees or firms in that sector.

- 4.34 Scenario analysis is a similar technique but involves changing the value of a number of variables or factors simultaneously rather than just one. This approach may be useful for an area where there are a number of uncertainties or risks.
- 4.35 A third possible approach to uncertainty is to use ranges when presenting estimated benefits and costs. In other words, a RIA might state that costs are likely to be in the range of €1 million and €1.5 million. Ranges may be broader or narrower depending on the level of uncertainty. When using ranges, it is useful to explain the variables or factors which might influence whether a value ends up being at the higher or lower end of the range. Further information on the use of these analytical techniques and approaches is available from the Department of Finance.

Take account of risk and uncertainty. If making assumptions clearly state them. Calculate costs and benefits under a variety of assumptions and scenarios. Identify ranges of costs and benefits where necessary.

Deadweight and Displacement

- 4.36 During the analysis of costs and benefits, consideration should be given to the issue of deadweight and displacement. Deadweight is the portion of increased output that would have happened anyway irrespective of the project or programme or regulation. Displacement occurs when the creation of a positive project or programme leads to a loss of output elsewhere. The net benefit arising should be reduced in proportion to the estimated amount of the displaced activity.

Value of a Statistical Life

- 4.37 The “value of a statistical life” is a term used in economics to describe the value assigned to a human life for the purpose of analytical comparisons. It is most commonly determined by looking at a person’s (or population’s) willingness to pay for good health outcomes (or to reduce bad health outcomes) but can also be determined by looking at a person’s purchasing choices e.g. how much a person is willing to pay for the reduced risk of death or injury through the fitting of airbags in his/her car. Before assigning any particular value in the context of your RIA, you should check to see if your own Department has prepared any specific guidance on this and related issues e.g. the Department of Transport’s Common Appraisal Framework for Transport Projects and Programmes.

Impacts

- 4.38 The impacts outlined below must be considered as part of the RIA process. However, it is important to remember that the list of impacts considered in these guidelines is intended to be indicative only and if other specific impacts arise in the context of your proposals, these must also be considered as part of the RIA process. It is equally important that where significant impacts are likely to arise under any of the headings that the analysis conducted is sufficiently detailed in line with the principle of proportionality outlined above. Consultations should help to reveal whether or not there will be significant impacts. The relevant stakeholders are usually well placed to outline both the direct and indirect consequences of implementing a proposed regulation. When conducting an MCA the impacts which you identify should be used to inform both **the criteria used (which are the same as your overall objectives) and the scoring of options under these criteria.**

Impacts

- **National competitiveness**
- **The socially excluded and vulnerable groups**
- **The environment**
- **Whether there is a significant policy change in an economic market, including consumer and competition impacts**
- **The rights of citizens**
- **Compliance Burden**
- **North-South and East-West Relations**

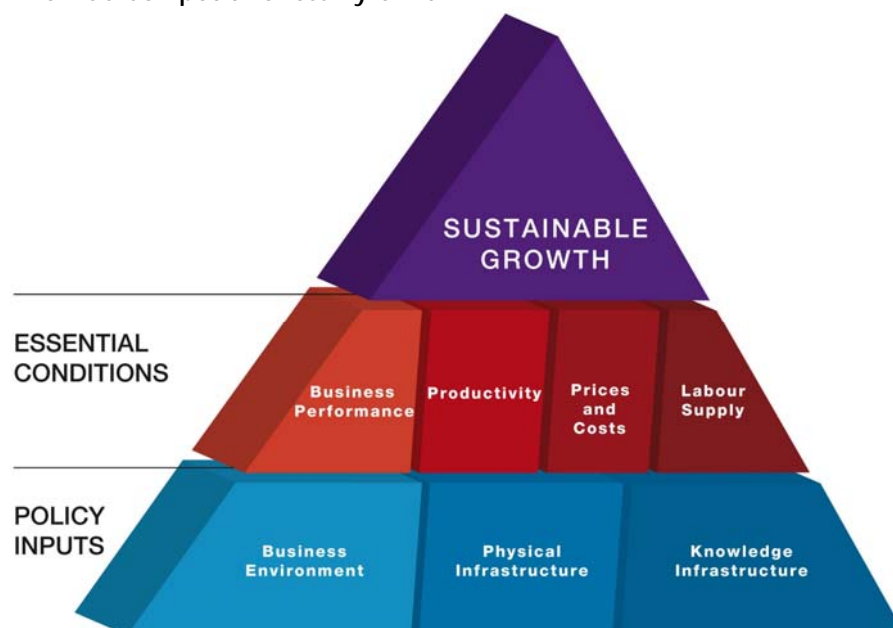
National Competitiveness

- 4.39 Competitiveness is such a multi-dimensional concept that it is difficult to precisely define it. In fact, various stakeholders often have completely different definitions for competitiveness. However, the National Competitiveness Council (NCC) uses a very comprehensive definition of competitiveness, defining it as:

“the ability to achieve success in international markets leading to better standards of living for all. It stems from a number of factors, notably firm level strategies and a business environment that supports innovation and investment, which combined lead to strong productivity growth, real income gains and sustainable development.”

- 4.40 The goal of national competitiveness is essentially to provide Ireland’s people with the opportunity to improve their living standards and quality of life. Improving living standards depends on, among other things, raising incomes (and providing employment). To raise incomes, productivity gains are necessary but in an economy with a small domestic market, this requires a healthy exporting sector, in order for Ireland to maintain its national competitiveness.
- 4.41 Competitiveness refers to the ability of firms to compete in markets. Ireland’s national competitiveness refers to the ability of the enterprise base in Ireland to compete in international markets. The NCC uses a *competitiveness pyramid* to outline the framework within which it assesses Ireland’s competitiveness (Figure 5 below). At the top of the pyramid is sustainable growth in living standards – the fruit of past competitiveness success. Below this are the essential conditions for achieving competitiveness, including business performance (such as trade and investment), productivity, prices and costs and labour supply. These can be seen as the metrics of current competitiveness. Lastly, there are the policy inputs covering three pillars of future competitiveness, namely the business environment (taxation, regulation, finance and social capital), physical infrastructure and knowledge infrastructure. These are addressed in turn.

The NCC Competitiveness Pyramid



Source: National Competitiveness Council

Figure 5 - National Competitiveness Council Competitiveness Pyramid

4.42 All proposed regulations must therefore be examined as to whether they could impact on:

- Ireland's business and work environment;
- Economic and technological infrastructure;
- Education and skills;
- Entrepreneurship and enterprise development;
- Innovation and creativity.

Examine the effects of the regulation on national competitiveness.

Impacts on the Socially Excluded or Vulnerable Groups

4.43 Government Departments and Offices have been required to proof impacts on poverty and on vulnerable groups since 1998. The Government is committed to a coherent strategy for social inclusion based on the "lifecycle approach" set out in the national partnership agreement, *Towards 2016*. The lifecycle approach places the individual at the centre of policy development and delivery by assessing the risks facing him or her and the supports available at key stages of the life cycle. The key lifecycle stages are: Children, People of Working Age, Older People and People with Disabilities. There is also a particular emphasis on Communities. *Towards 2016* also commits the Government to ensure a disability impact assessment is carried out of all substantive memoranda submitted to the Government. This requirement is now incorporated in the Cabinet Handbook and appropriate disability impact assessment guidance is being developed.

4.44 In keeping with the commitments in *Towards 2016*, the *National Development Plan (NDP) 2007-2013* and the *National Action Plan for Social Inclusion (NAP inclusion) 2007-2016* stress the cross-cutting nature of poverty and exclusion and identify a number of policy areas relevant to tackling social exclusion such as employment, income maintenance, education, health and housing policy. They also identify several groups which are vulnerable to poverty and social exclusion: women, children and young people, older people, people with disabilities, members of the Traveller

community, prisoners and ex-prisoners, migrants and ethnic minorities. Building viable and sustainable communities, improving the lives of people living in disadvantaged areas (both rural and urban) and building social capital are also key national priorities.

- 4.45 The Government is also committed to promoting equality in employment and in the supply of and access to goods and services. Ireland's equality legislation prohibits discrimination on nine grounds: gender, marital status, family status, age, disability, sexual orientation, race, religion and membership of the Traveller community. The scope of the legislation is extensive and covers discrimination in relation to access to employment, advertising job vacancies, conditions of employment, equal pay for work of equal value, promotion opportunities, collective agreements, work experience and vocational training. It also covers discrimination in relation to the supply of and access to goods, facilities and services whether provided by the public or the private sector.
- 4.46 The National Health Strategy, *Quality and Fairness - A Health System For You*, states that "*Health Impact Assessment (HIA) will be introduced as part of the public policy development process*" and indicates that HIA is to be carried out on all new relevant Government policies. A RIA should therefore where appropriate examine the potential impact on health, with particular reference to health inequalities. Further guidance is available from the Social Inclusion Unit in the Department of Health and Children and the Institute of Public Health in Ireland, www.publichealth.ie.
- 4.47 The RIA should examine and identify potential impacts on socially excluded or vulnerable groups, as identified above, taking account of the highlighted policy areas. The RIA should also consider the potential impacts on people of different genders, marital status, family status, ages, disabilities, sexual orientation, race, religion and on members of the traveller community. In doing this, the likely impact of the policy or regulation on poverty, and on the inequalities which are likely to lead to poverty, should be considered. Where significant impacts under any of these headings are identified, a higher level of analysis will be required for the RIA.
- 4.48 Appendix K sets out more details as to how poverty impact assessment should be conducted. Further guidance on social inclusion and equality issues may be obtained from the Office for Social Inclusion in the Department of Social and Family Affairs (www.socialinclusion.ie) and the Equality Divisions of the Department of Justice, Equality and Law Reform and the Equality Authority.

Examine the impacts of regulations on social inclusion and vulnerable groups.

Environmental Impacts

- 4.49 A RIA must also examine and identify potential impacts of proposed regulations on the environment. National policy in relation to the environment includes *Sustainable Development: A Strategy for Ireland Making Ireland's Development Sustainable*; *Waste Management: Changing Our Ways*; *Waste Management: Taking Stock and Moving Forward*; *National Programme for Ireland on Transboundary Pollutants*; *National Climate Change Strategy* and the *National Biodiversity Plan*. (These documents are all Department of the Environment, Heritage and Local Government publications which are available at www.environ.ie).
- 4.50 There are a number of statutes in force that protect species and habitats, notably the Wildlife Acts of 1976 and 2000, and the regulations bringing into effect the Birds and Habitats Directives. A RIA should examine and identify potential impacts on these protected species and habitats. The statutes listed above create a network of legally protected areas, notably Special Areas of Conservation (SACs), Special Protection Areas (SPAs) for birds and Natural Heritage Areas (NHAs) and cover over 15% of the country. Special attention should be paid to the legal requirement to make an

appropriate assessment of any plan or project likely to affect an SPA, SAC or NHA, (either alone or in combination with others).

- 4.51 County and Local Development plans, or other plans published by the National Parks and Wildlife Service may also identify areas that, although not nationally designated are important in terms of biodiversity or of local significance as corridors for wildlife habitats and species. A RIA should examine and identify potential impacts on these areas. The National Parks and Wildlife Service (NPWS) produce and publish Species Action plans for some endangered species. A RIA should also examine and identify potential impacts on these plans.
- 4.52 The Environmental Protection Agency publishes periodic reports on the state of Ireland's environment, which identify pressures and impacts on the environment from various economic sectors, as well as highlighting trends across the range of environmental media. The Environmental Protection Agency has also identified a number of environmental issues which should be examined when conducting environmental impact assessments and also provides information sources to guide analysis under each heading:
- Air quality
 - Water quality and resources
 - Soil quality
 - Climate Change (both mitigation and adaptation)
 - Environment and Human Health
 - Natural Heritage and Biodiversity
 - Waste
 - Noise
 - Landscape and Land-use change
 - Material Assets (such as water supply and management, infrastructure, housing, transport, industry etc.)
 - Cultural Heritage, including architectural & archaeological aspects

Follow this link for Guidelines on the EPA website for information that should be contained in an Environmental Impact Statement where it is required:

<http://www.epa.ie/downloads/advice/ea/guidelines>

- 4.53 Where significant negative environmental impacts are identified under any of these headings, a more detailed RIA should be conducted. In determining the significance of impacts, consideration should be given to:
- The overall risks to environment and human health;
 - The probability, duration, frequency and reversibility of the impacts;
 - The magnitude and spatial extent of the impacts (geographical area and size of population affected);
 - The cumulative nature of the impacts;
 - Transboundary pollution risks;
 - the effects on areas, landscapes or species which have a recognised national or international protection status, particularly those designated SPAs, SACs and/or protected sites as part of the EU-wide Natura 2000 Network.

Examine the impacts of regulations on the environment.

Significant Policy Change in an Economic Market/Impact on Consumers and Competition

- 4.54 The RIA must assess whether the regulatory proposals involve a significant policy change in an economic market. Officials will, in general, be best placed to determine what is a significant change in a particular policy area under their aegis. However, in general terms there are a number of policy changes which are likely to be significant in a particular economic market or sector. For example, changes to the regulatory framework such as the transfer of power to an Independent Sectoral Regulator, or a significant change to a Regulator's powers and functions, are likely to be significant in their impacts. Other regulations which might fall under this heading include the removal or addition of restrictions on producers in a market, or the liberalisation of the provision of a particular product or service.
- 4.55 It is also necessary that impacts on consumers and competition be examined under this section of the RIA. Greater competition stimulates innovation and efficiency among businesses; contributes to lower prices of goods and services for consumers; and enhances overall national competitiveness. Regulation can impact on competition in a number of ways. For example, regulations can create barriers to entry such as limiting the number of suppliers in a market e.g. capping the number of licences; it can restrict the supply of certain services e.g. the restriction on the provision of services by persons other than a particular group.
- 4.56 In analysing the impact of a regulation on competition and consumer welfare the following questions might be useful:
- Is it introducing higher switching costs for consumers?
 - Will there be restrictions on consumers' choice?
 - Will there be restrictions on firms' choice?
 - Is the regulation likely to restrict entry to the market?
 - Is the regulation likely to alter market structure?
 - Is the regulation likely to increase some firms' market power?
 - Is the regulations likely to reduce the competitive position of small enterprise relative to large?
 - Would set-up costs be higher for new producers?
 - Would ongoing costs be higher for new producers?
 - Are some firms affected substantially more than others?

Where significant changes are involved under any of these headings, a more detailed RIA should be conducted.

Establish whether the regulations will involve a significant policy change in an economic market. This should include an examination of the impacts on competition and consumers.

The Rights of Citizens

- 4.57 Assess whether the proposals impinge disproportionately on the rights of citizens. Although it is the role of the Courts to adjudicate on cases of human rights breaches, officials should examine proposed regulations from this perspective and conduct a high level of analysis where significant human rights impacts are identified. There is often a balance to be achieved between protecting individual freedoms and promoting the welfare of society and judgments in relation to the appropriate balance in each case will be made by the relevant Minister based on the advice of officials, legal obligations and other factors.

- 4.58 In examining such impacts, consideration should be given to the personal rights defined in the Irish Constitution as well as to international agreements to which Ireland is a party. These include United Nations Treaties such as *the Universal Declaration of Human Rights* and Council of Europe Treaties like the *European Convention for the Protection of Human Rights and Fundamental Freedoms*. Examples of such rights are the right to life, liberty and security of person, the right to equal protection before the law, freedom of movement and the right to own property. Further information and publications on Human Rights can be obtained from the website of the Irish Human Rights Commission (www.ihrc.ie).

Examine the impacts on the rights of citizens.

North South/East West Relations

- 4.59 The impact on North-South and East-West relations should be considered as part of the RIA process, bearing in mind that regulatory proposals not directly related to North-South relations do have implications for people in Northern Ireland or for all-island co-operation.

