



## SHORT FORM AND INTERIM REGULATION IMPACT STATEMENTS

February 2016

The [Australian Government Guide to Regulation](#) outlines the process for developing a regulatory proposal, including a Regulation Impact Statement (RIS).

### What has changed from the previous guidance note?

1. An Interim RIS can be used for a Cabinet decision where a Standard form or Long Form RIS has been recommended by OBPR but an agency is unable to provide one in the time available.
2. The circumstances in which Short Form RISs can be used have been clarified.
3. If a portfolio brings forward a proposal with net regulatory increases and offsetting regulatory savings are not included in the RIS and agreed with the OBPR, the proposal can only proceed if the portfolio can demonstrate satisfactory progress towards its net objective.

From February 2016, there are four types of RISs: Long Form, Standard Form, Short Form and Interim. Which RIS is the most appropriate is up to the agency to decide, in conjunction with advice provided by the Office of Best Practice Regulation (OBPR). However, the Short Form RISs and Interim RISs are only available for matters to be considered by the Cabinet.

Short Form RISs can be prepared where:

- the proposal is non-regulatory or administrative/machinery in nature, or is expected to have only a minor regulatory impact on individuals, businesses and community organisations, or
- the policy is a matter of national security, public safety, a natural disaster or a pressing event, or
- a RIS has recently been completed and signed off by OBPR and only minor modifications have been made to the original policy options under consideration.

Short Form RISs are not published.

In general, Short Form RISs should only be prepared when a proposal is non-regulatory or administrative/machinery in nature, or is expected to have only a minor regulatory impact on individuals, businesses and community organisations. If an agency does in fact prepare a Short Form RIS for a Cabinet proposal that has a more than minor regulatory impact it will be classified as an Interim RIS and will be subject to these arrangements set out below.

Interim RISs may be considered where a Standard or Long Form RIS has been recommended by the OBPR, but for whatever reason an agency does not prepare an early assessment Standard Form or Long Form RIS (as appropriate) for a Cabinet decision.

The Interim RIS could have similar content to a Short Form RIS, but preferably would have more detailed information to inform key aspects of the early assessment decision. For example, it would preferably include

clear identification of the problem with existing regulation and how a preferred option is expected to improve outcomes.

In circumstances where an Interim RIS is used, it needs to be converted to a Standard Form or Long Form RIS (as appropriate) prior to a final decision. If the Interim RIS is not converted before a final decision then the Interim RIS will be published by the OBPR following public announcement of the decision and noted as non-compliant. If an Interim RIS is prepared for a Cabinet proposal that has a more than minor regulatory impact, and the Cabinet decision is considered to be the final decision point, then the Interim RIS will be published by the OBPR following public announcement of the decision and noted as non-compliant.

Interim RISs are not subject to the two pass final assessment process. OBPR does not report on whether Interim RISs are consistent with best practice. If OBPR publishes an Interim RIS on its website (because it was not converted to a Standard or Long Form RIS prior to a final decision), OBPR will outline which type of RIS was recommended for the proposal, while noting that the RIS is non-compliant as the agency elected to prepare an Interim RIS and that it was not converted to a Standard or Long Form RIS before the final decision was made.

While the OBPR does not assess Interim RISs, there may be circumstances where an agency has submitted an Interim RIS which may be sufficiently adequate to achieve best practice under the relevant RIS category had it been certified and submitted for formal OBPR assessment. In these circumstances, the OBPR will encourage the agency to certify and resubmit the Interim RIS as a Standard or Long Form RIS (as appropriate) for formal OBPR assessment. If an agency elects to do this, then normal assessment processes will be undertaken by the OBPR as outlined in the User Guide.

Interim RISs that are published as non-compliant following an announcement of a final decision will trigger a requirement to complete a post-implementation review (PIR) within two years of the regulation being implemented.

