

Fact Sheet – Regulatory Impact Assessment in the ACT

Purpose

This Fact Sheet provides a quick guide on when a regulatory impact assessment (RIA) may be required for proposals of the ACT Government that may result in a new subordinate law (such as a regulation) or disallowable instrument.

What is a Regulatory Impact Assessment?

A RIA is a policy development tool that facilitates an assessment of the feasible options to achieve a policy goal and helps inform policy decisions. A RIA is prepared during the policy development phase and generally considers whether there is a need for a regulatory intervention (or can the goal be achieved through non-regulatory means) and the relative costs and benefits of the feasible options to address the problem.

Why should I prepare a Regulatory Impact Assessment?

A RIA can helpfully inform policy development by identifying the policy solution that is likely to result in the highest level of benefits for the community. In turn, this can help the economy to grow and make Canberra a better place to live.

Further, the process of understanding where impacts will be experienced by stakeholders, whether it be in the form of a cost or benefit, will assist you as a policy maker and your Minister to understand any implementation challenges that may arise when the proposal is taken to the community, Cabinet, and the Legislative Assembly.

While a RIA is not required for legislative changes, the policy development process can be strengthened through undertaking a RIA. It can bring forward the optimal policy design and an appreciation of implementation issues.

Most Australian jurisdictions also require regulatory impact statements (RIS) to be published when new regulatory mechanisms are brought forward. In the ACT, a Minister is required to present a RIS to the Legislative Assembly together with a subordinate law or disallowable instrument that is likely to impose appreciable costs on the community, or part of the community.

The RIA undertaken during the policy development phase will provide most of the necessary information needed for this purpose. However, the tabled RIS will also need to provide a brief assessment of the consistency of the proposed law with scrutiny committee principles, much as is required for all new legislative proposals.

When would I start a Regulatory Impact Assessment?

A RIA should be prepared if regulatory intervention may result in a more than minor change in the **obligation, behaviour or impact** for individuals, businesses, or community organisations.

A RIA is undertaken at the policy development stage, before a policy direction is chosen. By capturing and weighing the full range of costs and benefits, a RIA is able to help inform a discussion between the directorate and the Minister on feasible options to address the policy problem. This same information will be expected by Cabinet and will also inform any Cabinet Subcommittee discussion on feasible options at the policy approval stage.

A RIA is not required in circumstances where an urgent regulatory intervention is required for public safety reasons or to change the sanctions for non-compliance with an existing obligation. A RIA is also not required if the matter involves adoption of a national or international standard, or an intergovernmental agreement, where an assessment of the benefits and costs has already been done and is relevant to the ACT.

I'm starting my Regulatory Impact Assessment, what do I include?

Many regulatory interventions by the ACT Government reflect election commitments, where the Government has already publicly committed to one policy approach. In this instance, there is no need to explore the threshold issue of whether Government intervention is required. Rather, the RIA can focus on the different costs and benefits of the feasible options to achieve the Government's commitment.

In all other circumstances, a RIA should explore whether the problem requires a regulatory intervention, noting a regulatory intervention may be necessary where the market is not working to produce the best outcome for society.

All regulation has an impact on society, both financial and non-financial. Regulatory intervention should be viewed as an option of last resort when all alternative options are ineffective, inefficient and/or have greater impacts on society.

How to approach the cost-benefit analysis of options in a Regulatory Impact Assessment

A cost-benefit analysis allows a systematic evaluation and comparison of the costs and benefits of the options to address the problem. The steps below provide a starting point on how you can begin to weigh the costs and benefits once the feasible regulatory and non-regulatory options are identified.

1. Specify a base case

Information should be gathered to establish a base case, which is what it would look like if no additional government intervention, other than existing government policy measures as well as measures that can be reasonably expected under the current government policy direction, is introduced. This allows the other options to be compared to the market operating as per normal.

- a. As an example, the baseline for a proposal to prevent new gas connections in the ACT by regulation could capture what level of greenhouse gas emissions could be expected, together with their associated impacts, as shaped by existing market forces and Government educative and incentive schemes. This can then be contrasted to expected outcomes of the regulatory options.

2. Identify the affected entities

It is important to identify who in the ACT is going to be affected by the proposed policy, be it households, businesses, or the broader community. Practically, you can look to understand this by asking – who is going to be better or worse off from this regulation.

3. Identify the impacts and select measurement indicators

The primary and secondary impacts of each feasible option should be identified, and only additional costs and benefits arising from implementing those options (compared to the base case) should be included in the analysis. All desirable effects for the affected entities are benefits, and all undesirable effects are costs. Typical costs and benefits that may arise are presented in the table below.

Typical impacts	Costs	Benefits
Direct financial impact	Regulatory fees, charges, or levies	Savings for consumers, cost savings for businesses
Compliance impact	Equipment purchase and maintenance costs, training costs	Better service level, better information, better quality product
Market and economic impact	Competition constraints, less consumption options and product quality, higher prices, hand break on the economy	Increased competition, higher productivity, higher mobility of labour, grow the economy
Other impacts	Environmental damage, costs and pressure on the public health system	Reduce emission, other avoided damage to climate, slower global warming, better health outcomes, fewer accidents

The selected indicators for measuring the impacts should be linked closely to the impact and well supported by data from reliable sources. Ease of quantification is also an important consideration when choosing indicators. As an example, for a proposal that reduces the risks of a hazard, its positive impact could be measured in terms of a reduced number of accidents, and the benefit from accidents avoided could be quantified.

Where to seek assistance on matters related to Regulatory Impact Assessment?

For enquiries in relation to RIA, such as for advice on whether a RIA should be prepared and assistance to scope or review a RIA, please contact Economic and Regulatory Policy at EconomicandRegulatoryPolicy@act.gov.au.

Consultation with Economic and Regulatory Policy early in the policy development process is strongly encouraged as it will ensure guidance and advice can be provided to enable the preparation of a sound RIA.

Further detailed guidance on how to prepare a RIA is available in the [Best Practice Guide for Preparing Regulatory Impact Statements](#).