Section 5: Consultation

- 4.60 Consultation with key stakeholders should take place as early as possible in the RIA process so that it can feed into the analysis of costs, benefits and impacts. Where possible, a draft RIA should be used as the basis for consultation. There are a variety of mechanisms for consultation and these are summarised in more detail in Appendix G. Detailed guidance on consultation can also be found in *Reaching Out: Guidelines on Consultation for Public Sector Bodies* (Department of the Taoiseach, 2005).
- 4.61 Formal consultation should be carried out in respect of more significant regulatory proposals and, at a minimum, informal consultation should always be undertaken. What is meant by informal in this context is that the consultation is not necessarily publicly advertised or all-inclusive. It might not necessarily involve formal consultation documents or fixed time-frames for responses. However, it is important that even informal consultation should be balanced in terms of seeking views from different interests in the process. At the very least, all Government Departments and Offices must be consulted. In general, it is desirable that all affected parties should also be consulted, including the Social Partners and relevant industry groups. The National Consumer Agency represents the interests of consumers and is a useful source of information and advice on consumer issues. Consideration should also be given to informally consulting the Competition Authority as part of the RIA process. One of the Authority's statutory functions is to advise the Government and individual Ministers about the implications of legislative proposals (including any statutory instruments) for competition in markets for goods and services. Some of these implications can be subtle, and not readily apparent or identifiable at first sight.
- 4.62 A summary of views conveyed through the consultation process should be set out as part of the RIA. Obviously, it is not practical to deal with every concern, but the RIA should also contain a brief response to key issues expressed. Where the final regulatory proposals do not take on board points/issues raised during the consultation process, this should be explained where possible. In general, the wider the consultation that takes place, the more buy-in there is likely to be from those affected by regulation, and the lower the likelihood of unforeseen impacts of regulatory proposals.

Section 6: Enforcement and Compliance

- 4.63 It is important that this section is closely related to your consideration of compliance and public service implementation costs. This section should include specific

information as to how enforcement of the regulations is to be achieved. Regulations which are not enforced will not achieve their objectives. A key question that must be addressed within the RIA is whether the regulations are enforceable within budgetary constraints. Where the answer to this question is no, an alternative policy option must be considered.

4.64 Other questions that should be addressed in relation to enforcement include the following:

- Will enforcement be carried out by an existing body/authority?
- If so, will it have the resources to take on board these new functions?
- If a new enforcement agency/office is to be created, the costs of establishing and running this new body must be included under the costs section of the RIA.

Where the proposal concerned is significant the following issues should all be considered:

Issues to be addressed in relation to enforcement and compliance

- **What are the necessary compliance targets for the policy option to achieve the desired objective? Here account should be taken of the risk associated with the policy area.**
- **Is it realistic to assume this level of compliance?**
- **How is compliance with the regulatory proposal to be enforced?**
- **Is enforcement to be carried out by an existing or new body?**
- **If additional enforcement functions are to be carried out by an existing body, detail any additional resources that will be necessary to ensure successful enforcement.**
- **If a new enforcement body is to be created, detail the initial and ongoing costs of the establishment and operation of this body.**
- **If there is more than one body involved in implementing or enforcing the regulations, how will consistency and communication between these bodies be ensured?**
- **How will accountability and independence of the enforcement body/(ies) be ensured?**

4.65 The RIA must also clarify where any new body created will fit within the existing regulatory landscape, who it will report to and how accountability will be achieved. If an existing body is to be charged with enforcement, this body should be consulted at an early stage to ensure that any specific issues or difficulties are identified and addressed. Where more than one body is charged with enforcement in a sector, consideration must be given as to how to ensure co-ordination and consistency amongst the bodies/agencies involved.

Describe the enforcement arrangements. What agency/body is to be charged with enforcement? Detail how the Better Regulation principles of consistency and accountability are to be achieved under the enforcement regime.

4.66 Achieving full compliance may not always be possible. Some thought must be given as to what levels of compliance are necessary for the regulations to achieve their objectives. As a general rule of thumb, the higher the level of risk associated with a policy area, the higher the necessary level of compliance. Compliance targets should be set out within the RIA and the RIA should also examine how best to ensure that these levels of compliance are achieved. Where risks are lower, less costly and bureaucratic methods of enforcement should be considered, such as spot testing for compliance, risk-based inspection or using self-assessment mechanisms. It is important that the burden

placed on State resources, business and on other stakeholders is at all times proportionate to the risk associated with the behaviour being regulated.

For an example of how Enforcement and Compliance might be delivered see the RIA conducted by the Department of the Environment, Heritage and Local Government on the Environmental Liability Directive at www.environ.ie

**Think: What are the compliance targets?
How are these best achieved?**

Section 7: Review

- 4.67 The final step in the RIA is to identify mechanisms for periodically reviewing the regulations to evaluate the extent to which they are achieving the objectives/intended benefits. Possible review mechanisms include reporting on performance within Annual Reports, consulting with stakeholders, establishing Review Groups and regular appearances of the relevant Minister or Regulator before Oireachtas Committees. Where appropriate, sunseting should also be considered, (e.g. where there is a temporary animal health threat).¹³ This is where at the time a regulation is made, a specific date is set on which the regulation will expire unless it is remade. This ensures that the regulation will be formally reviewed in the future to establish whether or not it is still valid, or if it could be improved, reduced or even revoked. Provision for review is particularly important given that the analysis within the RIA will be based on certain assumptions which may not hold in reality.
- 4.68 Performance indicators should be identified to indicate the extent to which the regulations are meeting their objectives. These might include compliance targets, levels of satisfaction amongst stakeholders or the achievement of particular goals or targets. For example, road safety policies specify indicators such as the number of lives lost in accidents, the number of serious injuries caused through accidents, the number of road accidents etc.
- 4.69 Once performance indicators have been identified, consideration should be given as to how information/data on these performance indicators will be obtained. This may involve the commissioning of research, the establishment of consumer or stakeholder feedback mechanisms or the collection of new statistics. Details of the data which will be used to measure performance should be stated.

Specify performance indicators for each option. Identify the mechanisms for measuring these and the data which will be used.

Section 8: Publication

- 4.70 In line with the Social Partnership Agreement, Towards 2016, all RIAs prepared in line with the Government decision on RIA must be published. Publishing RIAs makes the policy development process more transparent and accessible to stakeholders and helps

¹³ Sunseting means that, at the time a regulation is made, a specific date is set on which that regulation will expire unless it is re-made.

to better inform the parliamentary process. It also helps those carrying out RIAs for the first time to have published examples of previous RIAs to aid them in conducting their own RIA. In line with the principle of proportionate analysis the length of individual RIAs will vary depending on the significance of the proposal. RIAs are subject to the usual Freedom of Information exemptions. More information on Freedom of Information is available on the Department of Finance website, www.foi.gov.ie.

Where should RIAs be published?

- 4.71 In the interests of economy, RIAs should generally be published online only. The Review of the Operation of RIA found that RIAs were inaccessible on Departmental websites and recommended a single page on websites to ensure the accessibility of RIAs. If a Department's website already has a legislation page, the RIA should be published next to the relevant piece of legislation on this page. If no such page exists, RIAs must be published on a dedicated RIA page along with a link to the legislation to which they relate. These pages must be easily accessible from the home page. RIAs should also be easy to find through the search function on the website. Links to the legislation are available through the Oireachtas website (www.oireachtas.ie) in the case of Bills and the Irish Statute Book (www.irishstatutebook.ie) in the case of Acts. In the case of SIs, Departments themselves would have the most up-to-date version of the legislation. Departments are also encouraged to actively distribute RIAs to stakeholders, particularly those who have made submissions, and some have found it particularly useful to make RIAs available at consultation sessions and launches.

When should RIAs be published?

- 4.72 RIAs should be published as early as possible. RIAs relating to Bills must, at a minimum, be published on the legislation or RIA page of the relevant Departmental website along with a link to the Bill as soon as it is published. However, RIA is an on-going process and Departments are encouraged to publish early versions of RIAs as a basis for consultation. In such cases, it is important to remember to ensure that the RIA is updated, in particular, to take account of stakeholder views prior to its submission to Government and publication.
- 4.73 RIAs on EU Legislation must be published on the legislation or RIA page of the relevant Departmental websites once the Directive or Regulation is published by the EU. However, where Departments are involved in consultation processes to inform Ireland's negotiation position in relation to a particular initiative, they are encouraged to publish a version of their RIA at an earlier stage. Where a RIA relates to the transposition of an EU instrument and a consultation process is underway in this regard, it is also recommended that the RIA be used as the basis for consultations. It is important that the RIA which is published along with the instrument ultimately chosen, is fully up to date.
- 4.74 RIAs on SIs must, at a minimum, be published on the legislation or RIA page of Departmental websites along with the SI once it is signed. However, again, where consultation processes are underway, it is recommended that Departments publish a version of a RIA at an early stage whilst ensuring that the RIA is fully up-to-date prior to its publication along with the SI as signed.

Frequently Asked Questions

Q1. What is Regulatory Impact Analysis?

A1. Regulatory Impact Analysis is a tool used for the structured exploration of different options to address particular policy issues. It is used where one or more of these options is new regulation or a regulatory change and facilitates the active consideration of alternatives to regulation or lighter forms of regulation. It involves a detailed analysis¹⁴ to ascertain whether or not different options, including regulatory ones, would have the desired impact. It helps to identify any possible side effects or hidden costs associated with regulation and to quantify the likely costs of compliance on the individual citizen or business. It also helps to clarify the costs of enforcement for the State.

Q.2 Who is responsible for conducting RIAs?

A.2 As a general rule, it is officials working in policy sections who have responsibility for conducting RIAs. This is because, as experts in the particular policy section, such officials are best placed to identify policy options and the range of costs, benefits and impacts associated with those options. In this context, it is useful to identify staff with economic, legal and other analytical skills (e.g. Graduates of the MSc (Econ) in Policy Analysis) which are associated with the conduct of high-quality RIAs.

Q.3 Do I have to do a RIA?

See also chapter on “When is a RIA required” for further information.

A.3 A RIA must be conducted on:

➤ **Primary Legislation**

See chapter on when is a RIA required and Appendix C on RIA and eCabinet for further information.

➤ **Significant Statutory Instruments**

RIAs must be conducted on significant Statutory Instruments RIAs. See chapters on when is a RIA required and proportionality and significance for more information on the meaning of significance in this context.

➤ **Draft EU Directives and Significant EU Regulations**

RIAs must also be applied to all draft EU Directives and certain significant EU Regulations. See chapter on when is RIA required and Appendix H for further information.

➤ **The Transposition of EU Legislation**

Drawing on the RIA produced during the negotiation process, officials responsible for the transposition of EU Directives should prepare a separate RIA on the available transposition options (both legislative and non-legislative). See the chapter on when is a RIA required for further information.

¹⁴ The level of analysis involved should be proportionate to the significance of the proposal in question. Further guidance on the issues of significance and proportionality are set out in the chapter on proportionality and significance.

➤ **Policy Review Groups**

A RIA must be conducted by all Policy Review Groups where primary legislation or a significant regulatory change is being proposed. See the chapter on when is a RIA required for more information.

Q.4. When should I start a RIA?

A.4 It is important to carry out a RIA as early as possible and, in so far as possible, before the actual decision to regulate is made. This means that it is possible to consider the use of alternatives to regulation (e.g. information campaigns) or lighter forms of regulation (e.g. self-regulation) as required by the RIA model, even if they are not necessarily considered to be the most appropriate approach in the long run. In this way the decision makers can be fully informed about the costs, benefits and impacts of the options available to them.

Of course, there will be situations where a commitment to legislate has already been made e.g. in the Programme for Government or a Social Partnership Agreement. Officials tasked with producing RIAs in these circumstances should focus on different options relating to issues within the scope of the legislation (e.g. how a particular scheme might be funded or administered) rather than on the broader question of whether or not to regulate. Even in these cases, it is important that the RIA process is commenced as early as possible. In addition, although measures contained in the Finance Bill are exempt from the RIA process, the implementation of measures announced in the Budget which will be pursued through other legislation may be suited to the RIA process.

Q.5 What are the steps of RIA?

A.5 The steps of the RIA process are:

- 1. Summary of overall RIA**
- 2. Statement of policy problem and objective**
- 3. Identification and description of options**
- 4. Analysis of impacts, including the costs and benefits of each option**
- 5. Consultation**
- 6. Enforcement and Compliance**
- 7. Review**
- 8. Publication**

It is useful to note that these steps do not necessarily follow one another. For example, ideally, consultation should commence as soon as possible and the RIA should develop in response to consultation processes. Step 5 of the process should detail the consultation process and the Departments response to the consultation. Another example of where the steps would not be followed in order is in relation to the summary of the RIA which cannot be finished until the rest of the RIA is complete.

Further information on each of these steps is set out in chapters on proportionality and significance and conducting a RIA.

Q.6 We have already conducted an extensive consultation proposal. How do we now handle the consultation element of RIA?

A.6 Ideally, a RIA should be commenced at such an early stage that it should develop in response to consultation processes. In fact, in most cases it is useful to use a RIA as the basis for consultation. However, where this is not the case, the RIA should include details of the consultation mechanisms used. In any case, all consultation

processes should be conducted in line with the 2005 *Reaching Out* Guidelines¹⁵. Submissions should be summarised and key concerns addressed in the text of the RIA. It is not sufficient to set out the content of submissions without addressing the merits of any general themes which emerge. If a considerable time period has lapsed between the conduct of consultations and the preparation of the RIA, it may be necessary to re-engage with certain stakeholders.

Q.7 How often do I need to update my RIA?

A.7 Your RIA should, insofar as possible, reflect the current thinking in relation to relevant policy options. You should keep it as up-to date as possible so that staff of your section can refer to it as needed. However, it is accepted that, where information is emerging quickly it may not always be possible to update the RIA on each and every occasion that something changes. This issue arises particularly for some officials involved in EU negotiating processes who will also find it useful to consult Appendix H of these Guidelines. Where your RIA relates to proposed primary legislation, you must ensure that, at a minimum, it is fully up-to-date when you revert to Government with the Bill as published and prior to its publication.

It is important to understand the difference between keeping your RIA as up-to-date as possible and the issue of publication (see question 12 below). You may need to update your RIA internally to ensure its accuracy more often than you will need to publish. Again, however, this is an issue which needs to be looked at on a case-by-case basis.

Exceptions

Q.8 Are there any cases where a RIA is not required?

A.8 Although RIA can potentially benefit all policy areas/regulations, it is not compulsory to apply RIA to the Finance Bill, emergency, security and some criminal legislation. These exceptions are interpreted very narrowly. For example, most criminal legislation should be put through the RIA process, given its wider societal implications and the fact that significant costs may be involved. Even where a RIA is not formally required, however, Departments may use the process as a matter of good practice. Where emergency legislation is required (e.g. to stop the spread of disease; to immediately replace legislation struck down as unconstitutional or for other purposes of law enforcement or security) there is no requirement for RIA to be applied.

In addition, the publication of a RIA may not be appropriate in the case of tax law/regulations or the imposition of charges because of their sensitivity and the need to guard against possible evasion or avoidance.

For further information on exemptions see paragraphs 2.20-2.25.

If you think that your proposal falls within the limited exceptions outlined above, it is important that you clarify the position with your RIA Network member or the Better Regulation Unit as early as possible (see www.betterregulation.ie for contact details).

Q.9 The legislation which I am preparing was committed to by Government prior to the introduction of RIA in 2005. Am I still required to do a RIA?

A.9 Yes. There is no exemption from RIA in these circumstances but the focus of the RIA might more usefully be on different options relating to issues within the scope of

¹⁵ The Guidelines, published by the Department of the Taoiseach are available at www.betterregulation.ie

the legislation (e.g. how a particular scheme might be funded or administered), rather than on the broader question of whether or not to regulate.

Q.10 The legislation which I am preparing was committed to by Government in the Budget. Am I still required to do a RIA?

A.10 Where decisions to regulate are included in the Budget, it is still important to conduct a RIA, which should focus on the actual implementation of the regulation rather than the decision whether or not to regulate.

Q.11 I am working on consolidating existing legislation. Do I need to conduct a RIA?

A.11 This needs to be assessed on a case-by-case basis. A lot of consolidating legislation also encompasses new regulatory requirements and in such cases a RIA should be carried out focusing on these new requirements. In cases where no regulatory changes are being introduced, it is not necessary to conduct a RIA.

In recent years the EU Commission has brought forward a considerable number of proposals for Directives which are designed to consolidate existing EU legislation. If you are involved in negotiating such a Directive you will need to consider whether the proposal introduces any new regulatory requirements. It is only in cases where new requirements are being introduced that a RIA needs to be conducted. Any RIA produced in these circumstances should focus on these new requirements.

Publication

Q.12 Do all RIAs need to be published?

A.12 Yes, in line with the terms of the Social Partnership Agreement, *Towards 2016*, RIAs must be published and details of their publication included in the Annual Reports of Departments and Offices. The only exception relates to RIAs which are not formally required but which have been prepared by Departments as a matter of good practice as outlined at question 8 above. It is important to remember that this exception is very limited.

