



## INDIVIDUALS

February 2016

The trigger for preparing a Regulation Impact Statement (RIS) includes impacts on individuals, reflecting the significant regulatory burden experienced by individuals and the Government's objective to reduce that burden.

The purpose of this guidance note is to assist you to interpret the [Australian Government Guide to Regulation](#) by providing guidance on when a RIS may be required for proposals that affect individuals and on how to quantify the regulatory costs on individuals.

### Definitions

An **individual** is a person who is subject to Australian law, whose activities have an impact in Australia and who either:

- interacts with the Australian Government, or
- is impacted by an Australian Government regulation.

All activities of individuals are included in the scope of the RIS and regulatory costing requirements, including those that are income-generating, such as meeting licensing requirements for employment, and those that do not relate to income, such as obtaining visas and passports.

An individual's interaction with government services, such as Centrelink or Medicare services, is also included.

### When is a RIS required?

A RIS is mandatory for all decisions made by the Cabinet. This includes proposals that affect individuals, regardless of whether the proposal is minor or machinery in nature, or is non-regulatory.

A RIS is also required for all non-Cabinet decisions made by the Australian Government and its agencies that are likely to have a regulatory impact on businesses, community organisations or individuals. This includes, for example, policy changes endorsed by a minister or assistant minister. However, a RIS is not required for non-Cabinet decisions if the regulatory impact is of a minor or machinery nature and does not substantially alter existing arrangements. For example, changes to administrative processes that do not substantially alter existing requirements, such as offering improved service levels through a digital channel to a significant number of customers, do not require a RIS.

A minor change is a change that does not substantially alter the existing regulatory arrangements for individuals. Minor and machinery changes are discussed further in the [User Guide to the Australian Government Guide to Regulation](#). An impact on individuals is considered more than minor where the proposed regulation results in a significant change to either behaviour or compliance costs. In analysing whether a proposal is significant, the size of the impact and the size of the affected population need to be considered, including whether a significant number of people are involved.

The Office of Best Practice Regulation (OBPR) does not define ‘a significant number of individuals’. Depending on the programme or policy area, the number can vary widely. OBPR will rely on you to demonstrate whether the number of people affected by a proposed regulation is significant for the particular programme or area.

For instance, a regulation that requires every prospective construction worker in Australia to obtain a three-year degree in construction work would affect a relatively small number of people, compared to a regulation that requires every taxpayer to provide information on their children’s earnings as part of their tax return, but both proposals would likely require a RIS because the changes in arrangements are likely to be more than minor. On the other hand, a proposal that requires individuals receiving financial assistance from the Government to provide their name in an online form would not be likely to require a RIS because the compliance cost impact would be small, even though it would affect a significant number of individuals.

Regulation that affects individuals residing outside Australia would be in scope of the RIS requirements if there is also an impact in Australia. For example, changes in the regulation of visa applications would be likely to lead to a social or economic impact in Australia and therefore would require a RIS.

When filling out the Preliminary Assessment form to request advice on whether a RIS is required, you should identify whether the proposal is considered minor and/or machinery, where applicable. At the earliest opportunity, you should seek agreement from OBPR on whether a RIS is required.

Even if a RIS is not required for a proposal, you will still be required to quantify the regulatory costs imposed on business, community organisations and/or individuals, along with associated cost offsets, using the Commonwealth’s Regulatory Burden Measurement framework. The regulatory costs and offsets need to be reported to portfolio Regulatory Reform Units.

### **The focus of RIS requirements**

When determining whether a RIS is required for proposals that affect individuals, OBPR considers whether the proposed regulation mandates an individual’s interaction with government. The RIS requirements cover all of the individual’s interactions with government, including in programmes in which participation is not mandated<sup>1</sup>, but OBPR focuses on regulatory proposals that involve mandatory interaction (that is, personal regulation).

For example, this includes changes to require people to obtain a licence before undertaking certain activities, changes to the tax system or changes that place restrictions on individuals to behave in a particular way.

