
E States and Territories

This appendix focuses on the regulatory impact analysis processes in the Australian states and territories in 2006-07.

During this period, regulatory reform was an important undertaking for state and territory governments, with most implementing or continuing regulatory reform programs. In April 2007, COAG reiterated its position concerning the regulatory impact analysis process (see appendix C of this report), by including the requirements in its Regulatory Reform Plan, which is a part of its National Reform Agenda (NRA). The states and territories also committed to the actions specified in the COAG communiqué of April 2007 to ensure that the agreed principles flow through into practice.

During 2006-07 a number of state governments have taken initiatives to reduce red tape. The Victorian and South Australian governments have introduced programs to reduce compliance burdens on businesses specifying targets for reductions. The NSW government conducted an independent review of the compliance burden in the State and established several reviews in specific areas. It has also strengthened the role of the Minister for Regulatory Reform and established the Better Regulation Office. South Australia has adopted the Australian Government's Business Cost Calculator (BCC). Queensland is also considering the use of the BCC. Victoria has adopted the Standard Cost Model (SCM) to estimate administrative cost burdens.

Regulation Impact Statements (RIS) continue to be the most used tool to ensure regulatory quality in Australian jurisdictions. Other measures to improve regulatory quality include stakeholder consultation, mandatory sunset and review provisions, and public reporting of RIS compliance.

E.1 Victoria

Regulatory impact analysis

Victoria has a comprehensive regulatory impact analysis process. This includes a statutory requirement to prepare a RIS where a proposed statutory rule is likely to

impose an appreciable economic or social burden on a sector of the public. In addition, there is a requirement for a Business Impact Assessment (BIA) to be prepared for primary legislation that has a significant impact on business or competition. Where any legislative instrument results in a material change in the administrative burden imposed on businesses and not-for-profit organisations, an SCM measurement is required to be undertaken and the results publicly reported.

Victorian Competition and Efficiency Commission

The Victorian Competition and Efficiency Commission (VCEC) is the independent assessor of RISs, BIAs and SCM measurements. The Commission also conducts public inquiries and investigations into competitive neutrality. The Commission released the following reports in 2006-07:

- *Making the right choices: options for managing transport congestion* (VCEC 2006). The report explored options aimed at improving the efficiency and management of transport congestion in Melbourne, Ballarat, Bendigo and Geelong. The final report was publicly released in March 2007 along with the Government's response, which supported 52 of the 58 options raised by the Commission.
- *Simplifying the menu: food regulation in Victoria* (VCEC 2007a). The Commission's inquiry into food regulation explores ways to simplify the current regulatory environment, clarify roles and expectations for food industry participants at different stages of production, and ensure best practice enforcement of food regulation. The final report was presented to the Government in September 2007. The Government has six months within which to release the final report and issue its response.
- *The Victorian Regulatory System* (VCEC 2007b). This annual survey reports on regulatory developments in each of the Victorian Government business regulators. In April 2007, there were 72 Victorian Government business regulators, responsible for administering 196 Acts and 224 Regulations.
- *Review of the Labour and Industry Act 1958*. The Commission completed a review of the *Labour and Industry Act 1958* and presented the final report to the Government in mid 2007. The Government is expected to release the final report and its response by the end of 2007.
- *The VCEC Annual Report*. The Commission reports annually on its own activities; on compliance with the Victorian Government's best practice processes for making regulations and legislation; as well as the findings of inquiries into matters referred to the Commission by the Government and

compliance with competitive neutrality. The 2006-07 annual report will be released in the latter half of 2007.

Developments in regulatory reform

The Victorian Government announced the *Reducing the Regulatory Burden* initiative in the 2006-07 budget, setting aside \$42 million over four years. This initiative consists of three key commitments:

- cutting the existing administrative burden of regulation by 15 per cent over three years and 25 per cent over five years
- ensuring the administrative burden of any new regulation is met by an ‘offsetting simplification’ in the same or related area
- undertaking a program of reviews to identify the necessary actions to reduce compliance burdens (Government of Victoria 2007, p. 4).

The Better Regulation Unit has been established within the Department of Treasury and Finance (DTF) to co-ordinate the implementation of the *Reducing the Regulatory Burden* initiative across government.

The 2006-07 progress report on the *Reducing the Regulatory Burden* initiative provides provisional estimates that indicate a net reduction in the administrative burden of \$29.64 million per annum (Government of Victoria 2007, p. 12).

During 2006, a new regulator, the Working with Children Check Unit was established within the Department of Justice to administer the requirements of the *Working with Children Act 2005*. In addition, the Victorian Government has merged the Registered Schools Board with the Victorian Qualifications Authority to create a single body, the Victorian Registration and Qualifications Authority, to regulate education and training providers and qualifications in Victoria.

Various Acts and Regulations have also been introduced in Victoria to simplify and consolidate the legislative framework.

- The *Education and Training Reform Act 2006* replaced 12 Acts.
- The *Infringements Act 2006* provided a consistent framework for the issuing and enforcement of infringement notices for offences.
- The *Occupational Health and Safety Regulations 2007* replaced 19 existing sets of regulations.