Publishing RIAs makes the policy development process more transparent and accessible to stakeholders and helps to better inform the parliamentary process. It also helps those carrying out RIAs for the first time to have published examples of previous RIAs to aid them in conducting their own RIA. RIAs are subject to the usual Freedom of Information exemptions.

Q.13 When should I publish my RIA?

A.13 Primary Legislation

RIAs relating to Bills must, at a minimum, be published on the legislation or RIA page of the relevant Departmental website along with a link to the Bill as soon as it is published. However, RIA is an on-going process and Departments are encouraged to publish early versions of RIAs as a basis for consultation. In such cases, it is important to remember to ensure that the RIA is updated, in particular, to take account of stakeholder views prior to its submission to Government and publication.

➤ **EU Legislation**

RIAs on draft EU Legislation must be published on the legislation or RIA page of the relevant Departmental websites once the final Directive or Regulation is published by the EU. However, where Departments are involved in consultation processes to inform Ireland's negotiation position in relation to a particular initiative, they are

encouraged to publish a version of their RIA at an earlier stage. This RIA should then be updated and published when the Directive or regulation is published.

➤ **Transposition of EU Legislation**

Where a RIA relates to the transposition of an EU instrument and a consultation process is underway in this regard, it is also advised that a version be published at an early stage so as to actively inform such a consultation process. It is important that the RIA which is published along with the instrument ultimately chosen, however, is fully up to date.

➤ **Secondary Legislation**

RIAs on SIs must, at a minimum, be published on the legislation or RIA page on Departmental websites along with the SI once it is signed. However, again, where consultation processes are underway, it is recommended that Departments publish a version of a RIA at an early stage whilst ensuring that the RIA is fully up-to-date prior to its publication along with the SI as signed.

How many versions of a particular RIA are published is a matter for Departments to decide on a case-by-case basis.

Q.14 Where should I publish my RIA?

A.14 It is important that RIAs are published on the websites of responsible Departments. If a Department's website already has a legislation page, the RIA should be published next to the relevant piece of legislation on this page. If no such page exists, RIAs must be published on a dedicated RIA page along with a link to the legislation to which they relate. These pages must be easily accessible from the home page. It is important that RIAs can be easily found by using the search function on the Departmental website.

Departments are also encouraged to actively distribute RIAs to stakeholders, particularly those who have made submissions, and some have found it particularly useful to make RIAs available at consultation sessions and launches.

Q.15 Does my RIA need to be published in Irish?

A.15 No. Unless Departments have otherwise committed to the translation of certain documents into Irish, there is no formal requirement to publish your RIA in Irish as it is not a document which sets out Government policy, but rather examines various options and their impacts to assist better decision-making.

Q.16 The contents of my RIA are particularly controversial. Do I still need to publish it?

A.16 Yes. As set out in response to question 12 above, publication is a key element of RIA which brings greater transparency to the policy development process. As a consequence, exceptions to the requirement to publish are extremely limited. However, FOI exemptions may be applied to certain elements of the RIA.

Q.17 A RIA was attached to the memo which was sent to Government seeking permission to draft the Bill I am working on. Does it need to be re-attached when we revert to Government with the Bill as drafted?

A.17 Yes. It is very important that the RIA is updated and re-attached to the Bill at this stage so that it can be re-examined by Government before they approve the Bill.

There is likely to have been considerable stakeholder input in the intervening period and the Bill may well now include substantive provisions which were not included when the original heads were brought forward.

When preparing a Memorandum for Government relating to proposed legislation, it is vital that the correct legislative template is used on eCabinet. This template will automatically insert a “Regulatory Impact Analysis” heading into the body of your memorandum under which you are required to summarise the contents of your RIA. This is a requirement under Cabinet procedure.

Q.18 How do I get hold of all the information which I need for my RIA?

A.18 The data which you need for RIA is likely to come from a number of different sources. Certain information will be available to you within your own Divisions or from colleagues in other Divisions of your Department. A number of Departments have dedicated research and statistical units such as the Health Research Board. CSO publications can also be useful. It is important to bear in mind that other Departments may be best placed to supply information. In addition, some European and international reports may also be useful. Consultation may also reveal certain information which would not otherwise be available to you. If you have any further questions about accessing information please contact your RIA Network member or the Better Regulation Unit. See www.betterregulation.ie for further details.

Q.19 Where can I get examples of other RIAs?

A.19 Some examples of RIAs previously conducted are set out throughout these Guidelines. RIAs should also be published clearly on the websites of individual Departments. If you are trying to find specific examples, please contact your RIA Network member or the Better Regulation Unit (see www.betterregulation.ie for contact details).

Q.20 How can I learn more about RIA?

A.20 The Better Regulation Unit, in association with the Civil Service Training and Development Centre (CSTDC) holds regular 2 day training sessions on RIA (see www.training.gov.ie for further details) which are designed specifically for officials who are conducting RIAs or are likely to do so in the future.

Q.21 What if I cannot make the RIA Training courses?

A.21 The Better Regulation Unit of the Department of the Taoiseach is available to conduct tailored presentations on RIA to suit the specific needs of each Department and Office. For more information on the types of presentations available, contact the Better Regulation Unit of the Department of the Taoiseach or log onto their website at www.betterregulation.ie. Short presentations on RIA are also given as part of the CSTDC courses on the Legislative Process and Policy Analysis and certain courses run by other institutions.

Q.22 Where can I get information updates about RIA?

A.22 The Better Regulation website has updates on RIA, a RIA bulletin is posted onto the website which gives you information on upcoming RIA Training dates, recent examples of best practice RIAs which have been carried out and other general information regarding RIA.

Q.23 What is the RIA Network?

A.23 The RIA Network brings together officials from each Government Department/Office in order to discuss, share experience and develop best practice on conducting RIAs. The RIA Network meets on a quarterly basis and has a role in supporting RIA development within their own Departments. The Network has a role in ensuring that the commitments on RIA contained in *Towards 2016* are met. The contact details for all RIA Network members are available on www.betterregulation.ie.

Q.24 How can I get a copy of the RIA Guidelines?

A.24 The RIA Guidelines are posted on the Better Regulation website www.betterregulation.ie. Alternatively you can contact the Better Regulation Unit of the Department of the Taoiseach for a copy of the Guidelines. (ph. 00353 1 6194593, email: betterregulation@taoiseach.gov.ie)

Q.25 What is meant by proportional?

A.25 For information on the meaning of proportionality, see the chapter on proportionality and significance.

Q.26 What is meant by significant?

A.26 For information on the meaning of significance, see the chapter on proportionality and significance.

Q.27 What analytical technique should I use to assess the costs, benefits and impacts relating to the options I have identified?

A.27 The analytical technique to be used will differ depending on the nature of the policy area you are working in and the type of proposal being brought forward. Usually, however, a combination of quantitative and qualitative analysis will be required and Appendix D offers some advice on the use of Multi-Criteria Analysis in these situations. A formal cost-benefit analysis should be conducted in respect of more significant proposals but it is expected that this may need to be undertaken within the context of a broader multi-criteria approach.

It is important that you analyse all of the costs, benefits and impacts of each option. You should identify the direct and indirect, once-off and on-going costs and benefits not only for the Exchequer but for all parties concerned. It is also important that both public service implementation costs and all compliance costs, including administrative burdens are taken into account. There are likely to be a number of different costs and/or benefits and, if necessary, they should be summarised in a table. **See par. 4.13-4.23 for further advice.**

Q.28 What if I need help to conduct my analysis?

A.28 If you are concerned about the analytical elements of your RIA, you should consult Appendix D of these Guidelines. You may also contact your RIA Network member or the Better Regulation Unit (BRU) of the Department of the Taoiseach (see www.betterregulation.ie for contact details). The BRU has engaged an economic consultant to assist officials conducting RIAs involving particularly complex economic analysis.

Q.29 What are the White Paper Principles of Better Regulation?

A.29 The Government White Paper on Better Regulation *Regulating Better* (2004) sets out six principles of Better Regulation. These are: necessity, effectiveness, proportionality, transparency, accountability and consistency.

Necessity – is the regulation necessary? Can we reduce red tape in this area? Are the rules and structures that govern this area still valid?

Effectiveness – is the regulation properly targeted? Is it going to be properly complied with and enforced?

Proportionality – are we satisfied that the advantages outweigh the disadvantages of the regulation? Is there a smarter way of achieving the same goal?

Transparency – have we consulted with stakeholders prior to regulating? Is the regulation in this area clear and accessible to all? Is it supported by good explanatory material?

Accountability – is it clear under the regulation precisely who is responsible to whom and for what? Is there an effective appeals process?

Consistency – will the regulation give rise to anomalies and inconsistencies given the other regulations that are already in place in this area? Are we applying best practice developed in one area when regulating other areas?

Appendix A: Sample Summary Sheet

Summary of Regulatory Impact Analysis (RIA)¹⁶		
Department /Office: Department of Transport	Title of Legislation: Free Travel within Ireland for Persons Under the Age of Twenty One Regulations 2009	
Stage: Internal draft		Date: 28 February 2009
Related Publications: Programme for Government (available at www.taoiseach.gov.ie) Department of Transport Statement of Strategy 2009-2011 (www.transport.ie)		

Available to view or download at:

<http://www.transport.ie>

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What are the policy objectives being pursued?

1. To encourage the use of public transport
2. To reduce the transport costs for young people, particularly in the context of accessing education and recreational opportunities.

What policy options have been considered? Please summarise the costs, benefits and impacts relating to each below and indicate whether a preferred option has been identified.

1. Do Nothing.
2. Distributing free travel passes to everyone under 21 redeemable on CIE services only.
3. Distributing free travel passes to everyone under 21 redeemable on all scheduled services, including those operated by private providers.
4. Allowing free transport on all CIE services on production of a valid Garda ID card, passport or driving licence.
5. Allowing free transport on all scheduled services including those operated by private providers on production of a valid Garda ID card, passport or driving licence

Preferred Option:

Allowing free transport on all CIE services on production of a valid Garda ID card, passport or driving licence. This is the preferred option because it will achieve benefits similar to those of other options but at the least cost.

¹⁶ In no case should this summary exceed 3 pages.

OPTIONS			
	COSTS	BENEFITS	IMPACTS
1	Cost for Consumer = €0.64m	Saving for Exchequer = n/a Saving for Business = n/a	Cost of public transport continuing to reduce opportunities for u.21s, particularly those at risk of poverty Parents and u.21s themselves more likely to continue use
2	Cost for Exchequer = €52.5m Cost for Business = €20m	Savings for consumer = €0.64m Easier access to educational and recreational facilities.	Positive impact in terms of social inclusion- this initiative is likely to be particularly positive for persons under 21 living in poverty. Potentially positive environmental impact- may discourage parents and young persons over 17 from using cars
3	Cost for Exchequer = €72.5m	Savings for consumer = €0.64m Easier access to educational and recreational facilities. Continuing profitability of a large number of service providers in the bus sector	Positive impact in terms of social inclusion- this initiative is likely to be particularly positive for persons under 21 living in poverty. Potentially positive environmental impact- may discourage parents and young persons over 17 from using cars May be a negative equality impact given that travel passes currently available to persons over 66 are only valid on State transport. Positive impact on competition and consumer choice in bus services as compared with options 2 and 4.
4	Cost for Exchequer = €50m	Savings for consumer = €0.64m • Easier access to educational and recreational facilities.	<ul style="list-style-type: none"> • Positive impact in terms of social inclusion- this initiative is likely to be particularly positive for persons under 21 living in poverty. • Potentially positive environmental impact- may discourage parents and young persons over 17 from using cars
5	Cost for Exchequer = €70m	Savings for consumer = €0.64m • Easier access to educational and recreational facilities.	<ul style="list-style-type: none"> • Positive impact in terms of social inclusion- this initiative is likely to be particularly positive for persons under 21 living in poverty. • Potentially positive environmental impact- may discourage parents and young persons over 17 from using cars • May be a negative equality impact given that travel passes currently available to persons over 66 are only valid on State transport. • Positive impact on competition and consumer choice in bus services as compared with options 2 and 4.

Notes on Completion of Summary Sheet

- 1. All parts of the summary sheet should be completed. It is recognised that it may be difficult to remain within the single page but in no case should the summary sheet be longer than 3 pages once completed.**
- 2. All options should be identified as clearly and briefly as possible, in keeping with the overall length of the summary sheet. Identifying a preferred option is not mandatory but in practice most RIAs do set out which option is favoured.**
- 3. Where possible, monetary figures should be included in the boxes covering costs and benefits but where this is not possible then a very brief description and quantification should be included e.g. 120,000 pregnant women to be made eligible to attend free nutrition classes.**
- 4. While in the example prepared here the decision to regulate has already been announced and the costs, benefits and impacts of the implementation options are similar, it is important to remember that where a commitment to regulate has not already been made then there is likely to be greater differences as between the options.**

Appendix B: Conducting a RIA: A Writer's Guide

The material that follows should be read in addition to the text in other sections of the guidelines and is designed to supplement rather than replace it. All cases studies set out here are purely hypothetical.

Getting Started

1. Don't Panic! Remember that you may well already have extensive experience of policy making and elements of the RIA process such as consultation. RIA is just a policy tool which is designed to help you.
2. **Read these Guidelines fully** and keep a note of any points which you are unclear about.
3. Contact your Training Officer who will be able to arrange RIA training for you.
4. Contact your Departmental RIA Network member or the Better Regulation Unit who will be able to give you practical advice based on their own experience or point you in the direction of Departmental colleagues with previous experience of RIA. Contact details for the RIA Network are available on www.betterregulation.ie.
5. Be realistic from the start about how much analysis will be necessary. It is important that analytical techniques are applied appropriately, particularly in relation to more significant proposals. It is important that you identify the resources needed at an early stage.

Statement of Policy Problem and Objective

As with the introduction to any document, you should aim to combine clarity and brevity in this section. It is also important that this section is not unnecessarily long relative to other sections of the report. Contextual information should be kept to a minimum and more detailed text can be added as an appendix. Remember that you are aiming to identify the exact policy problem. Your objectives should therefore relate to that issue rather than more general sectoral concerns. Think about what decision makers and stakeholders actually need to know and stay focused! Identify your objectives as immediate, medium or longer-term to provide a clearer context for decision-making.

Case Study Example 1: Food Advertising and Childhood Obesity

Statement of Policy Problem and Objectives

If you are developing policy proposals to regulate the advertising of food marketed at children, your focus here should be on issues such as:

Problem

- Children's health and quality of life
- Future Health Care Costs and related statistics
- Data on the actual impact of advertising

In your description of the problem, remember to focus on childhood obesity and the evidence of a connection between its increase and advertising. While other contextual information on obesity and health outcomes is of interest it should not dominate and be best placed in an appendix. There are more elements to play here than just advertising and this should be clearly acknowledged.

Objectives

Immediate:

- Encourage healthy eating and a more balanced lifestyle.

Medium-term/Longer-Term:

- Reduction in obesity, improved quality of life, improved health outcomes.

It is important to separate immediate and other objectives here so as not to overstate what can be achieved by the various options in the shorter-term.

Identification and Description of Options

It is very important that you remember the “do-nothing” option here. When you are an expert in a particular sector, it is all too easy to assume that it is obvious that something must be done. This is rarely true and other officials have found it useful to use RIA as an opportunity to stand back and think about all the consequences of action in a particular policy area.

Another key point to bear in mind is that options should be realistic and of real meaning. Therefore, while officials are encouraged to consider non-regulatory options in the context of RIAs where a political decision to regulate has already been taken, then the focus should be on the operationalising of the regulations rather than on whether or not to regulate.

Finally, when describing options, make sure that can be clearly distinguished from one another.

Case Study Example 2: Free Transport for Everyone Under 21

Identification and Description of Options

In the context of its latest transport plan, the Government has agreed to regulate to extend free public transport to everyone under 21.

The sort of options which you might consider are:

- Distributing free travel passes to everyone under 21 redeemable on CIE services only;
- Distributing free travel passes to everyone under 21 redeemable on all scheduled services, including those operated by private providers;
- Allowing free transport on all CIE services on production of a valid Garda ID card, passport or driving licence;
- Allowing free transport on all scheduled services including those operated by private providers on production of a valid Garda ID card, passport or driving licence..