### **How to quantify regulatory costs on individuals**

Costs need to be estimated using the Regulatory Burden Measurement framework discussed in the [Regulatory Burden Measurement framework](#) guidance note.

When calculating the regulatory burden on individuals, you should exclude the costs already incurred by people in the absence of the regulation.

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<sup>1</sup> Further information on whether a RIS is required for non-mandatory participation in government programmes is in the *Commonwealth programmes* guidance note.

In some cases, a regulatory proposal will aim to influence the behaviour of individuals, often by imposing obligations on them. Where this obligation represents a substantive compliance or administrative cost it needs to be quantified using the RBM framework.

In some cases individuals fail to comply with government requirements and as a result, enforcement action may be warranted. If policies or administrative processes are put in place by government to influence or direct certain behaviour (that is, to ensure compliance with the government's requirements), then these enforcement actions are most likely outside the scope of the RBM framework. For more information on costing enforcement actions, see Appendix 3 in the RBM framework guidance note.

When quantifying regulatory costs to individuals, the default value of an individual's time while not in paid employment (such as during leisure time) should be valued at \$32 per hour.<sup>2,3</sup>

There is scope for you to use a different value if it is more appropriate. If you are considering doing so, you should provide OBPR with your assumptions and justify the need for a different value.

Further information on costing requirements for programmes, such as quantifying application costs, is included in the [Commonwealth programmes](#) guidance note.

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.

## Hypothetical examples

This section works through some hypothetical examples to help you understand the RIS and costing requirements for proposals that affect individuals. Note that in each example a RIS would be required if the proposal was proceeding to the Cabinet, even if the impact of the proposal was minor or machinery in nature.

### Example 1

The Australian Taxation Office proposes a new requirement for every taxpayer to report additional information in relation to medical expenses. However, at the same time, it proposes to pre-fill the additional information in e-Tax (or MyTax). This change would increase the information obligation on individuals and result in an administrative cost for them; however, the cost would be expected to be minimal for some affected stakeholders due to the proposal to pre-fill the information.

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<sup>2</sup> Note, labour rates have been updated as at February 2019. This data is based on [ABS Cat. No. 6306.0 Employee Earnings and Hours, Australia, May 2018](#). Data Cube 13 - Average weekly total cash earnings and hours paid for: full-time non-managerial employees paid at the adult rate (weekly ordinary time). Calculated using the [ATO's online Simple Tax Calculator](#), 2017-18 tax rates.

<sup>3</sup> This value should only be used to value individuals' time while not in paid employment for those individuals residing in Australia. A more appropriate value should be used when valuing the time of individuals living outside Australia, based on the average hourly rate in the country where they live.

The proposed regulation could require a RIS because it affects every individual in the tax system. Whether a RIS is required depend on how significant the change is.

To calculate the increased regulatory burden as a result of the requirement for reporting additional information, you need to estimate the time cost, taking into account the reduced regulatory burden for those people whose information is pre-filled in e-Tax (or MyTax). This estimate of time cost should then be multiplied by the number of affected taxpayers and the cost of an individual's time. There are no substantive compliance or delay costs associated with this proposal.

### Example 2

Assume that individuals are not currently required to obtain a police check before working with children, but that a proposed regulation will require them to do so. To obtain the police check, individuals must complete a form, meet a proof-of-identity requirement and lodge the form. They must also pay a \$71 fee to government. This change would be likely to require a RIS because the regulation has a significant compliance cost impact for individuals.

The administrative costs to individuals are the costs of completing the form and the costs associated with taking the form to a shopfront, including travel time and queuing time, to lodge and present proof of identity. The \$71 fee is not included in the calculation because charges payable to government are excluded from the Regulatory Burden Measurement framework.

There might also be a delay cost if individuals have to wait for the police check to be completed before commencing employment. This delay cost is the income lost as a result of having to wait for the approval. Calculate it using the average wage rate for the affected industries multiplied by the number of hours of missed work multiplied by the number of individuals affected.

Further information on delay costs is included in the [Regulatory Burden Measurement framework](#) guidance note.

### 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](#).