A review which identified 15 actions that could be taken to streamline the planning permit process, *Streamlining the Planning Process – Cutting Red Tape Review*, was

published in August 2006. As a result of this review, 4000 minor works no longer require planning permits and the Government is proposing to exempt a further 3000 works.

In February 2007, it was announced that the Victorian and NSW Governments will harmonise payroll tax arrangements. Although both States will continue to set their own rates and thresholds, from 1 July 2007 Victoria and NSW will have the same definitions, standardised laws and common eligibility. These reforms are expected to cut red tape for thousands of businesses.

In September 2006, the Treasurer requested that the State Services Authority undertake a *Review of Not-for-Profit Regulation* (the Review). The Review is examining the impact of government regulation and other reporting requirements on the Not-for-Profit sector. The final report is due in the latter half of 2007.

Compliance reporting

The VCEC reports annually to the Treasurer on the nature and extent of compliance with published policies currently applying to government bodies in relation to RISs and BIAs. During the past financial year, the Commission completed 42 assessments of RISs, BIAs and SCM measurements. The Commission's Annual Report for 2006-07, which will be released in the latter half of 2007, provides further information on these assessments.

Resources for regulatory review

Approximately 6.8 full-time equivalent staff within the Commission are responsible for assessing the adequacy of RISs, BIAs and SCM measurements. In total, the VCEC comprises 22.2 full-time equivalent (FTE) staff, including Commissioners. From a total budget of \$2.99 million, the Commission allocated approximately \$780 000 to RIS, BIA and SCM assessment. There are approximately 4.7 full-time equivalent staff within the Better Regulation Unit of DTF.

E.2 South Australia

Regulatory impact analysis

In South Australia, all Cabinet submissions require an assessment of regulatory, business, regional, environmental, family and social impacts. Where the regulatory impact is significant, a RIS must be attached to the submission. Where there is a proposed restriction on competition, the assessment must demonstrate that the benefits outweigh the costs and that the objectives can only be achieved by restricting competition.

In addition, where there is a significant change proposed in relation to services or infrastructure in regional areas, a formal Regional Impact Assessment Statement (RIAS) must be prepared. After Cabinet consideration, RIASs are lodged in Parliament and published on the website of the Office of Regional Affairs.

Developments in regulatory reform

In 2006, the South Australian Government appointed a Minister Assisting the Premier with Cabinet Business and Public Sector Management. One of the roles of the Minister is to improve the quality of regulatory proposals submitted to Cabinet.

Also in 2006, the South Australian Government established a target of reducing red tape by at least 25 per cent by July 2008. This is supported by the following initiatives:

- Mandated use of the Australian Government's Business Cost Calculator (BCC) for all regulatory proposals and any other proposals with an impact on business (to be evaluated after 12 months).
- The creation of a Competitiveness Council, as a sub-committee of the Economic Development Board. This board reports to the Premier on the implementation across government of the initiatives to reduce compliance costs to business of government regulations, and other measures and indices of competitiveness. In addition to a rolling series of industry reviews, the South Australian Government agencies have submitted 'action plans' to the Competitiveness Council that outline their contribution to the Government's overall 25 per cent reduction target. Savings to businesses identified in the plans have been costed, where possible, using the BCC. A scorecard outlining the cost savings to business from red tape reduction initiatives is under development and will be updated quarterly.

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- Changing the requirement for a ‘Small Business Impact Statement’ in Cabinet submissions to a requirement for a ‘Business Impact Statement’ (incorporating use of the BCC).
 - Continuation of the sunset program, whereby all regulations except those detailed in section 16A (Subordinate Legislation Act 1978) expire on 1 September in the year following the tenth anniversary of their promulgation.

Compliance reporting

In the year ending 31 March 2007, there were 301 assessments of regulatory impact reported in Cabinet Submissions, including 10 separate RISs. The Cabinet Office considered that the majority of the assessments were adequate.

As part of the government’s red tape reduction plan, the State Government has committed to publishing an annual Red Tape Report, which will encapsulate the results of the BCC assessments.

Resources for regulatory review

South Australia does not have a Regulatory Review Unit. Impact assessment officers from the Departments of Premier and Cabinet, Trade and Economic Development, Families and Communities, and the Environment and Conservation portfolio, review the assessments of regulatory, business, regional, family and social and environmental impacts of Cabinet proposals. Approximately 3.6 FTEs are allocated to this task across government.

E.3 Queensland

Regulatory impact analysis

In Queensland, proposed subordinate legislation that is likely to impose appreciable costs on the community, or a part of the community, is subject to the preparation of a RIS as prescribed under Part 5 of the *Statutory Instruments Act 1992* (Qld) (the SIA).

In accordance with the principles outlined in the 1995 Competition Principles Agreement (CPA), the Queensland Government requires that all new and amending primary and subordinate legislation that restricts competition is subject to a public benefit test (PBT).

Where proposed subordinate legislation is likely to impose appreciable costs on the community, or part of the community, and contains restrictions on competition, a combined RIS/PBT can be prepared.