Analysis of Impacts, including the Costs and Benefits of Each Option

The key thing to remember here is to consider all impacts, not only those with which you are most familiar or those that arise for the Exchequer. In order for your RIA to be useful as an aid to decision-making it must contain a clear comparison of the costs, benefits and impacts of each option. It is important that this comparison is clear and usually it is advisable to make use of tables. The more significant your proposal is, the more structured your analysis should be and it is important that you consult **Appendix D** of these Guidelines.

NB. The following example is for illustrative purposes only, in practice cost (and where possible benefits) should be monetised. If monetisation is not possible for all costs and benefits, they must at least be quantified within the context of Multi-Criteria Analysis (see Appendix D).

Case Study Example 3: Addressing a Shortage of Landline Service Providers

Analysis of Impacts, including the Costs and Benefits

All areas of the country now have access to broadband and there is little demand for traditional landline services. This has resulted in services in many parts of the country being cut. The Government is considering acting to improve communication links, especially in rural areas, by incentivising the provision of landline services or by subsidising the purchase of computer equipment.

In considering your various options there will be a range of costs for you to consider. Some issues that may relate to the “Do Nothing” option are included here for illustrative purposes only. Once you have identified your objectives and the costs, benefits and impacts associated with each option, you will be able to use these to create a clear comparative “multi-criteria” framework (usually involving one or more tables relating to all options) based on specific criteria e.g. reduced business costs. You may wish to assign weightings to each of these criteria based on their relative policy importance, (see **Appendix D for further information on how to use Multi-Criteria Analysis and related examples**).

OPTION 1: “Do Nothing”	Costs	Benefits	Impacts
	Cost to existing businesses in many areas, especially SMEs, of lost business resulting from poor/unaffordable communication links €	The absence of land line services is likely to encourage the use of more modern technology, thereby improving the attractiveness of these areas for investors. €	Increased isolation of rural communities and, in particular of older people in those areas in the short-term
	Loss of existing business revenues for the Exchequer and loss of revenues associated with new businesses which would otherwise have been expected to be established in relevant areas. €	Increased awareness of computer technology by the population is likely to result in improved employment prospects for some of the individuals concerned. €	Short to medium-term difficulties for communities, and especially people in poverty, in accessing State and Local Authority services
	Cost to business and to general public of having to purchase computer equipment €		
OPTION 2			

Consultation

First things first! If you don't already have a copy of the Consultation Guidelines, *Reaching Out*, go to www.betterregulation.ie. Some key points from those guidelines are summarised at **Appendix G** of these Guidelines. The good news is that this section of the RIA process is usually well addressed by Irish officials.

Although, ideally the RIA document (obviously still containing some gaps at this stage) itself will form the basis for much of your consultation, you are not being asked to re-invent the wheel and where responses to an earlier consultation process are still valid and up-to-date there is no difficulty in including these as long as they responded to in an appropriate way.

Once you have read those guidelines, you will have a better idea of the different type of consultation methods open to you and you will likely have recognised many as being very familiar to you. Remember also that, even within your own specialist policy area, **different consultation methods might suit different stakeholders.**

TIP:

Don't Forget to analyse consultation responses. It's not enough to look like you're listening. You need to show that you are listening to stakeholders' perspectives.

Respond to the issues which are raised!

Case Study Example 4: Dogs in Public Places

Consultation

There is evidence that the use of certain public amenities such as parks has reduced in recent years due to the presence in those places of certain larger breeds of dogs. You have been asked to conduct a RIA to consider the options for addressing this problem and are about to commence your consultations.

Some of the Groups which you will consult might include:

- Local Authorities who may have an ultimate enforcement role
- Animal Welfare and Dog Owners Associations
- Groups representing people with visual impairments
- The Office of the Minister Children (given the importance of such amenities for families)

Given the range of stakeholders involved, you will need to ensure that you use a variety of consultation methods, both oral and written, and you will also need to ensure that you respond to the issues raised using an appropriate means of communication.

Enforcement and Compliance

The key thing here is to think beyond the legislative process and focus on how things actually work in reality. **Always** think of the risk of non-compliance and start from there to devise an approach which is proportionate.

Remember:

Establishing a new Regulatory Authority unless there is clear evidence that its role cannot be fulfilled by a Department or an existing Body is against Government policy as set out in the 2004 White Paper, *Regulating Better*.

It is not too early to do the following:

- **Think about how and by whom your legislation will be enforced.**

Now is the time that you need to start talking to other Departments if they, or Bodies under their auspices, might have a role to play in enforcing your legislation. Even where you are likely to produce primary legislation which does not contain specifics regarding enforcement, you need to start working together if future Statutory Instruments are going to contain such provision. Remember that **resource planning and deployment** takes time! Start thinking about these issues early!

Be smart about your enforcement:

- Are random checks enough?
- Could there be exemptions for certain types of business or for Small and Medium Enterprises?
- What use can be made of Information Technology?
- Could inspectors from another Body perform a preliminary enforcement role?
- What levels of compliance can you hope to achieve?

Remember:

Much of the regulatory burdens faced by stakeholders arise from how legislation is enforced and must be complied with. This is also where the bulk of Public Service Implementation Costs arise. Given that such burdens can have a significant impact on National Competitiveness, it is important that you give this stage of the RIA process due attention.

- **Think through how you intend that these regulations will be complied with.**

You will already have thought about the issue of compliance costs. However, this step offers you an opportunity to stand back from any proposed legislation and think about how it appears to business and other stakeholders.

- Are there easier and cheaper ways to achieve the same or better levels of compliance? Again think about how information technology can be used.

- Could a simple facility such as a “single-point of contact” make life easier for those trying to comply? Does your website provide as much information as it could?
- Could simple guidance produced by the Department or Body save business and other stakeholders time and money in trying to understand what is expected of them?
- Could data be shared by different Bodies with the permission of stakeholders?
- Is there a need for licences to be renewable every year? Would a longer period of say 3 years be sufficient?

Case Study Example 5: Driving and Listening to the Radio

Enforcement and Compliance

You are an official working in the Department of Transport. In its Programme for Government, the Government has committed to banning radios in cars and other vehicles in order to reduce road traffic accidents. Given that this commitment to regulate has already been made, your RIA will focus around how this commitment can best be implemented. The issues of enforcement and compliance will, therefore, be of particular importance.

Some of the questions which you will need to ask yourself are:

- Is this something which the Gardaí are prepared to enforce? What are the costs of their time likely to be?
- Are there any other Agencies which could be of assistance? Perhaps the Road Safety Authority would be willing to include this issue as part of its overall road safety promotional activities. How much would this cost and to what extent would this reduce the need for more direct enforcement activities?
- Would it be possible to have a check for radios included as part of the NCT?
- What are the compliance costs likely to be for private citizens and for car manufacturers and dealerships (this will be related to your earlier consideration of costs)?
- Would it be possible to make the regulation prospective such that only cars manufactured from a certain date would be required to have no radios?

Review

This section can easily be forgotten about when you are under pressure to get legislation written and passed as quickly as possible. However, in terms of the long-term health of Ireland’s regulatory environment and its consequent competitiveness, it is vital that Departments stop to think about the following important question:

- **How will we know that the legislation is working?**

Even if you get regulation completely right at a particular point in time, in most policy areas, changing social and economic circumstances will create some need for change. Out-dated

legislation must be replaced with modern and innovative approaches if a sustainable and fair society is to be delivered in the longer-term.

Performance indicators should be identified. Remember that this is something which will have to be done anyway in the context of the output statement of the relevant Department.

Are there different indicators which will be relevant after say 6, 12 and 24 months?

Monitoring Systems based on these indicators should be put in place at an early stage or else there is little point in setting indicators. How will data be stored and reported on? What access will stakeholders have to information?

Finally, if you are committing to a review of legislation in say, 5 years time, **consider using the RIA model** to frame your review.

Case Study Example 6: Driving and Listening to the Radio



Review

It is useful to revisit this earlier case study now in order to demonstrate the importance of thinking about review during the RIA process and not later on when the time for review has already arrived..

Some questions you will wish to think about in this context are:

- How will we know that the legislation is working? Do we have an idea of what sort of reduction in accident numbers we expect after year 1, year 3, year 5? (N.B. this is related to the issue of compliance targets)?
- Will we have accurate data to support our claims of success? Are records currently kept of incidents where radio-listening was considered to be the primary cause?
- Are the Gardaí and any other Agencies involved prepared to keep a record of incidents involving radios or occasions where they stop drivers who are listening to the radio?

Appendix C: RIA and eCabinet

Legislative Proposal: Memorandum 	
Start	A Regulatory Impact Analysis is required for these proposals.
Title	<input checked="" type="radio"/> I have already completed a RIA and will attach it later
Decision Sought	<input type="radio"/> I have not yet completed a RIA and want to do so now.
⇒ Sections	<input type="radio"/> I have not yet completed a RIA and will do so later
Designation	
Finish	
	To return to the eCabinet Workspace press Cancel. If you do so, you will lose all information entered to this point.
eCabinet	<input type="button" value="Next >>"/> <input type="button" value=" << Previous"/> <input type="button" value="Cancel"/> <input type="button" value="Finish"/>

Appendix D: Overview of Multi-Criteria Analysis

Multi-criteria analysis evaluates options by using a set of criteria¹⁷ and measuring the extent to which the objectives have been achieved through these **criteria**. The extent to which the options impact on the criteria is usually measured through a scoring factor. This **scoring factor** may be numerical, for example, awarding scores in the range of zero to 100 or 1 to 5 under each criterion. Alternatively, ordinal scoring may be used. This involves awarding of scores on a scalar basis, for example using a five or seven point scale.

In this case, a seven point ordinal scale is usually preferred in practice as it allows a higher degree of discrimination of effects than the five point scale. That scale is:

- Highly positive
- Moderately positive
- Slightly positive
- Neutral
- Slightly negative
- Moderately negative; and
- Highly negative

The choice between an ordinal or numerical scoring system depends in part on the degree of precision with which effects can be measured. For example, if a quantitative indicator can be used to measure an effect, then this may be more easily translated into a numerical scoring system.

A **performance matrix** is used to describe the performance of each option against the criteria. The following table sets out a generic performance matrix where three options are being considered and five criteria have been established. Finally, where a numerical scoring factor is used, there is the possibility of using a **weighting scheme** which enables the impacts of each of the options under consideration to be aggregated into a single measure.

Option	Criterion 1	Criterion 2	Criterion 3	Criterion 4	Criterion 5
A					
B					
C					
D					
E					

Table 1: Generic Performance Matrix

Thus, implementation of a multi-criteria approach involves the following steps:

1. Identify the objectives;
2. Identify the options;
3. Establish the criteria to be used;
4. Evaluate the anticipated performance of each option against the criteria;
5. Score the options on the basis of this evaluation; and
6. Use a decision mechanism to identify preferred option(s).

¹⁷ Criteria should be chosen by reference to your objectives. The rating of each criterion should reflect the costs, benefits and impacts which you will have identified.

Step 1 - Identification of Objectives

Objective setting has been discussed elsewhere in these guidelines. However, in order to make the multi-criteria analysis as meaningful as possible, it is vital that clearly separable objectives should be established. These objectives will ultimately become the criteria used for the purpose of multi-criteria analysis.

Step 2 - Identification of Options

Option identification is part of the RIA process proper and has been described elsewhere in these guidelines. However, a number of aspects of option development deserve reiteration here:

Defining fair options: There is a need to define options in such a way that decision-makers are faced with realistic decisions. Decision makers should be given a range of realistic options, including the 'do nothing' option. For example, there is no value in selecting an option which does not address the issue, a gold plated option and one realistic option.

Step 3 - Establishment of the Criteria

For each objective a number of criteria and sub-criteria should be established. Sub-criteria may be required where an objective has a number of facets which need to be addressed, or where no one criterion adequately captures the intent of the objective. Sub-criteria should be sub-sets of the major criteria. In choosing criteria and sub-criteria, the following factors need to be considered:

Relevance: Will the chosen criterion be useful in establishing the extent to which the options under consideration contribute to the objectives set and help distinguish between good and bad choices;

Precision and operability: The criteria should be as precisely defined as is possible; vague criteria will make the decision-making process difficult;

Uniqueness: Criteria should be unique in terms of addressing an identifiably separate impact of the policy. Two criteria should not reflect similar impacts of the policy. This would lead to double counting and distort decision-making. At the sub-criteria level, uniqueness is less of an issue, as there may be a need to illustrate slightly different impacts. However, where this occurs, the final evaluation should consider the impacts at the criterion level only.

Mutual independence: If clearly separable objectives have been set, then the criteria established for each objective are likely to be mutually independent. However, care should be taken that scores on one sub-criterion are not dependent of scores on another;

Number: There is a need to keep the number of criteria and sub-criteria as small as possible. Large numbers of criteria will lead to complicated decision-making and difficulties in communicating the rationale for decisions;

Completeness: Finally, the criteria established should embrace all the key elements of the objectives set.

Example of Criteria Selection

The criteria used by the Department of Transport in appraising transport investment projects are an example of good criteria.

- Economy
- Safety
- Environment
- Accessibility and Social Inclusion
- Integration

These criteria reflect Departmental goals, deal with quite separate effects of transport projects, are mutually independent, and are few in number.

Steps 4 and 5 - Evaluation and Scoring

Once the options have been measured using the criteria, the next step is to evaluate the options. This is best done by either an ordinal or numerical scoring system.

Ordinal Scoring

An ordinal system simply provides a ranking of options. Experience has indicated that a seven point scale adequately captures degrees of differences in impacts. In this case, this seven point scaling system is often set up to establish whether the contribution of an option to an objective is

- Highly positive; (+++)
- Moderately positive; (++)
- Slightly positive; (+)
- Neutral; (0)
- Slightly negative; (-)
- Moderately negative; or (--)
- Highly negative. (---)

In terms of the performance matrix, this scaling may be depicted in various ways, with the scheme in Table 2 often being favoured. Highly positive outcomes are awarded a +++ score, while highly negative are awarded a - - - score and so on. It should be noted that ordinal scoring is not additive so is not conducive to easy comparisons. In real life, no one option might be obviously more positive across all or the majority of criteria and while there are ways of identifying dominance etc., officials may find that numerical scoring is easier to manage in practice.

Option	Criterion 1	Criterion 2	Criterion 3	Criterion 4	Criterion 5
A	+++	++	+	+	+
B	++	++	0	-	0
C	+	++	-	-	0
D					

Table 2: Generic Performance Matrix with Ordinal Scoring

Numerical Scoring

There are various approaches to numerical scoring. One approach is to ascribe a score between zero and 100 to each criterion. These scores may or may not be weighted. In the table below, the maximum score which can be obtained under each criterion is 100.

Option	Criterion 1	Criterion 2	Criterion 3	Criterion 4	Criterion 5	Total
A	80	60	55	45	20	260
B	60	70	45	25	70	270
C	50	65	55	35	35	240

Table 3: Generic Performance Matrix with Numerical scoring

Weighting of Criteria

Weighting of criteria is a process which establishes the relative importance of criteria in evaluating options.

As the criteria used are related to the objectives set, they in turn depend on the relative weighting given to objectives. Weights should be influenced by the views of stakeholders as evidenced through the consultation process, and through documented departmental and Government policy statements. Both structures and more intuitive approaches are used for the development of weights.

Weighting can be done in a number of ways, the most common of which are (i) scoring each criterion, such as out of 100 or out of 10 and assigning a weighting to each criterion to reflect its relative importance or (ii) dividing a total of 100 between the criteria in the proportion of each criteria's importance then scoring each criteria.

Option	Criterion 1		Criterion 2		Criterion 3		Criterion 4		Criterion 5		Total Weighted score
	Score out of 100	Weighted score @ 30% weighting	Score out of 100	Weighted score @ 10% weighting	Score out of 100	Weighted score @ 20% weighting	Score out of 100	Weighted score @ 30% weighting	Score out of 100	Weighted score @ 10% weighting	
A	80	24	60	6	55	11	45	13.5	20	2	56.5
B	60	18	70	7	45	9	25	7.5	70	7	48.5
C	50	15	65	6.5	55	11	35	10.5	35	3.5	46.5

Table 4: Performance Matrix with Numerical Scoring and Weighting- Example (i)

Option	Criterion 1 Score out of 10	Criterion 2 Score out of 20	Criterion 3 Score out of 50	Criterion 4 Score out of 10	Criterion 5 Score out of 10	Total Score out of 100
A	5	15	40	5	6	71
B	8	12	35	7	4	66
C	7	17	25	8	8	65

Table 5: Performance Matrix with Numerical Scoring and Weighting- Example (ii)

Step 6 - Decision-Making using Multi-Criteria Analysis

The Decision-Making Process

There are two approaches to decision-making using multi-criteria analysis. Where options are evaluated through numerical scoring, preferred options can be identified directly. This is illustrated in Table 4, where it is apparent that Option A is marginally preferable to Options B and C on the basis of the weighted scores.