### **Short Form RISs for proposals that are non-regulatory or have an administrative/machinery impact**

Cabinet Submissions that are non-regulatory or have an administrative/machinery impact:

- do not require the inclusion of a Regulatory Burden Estimate (RBE) table; and
- only need to include the following in the New Policy Proposal (NPP) or Cabinet submission template:

#### **Regulatory Impact:**

This proposal is non-regulatory/machinery in nature and has zero regulatory cost.

If the proposal is non-regulatory (or administrative/machinery in nature) but has a regulatory cost/save, a regulatory burden estimate table will need to be provided in the NPP or Cabinet submission. For example, changes to an IT system may be non-regulatory, but may nevertheless result in compliance costs or savings for individuals.

## Short Form RISs for regulatory proposals

Short Form RISs for regulatory proposals should include:

- a summary of the proposed policy and any options considered
- an overview of likely impacts
- an outline of regulatory costs and cost offsets (if identified).

The OBPR needs to agree regulatory costings where the annual average regulatory cost is \$2 million or more before the Cabinet Submission can be circulated for Coordination Comments.

Where the OBPR agrees that the proposal is likely to have:

- less than \$100,000 in regulatory costs/savings per annum, these need to be estimated using the Regulatory Burden Measurement (RBM) tool or by making an estimate of the annual average cost. These costs/savings are self-assessed and do not need to be agreed with the OBPR, but need to be included in the Cabinet Submission circulated for coordination comments; or
- Between \$100,000 and \$2 million in regulatory costs/savings per annum, these can be self-assessed using the RBM. These costs/savings do not need to be agreed with the OBPR, but need to be included in the Cabinet Submission circulated for Coordination Comments.

If a portfolio brings forward a proposal with net regulatory increases and offsetting regulatory savings are not included in the RIS and agreed with the OBPR, the proposal can only proceed if the portfolio can demonstrate satisfactory progress towards its net objective. This requirement can be satisfied by the portfolio Deputy Secretary or delegate warranting in the RIS certification letter that the portfolio's net regulatory objective will be met by the end of the relevant reporting period. For the purposes of Short Form RISs and Interim RISs where a certification letter is not required, it will be sufficient to include in the RIS the Deputy Secretary's or delegate's statement warranting that the net objective will be met.

### Template

#### Regulation Impact Statement

Name of department/agency:

OBPR Reference number:

Name of proposal:

Summary of the proposed policy and any options considered:

What are the regulatory impacts associated with this proposal? Explain.

What are the regulatory costs/savings associated with this proposal? Explain and quantify.

Although not mandatory at the time of the policy decision, have you considered the offsets for the regulatory costs associated with this proposal? Has the portfolio Deputy Secretary or delegate warranted that the net regulatory target will be met by the end of the relevant reporting period?

Regulatory burden estimate (RBE) table

| Average annual regulatory costs (from business as usual) |          |                         |             |                      |
|--|----------|-------------------------|-------------|----------------------|
| Change in costs (\$ million)                             | Business | Community organisations | Individuals | Total change in cost |
| Total, by sector   | \$       | \$                      | \$          | \$                   |

Example

**Regulation Impact Statement**

Name of department/agency: *Department of C*

OBPR Reference Number: *11111*

Name of proposal: *Proposal F*

Summary of the proposed policy and any options considered:

*The proposed policy is to introduce simplified reporting requirements for a grant programme for Group G. Option H, to simplify reporting requirements for a subset of the grants, was also considered. However, that option was not progressed further due to feedback received from stakeholders that the option could be extended to the full range of grants.*

What are the regulatory impacts associated with this proposal? Explain.

*The programme does not impose any additional regulatory burden on Group G. The proposal aims to simplify reporting for members of Group G who choose to participate in the programme.*

What are the regulatory costs/savings associated with this proposal? Explain and quantify.