In contrast, where an ordinal ranking is used, a more intuitive approach has to be adopted. The first step in the process is to check the options for dominance. Table 2 illustrates this phenomenon, where Option A is seen to be dominant.

If dominance does not occur, then the approach adopted is to rank the criteria in order of importance and to favour options that score highly on the more highly ranked criteria.

Dealing with Uncertainty

The issues of risk and uncertainty are dealt with at par.4.37-4.39 but generally, the approach to be adopted with regard to scores is to consider the ranges into which scores could fall and to re-estimate the performance matrix on that basis. Similarly, alternative weight regimes may be considered and implemented.

Where sensitivity tests identify robust options, decision-making will be relatively secure. Robust options are those that come out on top across a range of sensitivity tests.

NOTE: THE FOLLOWING EXAMPLES ARE NOT REPRODUCTIONS OF REAL MULTI-CRITERIA ANALYSES. THEY ARE PURELY ILLUSTRATIVE.

Hypothetical Example 1: Improvements to Health and Safety Protection Arrangements

Background

For the purpose of this example, it is assumed that there are separate bodies with responsibility for health and safety in each local authority area. All material is purely hypothetical.

Identification of Objectives

In order to assess the benefits of these options, it is necessary to identify the objectives of Government in putting in place arrangements to encourage and ensure compliance with health and safety legislation.

The following are the proposed objectives:

- To prevent avoidable death and injury;
- To detect and deter breaches of health and safety legislation;
- To promote awareness of health and safety.

Identification of Options

NOTE: THESE OPTIONS ARE ILLUSTRATIVE ONLY. IN REALITY, THERE MAY BE MORE OR DIFFERENT OPTIONS WHICH NEED TO BE CONSIDERED.

The four options being considered are:

1. Do-nothing;
2. Merge Health and Safety Bodies on a Regional Basis;
3. Establish a National Health and Safety Body;
4. Make health and safety a direct departmental responsibility.

Establishment of Criteria

The three objectives together with the costs of each option represent the criteria. However, in order to assess the benefits of each option, it is useful, in this case, to identify some key requirements or sub-criteria for achieving the objectives. Consideration of the objectives yielded the sub-criteria set out in the table below.

CRITERIA	Prevent avoidable death and injury	Detect and deter breaches of health and safety legislation	Promote Awareness of Health and Safety	Cost
SUB-CRITERIA	Well supported technically Strong analytical capability Strong reporting procedures Accessibility - Linked to public health and public safety institutions	Access to technical, medical and legal resources and knowledge Independent of stakeholder interests Strong reporting procedures	Access to communications resources Capacity to engage with all stakeholders in a systematic way	Cost/savings to the Exchequer Cost/savings to Business

Table A: Criteria and Sub-Criteria

Establishment of a system of scoring

Decide whether it is appropriate to weight the different criteria. In some circumstances each of the criteria might have an equal weighting but in other circumstances weighting of criteria is more appropriate. If it is appropriate to weight decide on a system of scoring.

Evaluation

The next step is to establish how each option performs against these criteria and sub-criteria. For example, with regard to criterion 1 (the objective of preventing avoidable death and injury), it could be said that the existing system [i.e. The ‘do nothing’ option] would score well in the accessibility sub-criterion, as the current system is very accessible to employees in the local area, and that alternatives proposed would be less so. However, the existing system could score less well on other sub-criteria, it could fall short in terms of consistency and technical resources. It would seem that on criterion 1 a National Body, separate from any Department might be best placed.

The sub-criteria for each criterion are considered and a total for the criterion as a whole is established. In this example, numerical scoring and weighting are used and table B presents the results of this evaluation. However, weighting does not always need to be applied and example 2 illustrates the use of ordinal scoring as an alternative to numerical scoring.

In example 1, as the third option achieved the highest score it is clear that it is this option that should be recommended.

	Option 1	Option 2	Option 3	Option 4
	Do-nothing	Merge Health and Safety Bodies on a Regional Basis	Establish a National Health and Safety Body	Make health and safety a direct Departmental Responsibility
Criterion 1 Prevent avoidable death and injury (score out of 40)	20	20	30	10
Criterion 2 Detect and deter breaches of health and safety legislation (score out of 20)	5	10	15	5
Criterion 3 Promote awareness of health and safety (score out of 20)	5	10	15	10
Criterion 4 Cost (score out of 20)	20	10	5	15
TOTAL	50	50	65	40

Table B: Scoring of Options (Using Numerical Scoring)

Hypothetical Example 2: Work and Exercise

Background

In this hypothetical example, it is assumed that international evidence has emerged pointing to a direct link between lost work hours owing to employee illness and the availability of exercise facilities for employees. The Government is considering options to address this issue.

Identification of Objectives

Some objectives which might be relevant in an example such as this include:

- Reducing the cost to the Exchequer associated with lost working hours
- Reducing employer costs
- Improving work-life balance of employees

Identification of Options

NOTE: THESE OPTIONS ARE ILLUSTRATIVE ONLY. IN REALITY, THERE MAY BE MORE OR DIFFERENT OPTIONS WHICH NEED TO BE CONSIDERED.

Three options which might be considered are:

1. Do-nothing
2. Introduce a statutory requirement on employers to provide exercise facilities
3. Promote awareness among employers of the benefits of providing exercise facilities

Establishment of Criteria

The three objectives represent the criteria. However, in order to assess the benefits of each option it is useful, in this case, to identify some key requirements or sub-criteria for achieving the objectives. Consideration of the issues yielded the sub-criteria set out in Table below.

Criterion 1 Reducing Costs to Exchequer	Criterion 2 Reducing Costs to Employers	Criterion 3 Improved Work- Life Balance for Employees
Reduction in social welfare costs	Reduction in absences due to sick leave	Increased awareness of exercise benefits and opportunities
Reduced costs to Health Service	Improved competitiveness due to reducing productivity costs	Improved health outcomes
		Reduced life assurance premiums

Table A: Criteria and Sub-Criteria

Evaluation

The next step is to establish how each option performs against these criteria. Remember that the impacts which you identify will help to inform this evaluation and the scores attached to each option. Ordinal scoring is used in this example. It can be seen in this instance that although the legislative option performs well across the majority of criteria, the option of an awareness campaign approach performs as well if not better and should be considered the preferred option. Of course, in reality this may not be the case.

Criteria	Options		
	Option 1 Do-nothing	Option 2 Statutory requirement on employers to provide exercise facilities	Option 3 Promote awareness of the benefits of providing exercise facilities
<p>Reducing Costs to the Exchequer</p> <p>Reduction in social welfare costs</p> <p>Reduced costs to Health Service</p>	<p>0</p> <p>0</p>	<p>++</p> <p>++</p>	<p>+++</p> <p>++</p>
<p>Reducing Costs to Employers</p> <p>Reduction in absences due to sick leave</p> <p>Improved competitiveness due to reducing productivity costs</p>	<p>0</p> <p>0</p>	<p>+</p>	<p>++</p>
<p>Improved work-life balance for employees</p> <p>Increased awareness of exercise benefits and opportunities</p> <p>Improved health outcomes</p> <p>Reduced life assurance premiums</p>	<p>0</p> <p>0</p> <p>0</p>	<p>++</p> <p>+++</p>	<p>+++</p> <p>++</p>

Table B: Scoring of Options

Decision Rules for Cost Benefit Analysis

Note: This section is intended to provide a brief introduction to the use of cost benefit analysis. If you are preparing a cost benefit analysis in respect of particularly significant legislation, you may wish to contact the Department of Finance for further advice.

Decision Criteria

Within cost benefit analysis, decision criteria are used in reaching a decision as to the value of the option under scrutiny. These criteria summarise the benefit and cost stream arising from the project so as to facilitate decision-making.

The decision criteria usually employed in this regard are:

- The Net Present Value (NPV);
- The Benefit-Cost Ratio (BCR); and
- The Internal Rate of Return (IRR).

Evaluation Period and Discounting

In order to use these criteria, a period over which the costs and benefits are to be measured - the evaluation period - needs to be established. Where options include investment in physical assets, it is normal to use the anticipated life of these assets as the evaluation period. In any event, the period chosen should be sufficiently long as to ensure that the full impacts of the option have had time to materialise. The Department of Finance's *Proposed Working Rules for Cost Benefit Analysis, June 1999* recommends that capital projects have an appraisal timeframe associated with them which broadly equates to the useful life of the project. Infrastructure projects generally are appraised over a 20 year timeframe. Productive sector projects are usually appraised over a 10 year period.

As benefits and costs will arise over the evaluation period, there is a need to use a discounting process to bring future costs and benefits to present values. This is achieved using a discount rate (R) and the following formula:

$$\text{Present value of a stream of benefits (PVB)} = \sum^n B_t / (1+R)^t$$

Where B_t is the benefit in year t and n is the evaluation period. The discount rate (R) currently advised by the Department of Finance is 4 per cent.

The present value of costs (PVC) is obtained in a similar fashion.

Definition and Use of the Criteria

Net Present Value (NPV)

When costs and benefits of a proposal have been expressed in monetary terms in the cost benefit analysis, they must be converted to present values as money has a time value. Costs and benefits accruing in various future years are different when viewed from the present. The NPV is the net situation when in present value terms the sum of costs has been deducted from the sum of benefits.

The Net Present Value (NPV) is obtained by discounting the streams of benefits and costs and subtracting the sum of the discounted costs from the sum of the discounted benefits (PVB–

PVC). If the NPV is positive then the option is acceptable in that it provides benefits in excess of costs.

Benefit Cost Ratio (BCR)

This is the ratio of discounted benefits to discounted costs.

There can be difficulties with using BCR. For example, project A may have a higher BCR than project B, but project A could be smaller than project B and have a lower NPV. Other difficulties include; the BCR may not be comparable across projects depending on how the CBA was monetised; the monetised value of some benefits and costs cancel each other out, hence some appraisers do not include them in their calculations. Therefore, the BCR could change depending on whether all the monetised benefits and costs are put in the calculation.

The Benefit-Cost Ratio is obtained by dividing the sum of discounted benefits by the sum of discounted costs (PVB/PVC). If the BCR is greater than one, then the option is acceptable in that it provides benefits in excess of costs.

Internal Rate of Return (IRR)

The IRR is the discount rate which will make the NPV of a project equal zero.

The Internal Rate of Return is calculated in a somewhat different fashion, in that a discount rate is not directly used. The undiscounted stream of costs is subtracted from the undiscounted stream of benefits to form a stream of net benefits. The IRR is the discount rate that reduces the present value of the net benefit stream to zero. Spread sheeting programs usually permit the ready calculation of IRRs.

There can be difficulties with using IRR as it is possible for two projects to have the same IRR but because the incidence of their costs and benefits are timed differently they may have different rankings when net benefits are discounted to present value using a common rate such as a test discount rate.

Each of the decision criteria can be used to identify the preferred option. This is the option with the highest value under the criterion used. It is generally recommended that the NPV and BCR be calculated for each option. The NPV will help inform the decision as to the effectiveness of the option, whereas the BCR is more a measure of its efficiency or value for money. The IRR may be optional, however, in using the IRR, it should be noted that it suffers from the drawback that it is possible in certain circumstances the estimation process would not yield a unique IRR.

Cost Effectiveness Analysis

Another analytical technique that may be used is Cost Effectiveness Analysis (CEA). This is a technique which compares the costs of alternative/competing ways of providing similar kinds of outputs by looking at the ratio of costs and effectiveness. It would be expected that this technique would be seldom used for RIAs, but if it is suitable for a specific proposal more detail on this technique is available from the Department of Finance.

Appendix E: Administrative Burdens Measurement

NOTE: THE FOLLOWING PROVIDES A BRIEF OVERVIEW OF HOW TO MEASURE ADMINISTRATIVE BURDENS. MORE DETAILED INFORMATION IS AVAILABLE FROM THE DEPARTMENT OF ENTERPRISE, TRADE AND EMPLOYMENT AT WWW.ENTEMP.IE

Compliance costs are any costs incurred by business or citizens, in order to comply with regulations. They might, for example, include registration or licence fees.

Administrative burdens are one type of compliance cost incurred by business when complying with information obligations stemming from government regulation. Administrative Burdens are sometimes referred to as “red tape” and frequently associated with “form-filling”.

EXAMPLES OF ADMINISTRATIVE COSTS

- Having to provide an original Tax Clearance Certificate when tendering for public contracts**
- Having to return completed survey questionnaires to the CSO**
- The filing of tax returns (the actual payment of tax is a compliance cost)**
- Annual Returns to the Companies Registration Office**

IMPORTANT!

When thinking about administrative burdens, it is important to remember that not every administrative cost represents a burden per se. For example, companies are likely to keep accounts for business purposes even if not required to do so. In other words, the administrative burden is that administrative cost which is not “business as usual”. It is the extra activity that businesses would not carry out if legislation did not make it mandatory.

In March 2008 the Government set a target of a 25% reduction in the administrative burdens on business arising from existing national regulation to be achieved by 2012. This target is in line with the EU Action Programme for reducing administrative burdens which was launched in January 2007 whereby a 25% target was set for the reduction in administrative burdens arising from European regulation, to be achieved by 2012.

The Department of Enterprise, Trade and Employment is leading a cross-Government process to achieve the national target (see handbook at www.entemp.ie¹⁸). Those

¹⁸ It should be noted that the approach in the Handbook is designed for existing legislation. Measuring potential administrative burdens in the RIA context is different in that likely administrative costs must be estimated rather than strictly measured.

efforts focus on reducing burdens in relation to existing legislation. It is equally important to examine new regulations to ensure that additional unnecessary administrative burdens are not created. In this context, the cost of new administrative burdens arising from any new regulatory proposal should be examined and included in the Regulatory Impact Analysis (RIA).

Administrative Burden Measurement Methodology

The approach towards measuring administrative burdens is to map out information obligations that may arise from legislation into a range of manageable components that can be measured to give a total cost of the administrative burden.

For more detailed information on this methodology, consult the handbook produced by the Department of Enterprise, Trade and Employment at www.entemp.ie. The Interdepartmental Committee on reducing the Administrative burden, chaired by the Department of Enterprise, Trade and Employment, consists of representatives from all Government Departments. It may also be helpful to contact the official in your Department represented on that Committee for further assistance.

Step 1: Screen Legislation for “Information Obligations”. This means identifying the administrative requirements required by the legislation.

Information obligations: Information obligations (IO) are the obligations arising from regulation to provide information and data to the public sector or third parties. An IO does not necessarily mean that information has to be transferred to public authorities or private persons, but may include a duty to have information available for inspection or to be supplied on request. A regulation may contain many information obligations and some examples of this type of obligation are as follows:

- **Returns and reports:** e.g. filing of returns/reports to supply information on tax deducted from income at source;
- **Applications for permission, authorisation, subsidies, grants:** e.g. application for a licence to sell spirits;
- **Notification of activities:** e.g. notification of the transportation of dangerous cargo.

Example from UK measurement of administrative burdens (Department of Environment, Food and Rural Affairs)

Two information obligations in TSE* Regulations 2002

- Recording the receipt of any consignment of mammal-based meat and bone meal or processed animal protein.
- Recording the transport of mammalian meat and bone meal or processed animal protein.

* Transmissible Spongiform Encephalopathics

Step 2: Identify the Actions or Administrative Activities Performed to Comply with the Information Obligations

Administrative Activities: Businesses need to perform certain actions or administrative activities in order to comply with the type of information obligations and the related data requirements. The cost of this type of activity is what needs to be measured. There may be more than one activity related to each information obligations such as: training of staff, meetings, information retrieval and copying, filing etc. (the handbook published by the Department of Enterprise, Trade and Employment provides a longer list of examples).

Step 3: Calculate the Cost

The core calculation is multiplying (i) how long it takes by (ii) the hourly wage of who does it by (iii) the number of times it happens in a year.

- **Price:** Price consists of wage costs plus overhead for administrative activities done internally or hourly costs for external service providers. In general, interviewees are not asked how much staff earn. A standard set of wage rates is used for simplicity, and can be found in an Appendix to the *Handbook*.
- **Time:** The amount of time required to complete the administrative activity. When measuring for existing legislation, in general, around five businesses are interviewed to estimate the time required to perform the action/activity.
- **Quantity:** Quantity comprises of the number of businesses affected by the requirement, and the frequency with which the activity must be completed each year.

Remember, the cost of each administrative activity is:

$$\text{Price} \times \text{Time} \times \text{Quantity}$$

Example of Administrative Burden Calculation

A member of staff in the business has an hourly wage of €30 (price) including overheads and it takes that that person 3 hours (time) to get the information required. Therefore the price for gathering that information is €90 (i.e. €30 x 3 hours).

This information is required from 10,000 businesses (*population*) which have to comply twice each year (*frequency*), therefore the *quantity* will be 20,000. Hence the total cost of the activity will be $20,000 \times 3 \times 30 = €1,800,000$.

Consultation with Business and Estimation of Costs

It can be challenging to measure a cost for a burden that does not yet exist and therefore, the proposed burden for the new information obligations will require the estimation of the costs involved. Consultation with business in this context is likely to be very important. While businesses won't yet have actual experience of the proposed regulations, international experience has shown that they are better placed than officials to identify the administrative activities they will have to perform.

There are many different ways to manage this consultation. A selection of businesses might be identified from standing consultative mechanisms within Departments, or specific businesses might be approached in the context of wider consultations or workshops on the proposed RIA. The purpose of these consultations would be to get an estimate of the wage rates (including an amount for overheads) of people carrying out the activity, time taken and other costs incurred. A structured survey document may be useful in this context. It may also be useful to look at similar information obligations, if any exist, to give an idea of the potential costs.

If you are tasked with measuring administrative burdens, it may be helpful to contact the official in your Department working on the measurement of existing administrative burdens to meet the national target of 25% reduction by 2012. It may be possible to extrapolate the administrative costs of a proposed regulation from similar administrative burdens which have been measured under the 25% reduction programme.

Remember: The purpose of your measurement of administrative burdens is not just to produce statistics in relation to your preferred option. Your measurement should extend to all options and help to identify the most efficient one.

If you require further information before commencing your measurement exercise, you can consult the handbook produced by the Department of Enterprise, Trade and Employment at www.entemp.ie.

Further information/queries can be directed to the Department of Enterprise, Trade and Enterprise. Contact details are as follows:

Business Regulation Unit
Department of Enterprise, Trade and Employment
Earlsfort Terrace
Lower Hatch Street
Dublin 2

businessregulation@entemp.ie

Additional information can also be sought from your Departments representative on the Interdepartmental Committee on reducing the Administrative Burden.

Examples of Measurements undertaken in Ireland

The following are examples of measurements of the information obligations associated with regulations which are already in force which were included in the first report of the High Level Group on Business Regulation¹⁹. Although more estimation may be needed in the case of measurements related to proposed regulations, the basic approaches will remain the same (e.g. use of surveys etc.).

Road Haulage Permits

Under existing procedures, road hauliers have to obtain permits from local authorities for the movement of abnormal loads ie. wide and long loads. There are 34 individual local authorities in Ireland issuing separate permits for Abnormal Loads moving through their areas. The administrative burden associated with this system has been measured.

The Measurement

It was determined from Local Authority records that the total number of permits for Abnormal Loads issued in 2007 was 10,997.

A telephone survey of companies revealed that the average administrative burden per permit was €22.45. When this figure is multiplied by 10,997 (ie. the number of permits issued) the total administrative burden on the road haulage sector can be estimated at approximately €247,000.

A simplified system of applying for permits is now being introduced, where haulage firms may apply to one central office rather to a range of Local Authorities.

Companies Registration Office (CRO) Annual Return

In 2006, a measurement was carried out of the administrative costs associated with the Companies Annual Return (B1) form for the Business Regulation Forum. At that time there were 144,907 companies on the CRO register.

The Measurement

A combination of telephone interviews and business workshops were used to consult with a representative sample of businesses drawn from the records of the CRO. This work revealed that the cost of completing the annual return was, on average, €247 per company.

When this figure is multiplied by the total number of companies registered (144,907) the total cost of the return to business annually is seen to be in the region of €35.82 million.

¹⁹ Department of Enterprise, Trade and Employment, July 2008

The CRO has subsequently reduced this cost considerably, mainly by introducing electronic means of filing the return. It is estimated that the associated administrative costs have been reduced by €10 million since 2006.

Examples of Ex-ante Measurements in other Countries

Denmark: Investor-protection for trading securities²⁰.

The regulation is part of the implementation of EU-directive 2004/39/EF on financial markets. The purpose of the directive is to create a single market for trading of securities through more transparency and investor protection. The introduction of investor protection means more information to customers, advice and best execution.

The analysis describes briefly the substance of the regulation and, as can be seen below, lists the relevant information obligations. The specific business target group is financial organisations.

Information obligations identified	Reference in regulation
Documentation to customers	Chapter 8, s 20 -24
Reclassification of existing customers	s 4
”Know your customer” - including classification of new customers	Chapter 6, s16-19 s 4
Compliance with customer protection	s 25
Documentation on procedures	s 25

The Measurement

In this case the target group comprised of financial companies who were identified as being small, medium or large for the purposes of analysis. Six interviews with representative financial companies and IT suppliers were conducted with each interview taking, on average, 1.5 hours. In addition, two expert interviews were done regarding compliance assessment for the financial sector.

Based on these interviews and assessments, the likely impact on individual companies was estimated and calculated for each of the individual categories of small, medium and large and then combined to create an overall figure. It has been found that the total one-off costs are expected to be 230.328.445 Dkr. The total recurring costs are expected to be around 53.566.063 Dkr. Breaking the target business down into different categories in this way also identified that the costs are proportional to size, except in the case of documentation to customers.

²⁰ Danish Commerce and Companies Agency, “Vurdering af bekendtgørelsesudkast om investorbekyttelse ved værdipapirhandel” (2007)

Germany: Draft for regulation for the environment (UGB) 3rd Book (III) ²¹
(Naturschutz und Landschaftspflege)

As part of the German law making process an ex-ante measurement is also done for new regulations. As an example, an ex-ante measurement was done for the draft regulation for the environment concerning the protection of nature.

The Measurement

As is the case with the Danish example above, in the German system, use is made of interviews, surveys etc. to fully understand the costs associated with the different Information Obligations which exist.

The measurement states that the draft regulation contains 18 information obligations on business. Generally these information obligations have been taken over from other regulations, including European legislation. The analysis identifies the relevant pieces of legislation and makes a distinction between other related legislation and information obligations.

It is estimated that the overall administrative costs on businesses are around €642,000 annually. Since the information obligations have been transferred from other regulations, the administrative costs of the new regulation is identical to the existing situation.

The costs for each information obligation were identified in a table (here only the first 2 have been included), as shown below:

No.	Information obligation	Current cost in €	Expected cost in €	Alternatives / Comments
1	s 17.3 Need for a permit to intervene	84.000	84.000	Making a notification instead of needing a permit was been considered in relation to costs, however the costs are identical and in addition permits give businesses higher legal security. Occurrence number: 8.700/Year
2	s31.3 Exemption from the prohibition regarding measures which can lead to a destruction or other substantial or unfavorable impairment of biotopes	12.000	12.000	No alternatives Occurrence number: 210/Year

²¹ Bundesministerium für Umwelt, Naturschutz und Reaktorsicherheit, “Umweltgesetzbuch (UGB) Drittes Buch (III) - Naturschutz und Landschaftspflege” (2008)

Sources for Further Information

The following texts are available in English:

The Netherlands

Example of procedure for measuring ex-ante by ACTAL

http://www.actal.nl/actal_nl/6b0b9d371f6c475b83a846b74a5ae7d1x2x44271x67.php

Germany

Guide to the ex-ante assessment of the administrative costs (in English), March 2008

http://www.normenkontrollrat.bund.de/Webs/NKR/Content/DE/Publikationen/Anlage_n/2008-03-01-leitfaden-ex-ante-abschaetzung-maerz-2008-englisch.property=publicationFile.pdf

The European Commission

The RIA Manual annex on e.g. ex-ante measurement, March 2006

http://ec.europa.eu/governance/impact/docs/key_docs/sec_2005_0791_anx_en.pdf

Appendix F: Public Service Implementation Costs

Regulations and their implementation often result in considerable costs to the public service and it is important that these costs are taken into account in the context of RIA. This appendix has been prepared to assist officials in identifying the type of public service implementation costs which may need to be assessed as part of the consideration of different options. Such options may, for example, involve the establishment of a new Agency or the creation of new functions for a Department or Agency which may, in turn, result in a need for additional staff.

Staffing Costs

The following issues are intended to be indicative only and where you are attempting to assess public service implementation costs it is important that you discuss any issues arising with the Department of Finance at an early stage. In line with Government policy on the modernisation of the public service, opportunities for efficiencies such as those associated with the use of shared services should be identified in the context of your analysis of public service implementation costs. The figures used in this exercise are an important part of insuring an informed RIA is carried out, however **these figures do not in any way prejudice any subsequent Government Decisions in relation to the allocation of resources** for any services subsequently approved for implementation.

Direct Salary Cost

Direct salary cost is defined as the gross wage or salary paid to an individual at the relevant grade **plus** the associated employers' PRSI payment. An average salary cost should be worked out for each grade based on the current salaries Circular issued by the Department of Finance by taking a cash value mid way between the scale minimum and the highest point, or LSI, as appropriate. The appropriate PRSI charge should be added to this figure.

Total Salary Cost

Total salary cost is defined as direct salary cost plus an imputed pension contribution. Employing civil/public servants normally results in the creation of entitlements to pensions which are payable in the future. In estimating the total cost of employing a civil servant, allowance must be made for this deferred cost. The pension contribution is based on gross salary, and not direct salary cost, because employers' PRSI is not reckonable for pension purposes. For further details on how to calculate pension contributions please contact your Departmental Vote section in the Department of Finance. In general a further cost of the order of 25% will be recommended as an appropriate additional charge. This figure may need to be varied, particularly if any staff involved would have enhanced pension accrual rates.

Total Staff Cost

Total staff cost is defined as total salary cost plus an allowance for overheads. Each officer requires office space, materials, use of telephones, fax, postage service, etc. In addition, security services have to be provided, recruitment and training expenses are incurred, personnel services are provided, and so on. It is usually easiest to include provision for these by applying a proportionate increase in salary costs. It is estimated that an addition of 40% to direct salary cost is required to recover overheads. This is a composite figure applicable to the generality of civil service situations and encompasses costs for accommodation, utilities, support and back-office staff, training, travel, and so on.

It is important to note that these are average costs and are applicable only on a general basis. When preparing estimates of staff costs, sections will be required to consult with their departmental corporate services in the first instance.

Where more specific information is available, it should be used, particularly if there are additional costs in respect of specialist equipment or accommodation, or higher levels of travel and subsistence, for example. However, care should be taken that appropriate allowances are made for cost elements like pension rights and direct and indirect overheads.

This is set out in summary form in the table below:

A	Pay	Mid point of pay range using formula above
B	Direct Salary Cost	Pay + Employers PRSI
C	Total Salary Cost	B + Imputed pensions cost (typically 25% of A)
D	Total Staff Cost	C + 40% of A in respect of 'overheads'

Daily and Hourly Rates

Daily and hourly staff costs in respect of any grade conditioned to a 41 hour week (gross) can be calculated by using the following general formulae:

Daily rate for a grade

$$\frac{\text{Annual cost for grade}}{(249 - \text{annual leave entitlement})}$$

Hourly rate for a grade

$$\frac{\text{Annual cost for grade}}{(249 - \text{annual leave entitlement}) \times 6.95}$$

(April 2008)

The figures above relate to situations where new services, programmes or agencies requiring new staff are envisaged. Where proposals involve the abolition of services, programmes or agencies, it will be necessary to consult the relevant Vote Section of the Department of Finance in order to derive costings based on the time scales involved.

Accommodation Costs

Where dedicated new office accommodation may be required, for example where a new Agency is being established, it is important that consideration is given to the actual costs involved in the context of the costing of total cost staff time. The factors to be taken into account will include the number of staff to be accommodated, the proposed space allocation per head, the ancillary functions proposed such as public spaces and meeting rooms, the location considered appropriate, the availability of suitable accommodation and the balance between supply and demand in the office accommodation market which will affect the cost per square metre which can be agreed. If you are unsure as to the level of accommodation costs which may be involved, or if specialist accommodation is required, you should seek the advice of the OPW.

Contact details are as follows:

Property Management Services
Office of Public Works
51 St. Stephen's Green
Dublin 2

Tel: 6476000

Appendix G: Consultation

Introduction

Consultation is a key element of RIA. As well as contributing to the framing of regulations, effective quality consultation promotes a greater understanding of proposals and better compliance with legislation. In addition, it guards against the possibility of involving only those who are most vocal or best resourced to express views on particular policies or regulations. This can be important, for example, when it comes to ensuring that consumer interests are also taken into account when economic regulations or regulatory decisions are being made.



Conducting the Consultation

There are three distinct stages to the consultation process:




1. Planning
2. Execution
3. Analysis and evaluation

Issues to be considered at each stage of the consultation process are summarized in the Consultation Flowchart on the next page.



Planning

<p><u>Subject and purpose of consultation</u></p> 	<ul style="list-style-type: none"> • What is the consultation about? • <u>What will the consultation achieve?</u>
<p><u>Identification of timescales and questions for consultation</u></p> 	<ul style="list-style-type: none"> • What is the scope of the consultation? • How long will it last? • What questions need to be answered?
<p><u>Identification of stakeholders and methods</u></p>	<ul style="list-style-type: none"> • Who should be consulted? • What is the best way of reaching them? • <u>Will your chosen methods reach everybody?</u>

Execution

 <p><u>Decision to proceed</u></p>	<ul style="list-style-type: none"> • Will the chosen channels reach everybody? • Is the material accessible? • Have you considered legal obligations?
 <p><u>Publication and distribution of material</u></p> 	<ul style="list-style-type: none"> • Have you chosen channels that will reach everybody? • Is the material accessible? • Do stakeholders have enough time to respond?
<p><u>Consultation period</u></p>	

Analysis & Evaluation

 <p><u>Analysis of responses and dissemination of results</u></p>	<ul style="list-style-type: none"> • Will submissions be published? • Will the analysis draw out key messages and themes? • How will feedback be given? • Will you need help to do analysis? • <u>Will another consultation round be required?</u>
 <p><u>Review of consultation process</u></p>	<ul style="list-style-type: none"> • What worked and did not work in the consultation? • How will lessons be disseminated? • Did the consultation make a difference?

Checklist for Better Consultation

The following checklist for better consultation will help to ensure that all the important aspects of organising a consultation have been covered:

- Are you clear on the purpose and objectives of your consultation?
- Are you clear on the questions you want to ask in your consultation?
- Have you identified all of the stakeholder groups and individuals that should be consulted?
- Have you chosen the most appropriate and inclusive methods of consultation, including those that meet the needs of 'non-traditional' stakeholders?
- Have you allowed for sufficient resources for the consultation?
- Have you considered all of your legal obligations?
- Have you publicised your consultation in online and offline media?
- Have you allowed sufficient time to give stakeholders an opportunity to consider the issues fully?
- Have you planned how you will analyse the submissions received during your consultation?
- Have you planned to evaluate your consultation process and to ensure any lessons learned are taken into account for the future?

A more detailed consideration of these all issues is included in *Reaching Out: Guidelines on Consultation for Public Sector Bodies*. The Guidelines are available online at: www.betterregulation.ie. The Guidelines also provide references to further useful information.

Appendix H: RIA and EU Legislation

As set out in the chapter on when is a RIA required, a RIA must be carried out in respect of:

- EU Directives;²²
- Significant EU Regulations; and
- The transposition of EU Directives.

The EU and Impact Assessment

In the same way as RIA is used in the national context, the impact assessment system operated by the EU Commission informs political decision-makers of the likely impacts of proposed measures to tackle an identified problem, but leaves it to them to decide if and how to proceed. Also in keeping with the Irish RIA system, the Commission impact assessment consists of an assessment of all relevant impacts and is underpinned by the principle of proportionate analysis, whereby the depth and scope of an impact assessment are proportionate. Impact Assessments are published to accompany Commission legislative proposals.

Further information on impact assessment in the EU context is available at:

http://ec.europa.eu/governance/better_regulation/impact_en.htm.