*Reporting requirements are reduced for X businesses that participate. This reduces the time for businesses to complete reporting requests by Y hours a year, which represents a reduction in annual average compliance costs of \$Z. This is based on comments received from stakeholders that the total reporting time for business is W. This proposal will take Y hours off that time. This is quantified in the regulatory burden estimate table below.*

Regulatory burden estimate (RBE) table

| Average annual regulatory costs (from business as usual) |          |                         |             |                      |
|--|----------|-------------------------|-------------|----------------------|
| Change in costs (\$ million)                             | Business | Community organisations | Individuals | Total change in cost |
| Total, by sector   | (\$Z)    | \$0                     | \$0         | (\$Z)                |

## Interim RIS examples

There are no specific templates to be used for Interim RISs. Depending on circumstances and time constraints, they should be prepared as much as possible in line with the requirements, processes and RIS questions for early/final assessment Standard and Long Form RISs. This will make it easier for agencies to convert their Interim RISs to the appropriate Standard and Long Form RISs before the final decision point. The Interim RIS could have similar content to a Short Form RIS, but it could also have more detailed information to inform key aspects of the early assessment decision.

### Interim RIS Case Study 1

An agency has been asked by their Minister to bring forward urgently for Cabinet's consideration a major regulatory proposal to prevent risky behaviours in certain workplaces. The agency contacts the OBPR for a preliminary assessment. The OBPR informs the agency that a Standard Form RIS would be appropriate given the significance of the policy. The agency does not have time to develop a Standard Form RIS at such short notice and instead elects to prepare an Interim RIS for the matter.

The agency prepares the Interim RIS, which includes responses to two of the seven RIS questions ('what is the problem you are trying to solve', and 'what policy options are you considering') along with regulatory costings agreed with OBPR<sup>1</sup>. In this case, OBPR does not assess the content of the Interim RIS, while noting that it is compliant with the Government's RIS requirements.

Subsequent to Cabinet's decision to proceed with the policy, the agency further develops the proposal, including consultation with stakeholders. In terms of finalising the RIS, there are two alternative outcomes:

1. The agency answers the seven RIS questions, quantifies the regulatory costs and submits the document as a Standard Form RIS for final assessment by the OBPR before a final decision is made. As per normal RIS processes, the OBPR assesses the RIS (and costings) and following an announcement of the final decision, the OBPR publishes the Standard Form RIS on its website.
2. If the agency does not convert the Interim RIS into a Standard Form RIS and have it assessed as such prior to the final decision, the Interim RIS is published on the OBPR website following an announcement of the decision. In publishing the Interim RIS, the OBPR will outline the type of RIS it recommended for the proposal and note that the agency elected to undertake an Interim RIS and that it was not converted to a Standard Form RIS prior to a final decision and as such it is non-compliant with the RIS requirements. The agency would be required to complete a PIR within two years of the regulation being implemented.

### Interim RIS case study 2

Following a decision of Cabinet's Expenditure Review Committee (ERC), an agency is asked to develop a regulatory proposal for ERC's consideration late in the Budget process. The proposed policy is effective from Budget night. The OBPR advises the agency that a Standard Form RIS is appropriate for the matter.

The agency does not have time to develop a Standard Form RIS prior to the ERC decision, and instead elects to prepare an Interim RIS for the decision.

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<sup>1</sup> As such, the Interim RIS does not have the minimum requirements to be certified by the agency and assessed by the OBPR as a Standard Form RIS for early assessment.

Following the Budget night announcement of the policy (considered to be the final decision point as, for example, no legislative change is required), the OBPR publishes the Interim RIS as it was not converted to a Standard Form RIS prior to the final decision on the policy. The web post on the OBPR website also notes that the OBPR had initially recommended a Standard Form RIS for the proposal and that the agency elected to undertake an Interim RIS which was not converted to a Standard Form RIS prior to the final decision and as such it is non-compliant with the RIS requirements. The agency would be required to complete a PIR within two years of the regulation being implemented.

### **Assistance**

If you have any questions about this guidance note, email OBPR at [helpdesk-OBPR@pmc.gov.au](mailto:helpdesk-OBPR@pmc.gov.au) or call (02) 6271 6270.

Your portfolio Regulatory Reform Unit is also a useful source of information.

Further information on the RIS process is in the [\*Australian Government Guide to Regulation\*](#).