Commission Impact Assessments which have been carried out are also available on this site.

Examples of Impact Assessments are also available at:

http://ec.europa.eu/governance/impact/practice_en.htm.

If you are having trouble finding the impact assessment prepared in relation to a particular proposal or if you feel that it contains insufficient analysis given the significance of the proposal concerned, you may wish to raise this with the relevant Commission Directorate General through your regular contacts with them. If one is available, you may also wish to read the opinion of the independent Impact Assessment Board.

Impact Assessment Board

The Impact Assessment Board works under the direct authority of the Commission President. Its members are high-level officials from the Commission Departments most directly linked with the three aspects of the impact assessment - economic, social and environmental impacts. The members have been appointed in their personal capacity and on the basis of their expert knowledge.

The Board's mandate is to scrutinise and issue opinions on the quality of individual draft impact assessments. When considered necessary, the Board can draw on additional expertise including from external sources. Progressively, the Board will also provide advice to Commission services on methodology and approach at the early stages of preparation of the impact assessments.

The opinions of the Board are not binding. However, the Board's opinion accompanies the draft initiative together with the impact assessment report throughout the political decision-

²² In recent years the EU Commission has brought forward a considerable number of proposals for Directives which are designed to consolidate existing EU legislation. If you are involved in negotiating such a Directive you will need to consider whether the proposal introduces any new regulatory requirements. It is only in cases where new requirements are being introduced that a RIA needs to be conducted. Any RIA produced in these circumstances should focus on these new requirements.

making in the Commission. The Commission Impact Assessment is an aid - not a substitute - for political judgement. Ultimately it is the Commission who takes position on a proposal, taking account of the impact assessment and the Board's opinion.

The Relationship between RIA and Commission Impact Assessment

While impact assessments published by the Commission provide useful information on the impacts for the EU and common market as a whole and should be examined by Council Working Groups, they are not designed to identify and assess the exact impact of particular proposals on Ireland. For this reason, it is important that Departments responsible for leading negotiations in relation to draft Directives and significant EU regulations commence the RIA process as early as possible in order to inform Ireland's individual position in a meaningful way. At a minimum, it is required that the RIA process is commenced no later than 4 weeks after a proposal is formally made available by the Commission for the consideration of national Governments and MEPs. However, if the proposal was subject to informal consultation through expert Committees, it may be possible for the RIA to be commenced even earlier.

In many cases, the Commission Impact Assessment will provide information which will be very useful for the RIA process. Equally, the Commission is increasingly seeking an input into their impact assessments and where RIAs are commenced as early as possible, it is more likely that Irish officials will be able to respond to such requests.

Significant Changes to Proposed Text

It is common for substantive changes to be introduced to the text of the regulatory proposal after the initial impact assessment has been published by the Commission and the national RIA process has been commenced. These changes might arise from the Parliament's opinion, proposed amendments, or from the examination of the proposal by the relevant Council Working Group itself. In any case, these changes will be well known to officials attending Council Working Groups on behalf of their Departments.

Where significant changes do arise, officials are encouraged to update the RIA periodically to take account of them. However, it is recognised that in many cases such changes are introduced rapidly and officials may find it most useful to simply keep a clear record of those changes on file so that the RIA can be fully updated prior to its publication. The RIA need only be updated to reflect significant changes. Where the official attending meetings in Brussels is different to the official managing the RIA process (this might arise, for example, where technical staff attend formal Working Groups) then it is important there is a clear communication of significant changes on a regular basis. It is vital that RIAs are fully up-to-date when published at the end of the end of negotiation process, because it is only in this way that they can truly be useful in helping Departments to decide whether exemptions or derogations should be availed of, and how Directives can be most appropriately transposed.

Publication of RIAs on EU Legislation

As is the case with all legislation, Departments are encouraged to publish RIAs on EU legislation as early as possible and ideally a RIA should be used as the basis for consultation on the proposed EU legislation. However, it is acknowledged that such early publication of RIAs may not be appropriate in all cases. At a minimum, therefore, it is required that RIAs be published by relevant Departments on their legislation or RIA webpage on their websites once the agreed legislation is published by the EU.

RIA and Transposition of Directives

Once a Directive has been formally passed, Member States will have a set period within which to transpose the provisions of the Directive into National law. Usually, the method of transposition is a matter for Member States themselves.

It is important that another RIA is conducted at this stage in order to ensure that the least burdensome transposition option is selected. Therefore, this RIA will focus on those options, although a significant proportion of its contents are likely to be drawn from the RIA on the related draft Directive. In examining the relevant options, officials should be mindful of alternative methods of regulation such as co-regulation and alternatives to regulation e.g. administrative schemes. As is the case with all RIAs, a proportionate approach should be taken, recognising the fact that some Directives are more prescriptive than others in relation to methods of transposition.

In order to keep regulatory burdens to a minimum, it is vital that the RIA distinguishes between those elements of each of the proposed options which are prescriptive or mandatory and those which are optional or have been added as a result of specific national concerns (this is sometimes referred to as gold-plating). It should state clearly whether any of the proposed options will result in more burdens being imposed than are required by the Directive. Any such additional burdens which relate to the selected policy option should be justified by extensive analysis and extensive consultation with stakeholders (see also Appendix E on administrative burden measurement).

The Relationship between RIA and Oireachtas Scrutiny Procedures

Section 2 of the EU Scrutiny Act 2002 requires that:

“As soon as practicable after a proposed measure is presented by the Commission of the European Communities or initiated by a Member State, as the case may be, the Minister shall cause a copy of the text concerned to be laid before each House of the Oireachtas together with a statement of the Minister outlining the content, purpose and likely implications for Ireland of the proposed measure and including such other information as he or she considers appropriate.”

Although the scrutiny note is prepared at a very early stage, Departments are asked to provide a preliminary indication of likely implications for Ireland. Thus, there are substantial similarities between the scrutiny and RIA processes. Departments should take account of this similarity in preparing documentation relating to both the RIA and scrutiny processes, in order to avoid unnecessary duplication of effort. **Further guidance on the scrutiny process is available from the European Union Division in the Department of Foreign Affairs.**

Sample Impact Assessments

Officials interested in examining particular impact assessments and related Impact Assessment Board opinions should visit:

http://ec.europa.eu/governance/impact/iab_en.htm

Remember: It is also important to read Impact Assessment Board opinions to understand how Impact Assessments can be further improved.

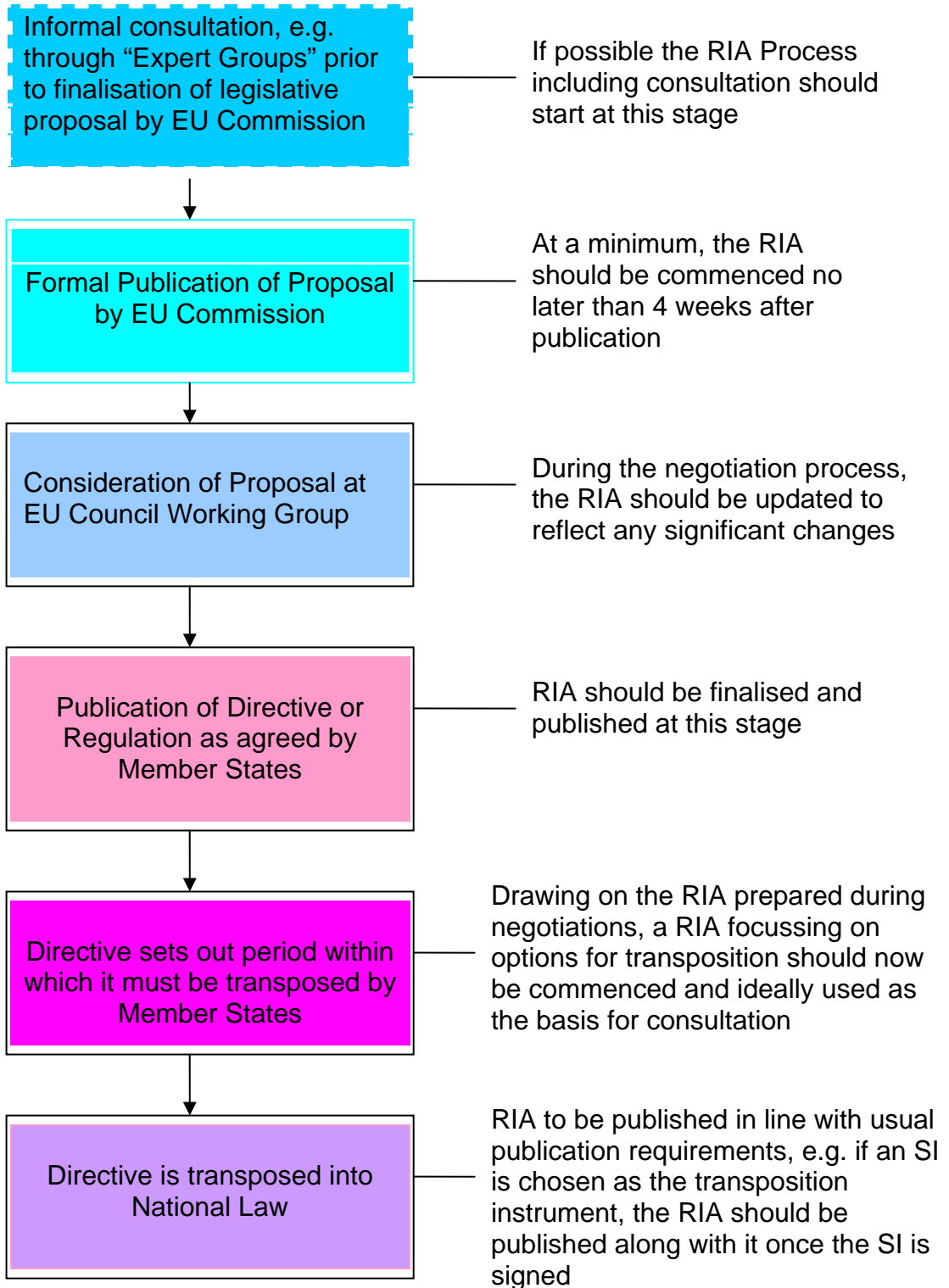
Some interesting examples include impact assessments on:

- **Proposal for a Regulation establishing a European Asylum Support Office (2009);**
- **Proposal for a Directive amending Council Directive 78/660 EEC on the annual accounts of certain types of companies as regards micro-entities (2009);**
- **Proposal for a Regulation concerning trade in seal products;**
- **Proposal for a Directive amending Directive 92/79/EEC and 95/59/EC on the structure and rates of excise duty applied on manufactured tobacco;**
- **Proposal for a Directive facilitating cross-border enforcement in the field of road safety.**

Sample RIAs on EU Directives

Details of RIAs published are included at Appendix I to these Guidelines and in this context you may wish to consult RIAs previously conducted by your own Department.

RIA AND EU LEGISLATION



Appendix I: List of Published RIAs ²³

D/Agriculture, Food and Fisheries

- Health Check of the Common Agricultural Policy (CAP)

D/Communications, Energy and Natural Resources

- Communications Regulation (Amendment) Bill 2006
- Safety (Petroleum Exploration and Extraction) Bill 2007
- Single Electricity Market Bill 2006

D/Community, Rural and Gaeltacht Affairs

- Charities Regulation Bill 2007

D/Enterprise, Trade and Employment

- Chemicals Regulation and Enforcement Bill 2008
- Companies Consolidation and Reform Bill 2007
- Consumer Protection (National Consumer Agency) Bill 2006
- Export Control Bill 2007
- Implementation of Directors' Compliance Company Statement (DCS) (Section 45 of the Law Review Group Companies (Auditing and Accounting) Act 2003)
- Safety, Health and Welfare at Work (General Application) Regulation
- Safety, Health and Welfare at Work (Construction) (Amendment) (No. 2) Regulations 2008 (An addendum to RIA on the Safety, Health and Welfare at Work (Construction) Regulations 2006)
- Safety, Health and Welfare at Work (Construction) Regulations
- Safety, Health and Welfare at Work (Quarries) Regulations 2008
- Services Directive

D/Environment, Heritage and Local Government

- Carbon Fund Bill 2006
- Directive 2006/21/EC – Draft Waste Management (Management of Waste from the Extractive Industries) Regulations 2008
- Electoral (Amendment) Bill 2007
- Electoral (Amendment) Bill 2008
- Environment (Miscellaneous Provisions) Bill 2008
- Environmental Liability Directive 2007
- Environmental Liability Directive 2008
- European Communities (Drinking Water) Regulations 2007 (SI No 106 of 2007) & the European Commission (Drinking Water) (No 2) Regulations 2007 (SI No 278 of 2007)
- Part G (Hygiene) (Building Standards)
- Part L (Building Standards)
- Proposed Directive on Industrial Emissions
- Proposed Surface Water Classification System including the Environment Quality Standard
- Waste Management (Batteries and Accumulators) SI 268 of 2008
- Waste Management (end-of-life vehicles) SI 282 of 2006
- Waste Management (Packaging) Regulations 2007

²³ List is up-to-date as of end of March 2009. If there is a difficulty locating a RIA, please contact the relevant RIA Network representative. A list of RIA Network representatives is available on www.betterregulation.ie

D/Finance

- Modernisation/Consolidation of Financial service legislation

D/Health and Children

- Nursing Homes Support Scheme Bill 2008

D/Justice, Equality and Law Reform

- Criminal Law (Trafficking in persons and Sexual Offences) Bill 2006
- Criminal Justice (Money Laundering) Bill 2008
- European Communities (Free Movement of Person) Regulations 2006
- European Communities (Eligibility for Protection) Regulations 2006
- Mental Capacity Bill 2008
- Scheme of the Immigration, Residence and Protection Bill
- Youth Justice RIA

D/Social and Family Affairs

- Citizens Information Bill 2006
- Social Welfare and Pensions Bill 2007 – Retirement Annuity Contracts
- Social Welfare and Pensions Bill 2008 – Implementation of proposals on Trusteeship

D/Taoiseach

- Statute Law Revision (Pre-Union) Bill 2006

D/Transport

- Dublin Transport Authority Bill 2008
- Roads Bill 2007

Appendix J: Alternatives to Regulation and Models of Regulation

The OECD (2002, 52) states: “efficient and effective policy action is only possible if all available instruments are considered.” Step 3 of the RIA involves considering a range of options or alternatives to achieving a policy objective. When identifying options, it is useful to bear in mind that there is a distinction between alternatives to regulation and alternative models of regulation.

Alternatives to regulation include:

- No intervention/do nothing
- Information and education
- Incentive/market based structures

Alternative models of regulation include:

- Classic command-and-control regulation
- Self-regulation/Co-regulation
- Performance-based regulation

Alternatives to regulation

No intervention/maintaining the status quo

Some policy challenges may be addressed by improving enforcement of existing legislation. In other cases any form of intervention might involve more costs than benefits or might generate unintended impacts. No intervention should therefore be considered as a possibility. Even where it is not a viable option, it can be useful to compare the costs and benefits of regulations and other policy tools with the costs and benefits of not intervening.

Information and education campaigns

Information campaigns are the most widely used alternative to traditional regulation in OECD countries (OECD 2002, 54). Such campaigns are used to address information asymmetries and enable consumers to make informed choices and assess risk. While many information campaigns simply seek to inform citizens and enhance consumer choice, some information campaigns are more explicit in seeking to change behaviour. This form of campaign is generally found where the behaviours sought to be modified have substantial effects on society as a whole e.g. smoking, road safety etc. There are information campaigns on both these issues in Ireland. Another example is the *Race and Against Waste* campaign to encourage recycling and more sustainable waste disposal and management.

Information/education campaigns	
<p style="text-align: center;">Advantages</p> <ul style="list-style-type: none"> • Less intrusive than regulation • Allows individuals/businesses to make informed decisions • Can be useful where regulations would be too costly/difficult to enforce 	<p style="text-align: center;">Disadvantages</p> <ul style="list-style-type: none"> • Can be expensive to develop and run campaigns • Can be costly for citizens/consumers to process information • Difficult to identify specific causal link between campaigns, heightened awareness and behaviour • Information/risks may not be understood • Information supplied may be disputed or inaccurate

Incentive based structures/economic instruments

There are a variety of economic instruments which can be used as alternatives to command-and-control regulation. These include *inter alia* charges, taxes, subsidies and tradeable permit systems. From an economic perspective, these market incentives or economic instruments are the preferred alternatives to command-and-control regulation because they avoid the market distorting effects of most forms of regulation yet succeed in better aligning price incentives with the common good.

Market-based mechanisms are particularly useful to achieve environmental objectives. An Irish example is the plastic bag tax introduced in 2002 aimed at reducing consumption of plastic bags and the pollution they cause to the environment. Money garnered from the 22 cent levy goes to the Environment Fund which supports waste management and other environmental initiatives.

Subsidies are used in countries such as the Netherlands to encourage commuting via public transport while in Korea firms which establish facilities to prevent, treat or recycle pollutants can avail of long-term low interest loans (OECD 2002, 138).

Another form of economic instrument is the tradeable permit. A firm/ industry is issued with a permit to emit a particular quantity of a pollutant. Firms can sell on some of their allocation if they do not exceed their quota and must purchase additional permits if they exceed their quota. This provides them with incentives to reduce their production of the pollutant. The EU has introduced a pan-European Emissions Trading Scheme for Carbon Dioxide which came into force on 1 January 2005 with the aim of reducing emissions of carbon dioxide and other greenhouse gases.

Economic instruments	
<p style="text-align: center;">Advantages</p> <ul style="list-style-type: none"> • Less costly in achieving policy objectives • More flexible than command & control regulations • Can encourage innovation and technical change • Involve low levels of discretion because penalties or rewards operate mechanically after their introduction Therefore reduces risks of capture • Provides incentives to meet Government objectives in an efficient manner • Do not impose heavy burdens of information gathering and provision • Leaves discretion to individuals/firms 	<p style="text-align: center;">Disadvantages</p> <ul style="list-style-type: none"> • Can be ineffective if the value of an activity is more than the tax or the cost of reducing it is more than the subsidy • May need highly complex systems of rules to be put into effect e.g. tax systems can involve very complex regulations • May need enforcement mechanisms to reduce tax avoidance or prevent information being withheld • Can often be difficult to predict the effects of an incentive. This may involve costly research and calculations • May be seen as signaling that certain levels of undesirable behaviour are acceptable (e.g. a certain level of pollution)

Source: Baldwin and Cave, 1999 41-47; Better Regulation Taskforce 2004b

Models of Regulation

Traditional command-and-control regulation

Command-and-control systems of regulation are essentially “law and state-centred process(es) of legislation action combined with administrative enforcement.” (Parker and Braithwaite 2003, 127). Command-and-control regulations are arguably the most pervasive policy tool and have been applied in a wide variety of areas, both economic and social. In the Irish case, the practice has been for regulatory standard to be set by Government Departments through primary or secondary legislation and enforced by regulatory bureaucracies.

Although command-and-control systems have a number of advantages, they have a number of drawbacks (see Table which follows). In particular regulations can be costly to enact and enforce. The OECD (2002, 22) estimates that, in many countries, regulations impose costs of 10% of GDP or above.

Command-and-control regulation	
Advantages	Disadvantages
<ul style="list-style-type: none">• Fixed standards imposed quickly and actions/goods which do not conform are instantly outlawed• Denotes forceful action by Government and indicates it is taking a stand for/against particular activities• Outlaws behaviour which involves significant danger to public safety• Some people may only comply with regulations when they are strict and strongly enforced	<ul style="list-style-type: none">• Result in overly complex and bureaucratic rules and procedures which can be costly in terms of time and money• Enforcement often expensive and evasion possible through creative compliance• Can increase risk of regulatory capture since relies on industry for information on standards and limits• Can be difficult to determine most appropriate levels of performance• Can be overly dogmatic and intrusive• Can involve more policy risk

Sources: Baldwin and Cave, 1999, 35-37; Parker and Braithwaite 2003, 127; Parker 2000

Where risks to the public are significant, command-and-control solutions are often the most appropriate. However, where danger to the public is less of an issue, lighter approaches to regulation or alternatives should be considered.

Voluntary approaches – Self-Regulation

Voluntary approaches are arrangements initiated and undertaken by industry and firms, sometimes formally sanctioned or endorsed by Government, in which self-imposed requirements are agreed which go beyond or complement the prevailing regulatory requirements. These include voluntary initiatives, voluntary codes, voluntary agreements, and self-regulation and vary in regard to their enforceability and degree of voluntarism.

There are two motivations which can encourage firms to participate in voluntary approaches. First, companies who take voluntary action to address a policy concern may stave off more onerous Government regulation. A threat by Government of possible future regulation can encourage an industry to deal with the issue itself. Firms are also increasingly recognising that they can enhance their reputation and increase sales via participation in voluntary associations (OECD 2002, 140).

An Irish example of self-regulation is the Advertising Standards Authority of Ireland, which is an independent self-regulatory body set up and financed by the advertising industry to monitor and protect certain standards of advertising. This is achieved through the development of, and voluntary compliance with, a set of advertising standards.

Voluntary approaches/Self-Regulation	
<p style="text-align: center;">Advantages</p> <ul style="list-style-type: none"> • Often cheaper than command-and-control with less direct costs to the State • More adaptable to societal and technical change • Excludes the Courts (cheaper and reduces the case load of the Courts) • Promotes interaction in the public interest amongst competitors • Compliance costs lower because they are designed by the industry 	<p style="text-align: center;">Disadvantages</p> <ul style="list-style-type: none"> • Can be ineffective since there may not be adequate enforcement • Little action may be taken to curb/change behaviour which generates significant profit • Can be anti-competitive and result in barriers to entry

Source: UK Better Regulation Taskforce 2004 b, 4;

Performance-based regulation

Performance-based regulation involves the specification of required outcomes or objectives, rather than the means by which these must be achieved and may be enforced through self-regulation or co-regulation. The degree of Government intervention is therefore reduced. Firms and individuals are able to choose the process by which they will comply with the law. The focus of regulation is on results or outputs, rather than inputs.

Performance-based regulation	
Advantages	Disadvantages
<ul style="list-style-type: none">• Firms and individuals can identify efficient and lower cost processes to achieve the particular outcome• Encourage innovation and the more widespread use of technology• Regulations can be simpler and clearer since they involve only the specification of objectives and outputs instead of prescriptive detail and processes	<ul style="list-style-type: none">• Can be difficult to develop since it requires precise and unambiguous specification of objectives and outcomes• Requires operational guidelines to support firms and individuals with compliance. These can then become de facto prescriptive regulations

Source: OECD 2002, 135

The use of performance-based regulation is rapidly developing in OECD countries. Its use has been increasing significantly in relation to health, safety, consumer protection and environmental regulation in particular. For example in Canada, the Ontario Ministry for the Environment and Environment Canada negotiated an agreement with a major steel company to advance the prevention and abatement of releases from their steel manufacturing. Targets were set and the company itself could decide how these were met. An evaluation of this programme found that costs were kept low and the targets were met (OECD 2003, 30)

Co-regulation

Co-regulation is where the regulatory role is shared between Government and the particular industry or sector being regulated. In some cases the industry or a large proportion of industry participants formulate a code of practice in consultation with Government, with breaches of the code usually enforceable via sanctions imposed by industry or professional organisations rather than the Government directly. In other cases, the Government can retain control of some aspects of policy and devolve other elements to the industry.

An Irish example is the delegation of the regulation of the medical and legal professions to the Medical Council and the Law Society.

Co-regulation	
Advantages	Disadvantages
<ul style="list-style-type: none"> • Reduces cost to the State because the costs are usually borne by the profession/industry • Encourages greater responsibility within sectors/industry for performance • Harnesses the expertise and knowledge of an industry or professional association • Can increase compliance levels because industry/profession involved in monitoring behaviour 	<ul style="list-style-type: none"> • Can encourage anti-competitive behaviour and barriers to entry • Higher risk of regulatory capture given the close relationship between the Government and the industry/profession • Enforcement may be weaker due to lack of accountability and self-interest on the part of the profession/industry • Needs careful design based on principles of transparency and accountability to avoid barriers to competition

These are the most common forms of regulatory alternatives/models. Their appropriateness depends on the policy problem which is to be addressed, the prevailing culture and administrative system and a variety of other factors. In the White Paper, *Regulating Better*, the Government has agreed that alternatives to regulations should be used more widely. The evaluation of alternatives as part of RIA can contribute to this goal.

Appendix K: Poverty Impact Assessment

It is a requirement in the Cabinet Handbook (published in October 1998) that Memoranda for the Government “*indicate clearly the impact of the proposal on groups in poverty or at risk of falling into poverty in the case of significant policy proposals.*”

In 1999 the then Department of Social, Community and Family Affairs circulated Poverty Proofing Guidelines to all Government Departments in order to assist them in this regard. A more effective Poverty Proofing process was developed, resulting in what is now called Poverty Impact Assessment, the Guidelines of which were first published in 2006. The latest version of the Guidelines for Poverty Impact Assessment is available on the Office for Social Inclusion's website: www.socialinclusion.ie

RIA reinforces the requirement to carry out Poverty Impact Assessment on the impacts of regulations on social exclusion and vulnerable groups. In order to avoid duplication of processes it is important that the procedures followed in the context of carrying out a RIA are in line with those already in place for Poverty Impact Assessment.

In assessing the impact of a policy or programme on poverty and social exclusion, consideration should be given to who the target groups are, whether there are any differences within the target group, or between the target groups, which could lead them to benefit in different ways. The impact on poverty may be felt in terms of numbers in poverty or the level of poverty experienced. The extent of the impact on each of the groups who have been identified as being most vulnerable to poverty and social exclusion (e.g., women, lone parent families, families with large numbers of children, people with disabilities, unemployed people, members of the Traveller community, people experiencing rural disadvantage, people experiencing urban poverty, homeless people, migrants and ethnic minorities or other relevant groups of people) should be identified. Consideration should also be given to measures which could ameliorate any negative effects identified.

The stages involved in Poverty Impact Assessment are summarised on the following page. Policymakers should refer to the website of the Office for Social Inclusion (www.socialinclusion.ie) in order to access up to date information in relation to poverty and social exclusion issues generally and, in particular, to access the latest version of the Poverty Impact Assessment Guidelines.

Poverty Impact Assessment – Stages involved

Stage 1 **Screening** – This will inform the policy maker as to whether or not it is necessary to carry out a full poverty impact assessment. A brief overview or background of the proposal should be set out at this stage.

Stage 2 **Full Poverty Impact Assessment**

Step 1: Consultation

Step 2: Define Policy Aims and Target Groups

- 2.1 *What is the primary objective of this policy/programme/expenditure proposal?*
- 2.2 *Who is the proposal aimed at and how would the proposal affect those persons or groups?*
- 2.3 *What are the differences within the target group/between the target groups which might lead to them benefiting from the policy/programme in different ways and how could these be addressed?*

Step 3: Identify Available Data and Research

Step 4: Assess Impacts and Consider Alternatives

- 4.1 *What type of impact on poverty (either in terms of numbers in poverty or level of poverty) would the proposal have on each of the vulnerable groups identified?*
- 4.2 *If the proposal would have no effect on poverty what options might be identified to produce a positive effect?*
- 4.3 *If the proposal would have a positive effect would it help to prevent people falling into poverty, reduce the level (in terms of numbers and depth) of poverty or ameliorate the effects of poverty? (specify). Explain how these positive effects are achieved and consider whether the position could be improved upon.*
- 4.4 *If the proposal would have a negative effect (i.e. it would increase either the numbers in poverty or the level of poverty experienced) what options could be considered to ameliorate this effect?*
- 4.5 *Would the proposal contribute to the achievement of the NAPinclusion goals and targets? If yes, explain how this is the case and whether the position can be improved further. If no, can anything be done so that it does contribute to the goals and targets?*
- 4.6 *Would the proposal address the inequalities which may lead to poverty? If not, can anything be done to address the inequalities?*

Step 5: Make Decision and Arrange Monitoring

- 5.1 *Will this proposal be adopted?*
- 5.2 *If the proposal is to be adopted, how will its impact on poverty be monitored?*

Step 6: Publish Results

Step 7: Return Summary Sheet to the Department's Social Inclusion Liaison Officer.

Where there is no liaison officer a copy should be sent directly to OSI.

More detail is contained in Poverty Impact Assessment Guidelines, available on:
www.socialinclusion.ie

References and Further Reading

Baldwin, Robert and Martin Cave 1999. *Understanding Regulation Theory, Strategy and Practice*. Oxford: Oxford University Press.

Braithwaite John and Christine Parker 2003. "Regulation" in Cane, Peter and Mark Tushnet. *The Oxford Handbook of Legal Studies*. Oxford: Oxford University Press.

UK Better Regulation Taskforce 2004b. *Alternatives to State Regulation*.

Commission of the European Communities 2001. *Mandelkern Group on Regulation Final Report*. Available online @ http://ec.europa.eu/governance/better_regulation/documents/mandelkern_report.pdf

Commission of the European Communities 2009. *Impact Assessment Guidelines*. Available online @ http://europa.eu.int/comm/secretariat_general/impact/docs

Department of the Environment, Heritage and Local Government 1997. *Sustainable Development: A Strategy for Ireland*. Dublin: Department of the Environment, Heritage and Local Government. Available online at: <http://www.environ.ie>

Department of the Environment, Heritage and Local Government 2002. *Making Ireland's Development Sustainable: Review, Assessment and Future Analysis*. Dublin: Department of the Environment, Heritage and Local Government. Available online at: <http://www.environ.ie> (A new review is in preparation for publication in 2009).

Department of the Environment, Heritage and Local Government 2007. *National Climate Change Strategy 2007 – 2012*. Dublin: Department of the Environment, Heritage and Local Government. Available online at: <http://www.environ.ie>

Department of the Environment, Heritage and Local Government 2002. *National Biodiversity Plan*. Dublin: Department of the Environment, Heritage and Local Government. Available online at: <http://www.environ.ie> (A new plan is in preparation for publication in 2009).

Department of the Environment, Heritage and Local Government 2007. *National Development Programme for Waste Resources (2007-2011)*. Dublin: Department of the Environment, Heritage and Local Government. Available online at: <http://www.environ.ie>

Department of the Environment, Heritage and Local Government 2006. *National Strategy on Biodegradable Waste*. Dublin: Department of the Environment, Heritage and Local Government. Available online at: <http://www.environ.ie>

Department of the Environment, Heritage and Local Government 2004. *Waste Management: Taking Stock and Moving Forward*. Dublin: Department of the Environment, Heritage and Local Government. Available online at: <http://www.environ.ie>

Department of the Environment, Heritage and Local Government 2002. *Preventing and Recycling Waste – Delivering Change*. Dublin: Department of the Environment, Heritage and Local Government. Available online at: <http://www.environ.ie>

Department of the Environment, Heritage and Local Government 1998. *Waste Management: Changing Our Ways*. Dublin: Department of the Environment, Heritage and Local Government. Available online at: <http://www.environ.ie>

Department of the Environment, Heritage and Local Government 2007. *National Programme for Ireland on Transboundary Pollutants - (Update and Revision)*. Dublin: Department of the Environment, Heritage and Local Government. Available online at: <http://www.environ.ie>

Department of Finance 2005. *Guidelines for the Appraisal and Management of Capital Expenditure Proposals in the Public Sector*. Available online at <http://www.finance.gov.ie>

Department of Finance 2006. *Public Procurement and Capital Appraisal*. Available online at <http://www.finance.gov.ie>

Department of Finance 2007. *Capital Appraisal Guidelines- Spot Check Guidance and Revised Test Discount Rate*. Available online at <http://www.finance.gov.ie>

Department of Social and Family Affairs (Office for Social Inclusion) *National Action Plan for Social Inclusion (NAP inclusion) 2007-2016*

Department of the Taoiseach 2004. *Regulating Better. A Government White Paper on Better Regulation*. Dublin: Department of the Taoiseach

Department of the Taoiseach 2005a. *Report on the Introduction of Regulatory Impact Analysis*. Dublin: Department of the Taoiseach

Department of the Taoiseach 2005b *Reaching Out: Guidelines on Consultation for Public Sector Bodies*. Dublin: Department of the Taoiseach.

Mulreany, Michael 2002. *Cost Benefit Analysis Readings*. Dublin: Institute of Public Administration

Nolan, Pat 2008. *Dynamics of Regulation in Ireland*. Dublin: Institute of Public Administration

OECD 2002. *Regulatory Policies in OECD countries from interventionism to regulatory governance*. Paris: OECD

OECD 2007, *Indicators of Regulatory Management Systems, Working Paper No. 4*

OECD 2008, *Measuring Regulatory Quality Policy Brief*