Regulatory governance arrangements in Queensland ensure that impact assessment processes for both PBT and RIS requirements are properly enforced. For example, Queensland Treasury is responsible for ensuring that legislation is reviewed in accordance with the CPA. The Queensland Cabinet Handbook requires that departments consult with Queensland Treasury on any proposed legislative restrictions on competition.

The Queensland Office for Regulatory Efficiency, in the Department of Tourism, Regional Development and Industry (formerly the Department of State Development), provides an advisory service to Queensland agencies on the application of RIS requirements prescribed under the SIA. As part of this service, the Department has published RIS guidelines. These guidelines were reviewed and updated in 2005.

Developments in regulatory reform

The Government is progressing the gate-keeping commitments made by Queensland in the Regulatory Reform Plan endorsed by COAG in April 2007 including:

- enhancing current gate keeping arrangements and impact assessment processes — strategies for achieving these are currently under development including a Legislation Development and Review System model to strengthen the current RIS process
- improving consultation arrangements with respect to legislation development and review — strategies for achieving this are also under development, including a whole-of-government consultation protocol with respect to legislation development and review
- developing more robust and user friendly guidelines for regulatory agencies on regulatory development, implementation and review — these guidelines are currently being finalised for government endorsement.

Governance arrangements established are as follows:

- The Queensland Office for Regulatory Efficiency has been established within the Department of Tourism, Regional Development and Industry to lead the development and implementation of the Queensland regulatory reform agenda.
- The Office is currently scoping possible systemic regulatory issues for review as part of its annual review commitments in the Regulatory Reform Plan. A draft

model has been developed for engaging with key government stakeholders to address systemic regulatory issues.

- A Senior Officers Network for Regulatory Reform has been established and is operational. This network is coordinating regulatory reform activities at a whole-of-government level.
- A chemicals and plastics inter-departmental reference group has been established to support Queensland's participation on the Chemicals and Plastics Ministerial Taskforce.
- Working groups to develop strategies for improving the business-government interface have been established. These groups will have a particular focus on:
 - strengthening consultation arrangements and practices to give business a better opportunity to provide input to the development and review of legislation
 - ensuring that businesses are adequately informed of, and have reasonable access to, details of current regulatory compliance obligations
 - raising awareness of business-related products and services, making access to financial assistance programs easier.

Other regulatory reform measures which have been completed include:

- the Red Tape Reduction Stocktake Report 2005-06
- trials of the Australian Government's BCC by six Queensland Government agencies
- action plans on progressing red tape reduction opportunities (identified by business through regulatory reviews undertaken by the Queensland Government during 2005-06) — these plans are currently being considered by the Government.

Consultation

Section 45 of the SIA sets out the process for notifying the community of the availability of the RIS and minimum consultation period.

Section 45(4) states that a period of at least 28 days must be allowed from publication of the notice for public comments on the RIS.

Compliance reporting

Queensland does not have a formal procedure for reporting on compliance with the RIS requirements. However, Section 40(3) of the SIA states that it is the Queensland Parliament's intention that RIS requirements be complied with before subordinate legislation is made. The mechanism for achieving this is a requirement that Directors-General complete a compliance certificate prior to the making of a regulation.

E.4 New South Wales

Regulatory impact analysis

In New South Wales (NSW), the Subordinate Legislation Act 1989 (NSW) requires the preparation of a formal RIS for a proposed statutory rule. That is, the minister responsible must ensure that the guidelines in schedule 1 of the Subordinate Legislation Act are complied with before a statutory rule is made.

The Act requires that the RIS take into account economic and social costs and benefits of proposals, and that costs and benefits be quantified, wherever possible. The objectives of the regulation must be outlined and tested to ensure they are appropriate and not inconsistent with other regulations. Alternative options must also be canvassed.

Further to the requirements of the Subordinate Legislation Act, regulatory impact analysis is required for all new and amending legislation and regulation in NSW, and consultation is recommended.

Developments in regulatory reform

Several independent reviews of the regulatory framework have been undertaken in NSW.

Independent Pricing and Regulatory Tribunal

In late 2005, the NSW Government asked the Independent Pricing and Review Tribunal (IPART) to investigate any unnecessary regulatory burden imposed on business and the community in NSW and to make recommendations to reduce it.

On 5 October 2006, IPART provided the final report of its Investigation into the Burden of Regulation and Improving Regulatory Efficiency to the Government. In that report, IPART made 74 recommendations for reforms to reduce the regulatory burden. Recommendations 1 to 16 focussed on strengthening and reinvigorating regulatory processes to reduce the burden imposed by new regulations, while recommendations 17 to 74 made specific recommendations for reform to existing regulations across a broad range of policy areas.

On 13 February 2007, the NSW Government released its response to recommendations 1 to 16 of IPART's report which included an overview of the Government's new framework for regulation-making and the review of regulation. The reforms included:

- an expanded role for the Minister for Regulatory Reform in relation to minimising regulatory burden and red tape, including providing advice into the Cabinet process and certifying the adequacy of RISs required for significant new or amending legislation and regulations; and
- the establishment of the Better Regulation Office (BRO) to support the Minister in that role, and to ensure that regulations are developed only after best practice RIA has been carried out.

In August 2007, the NSW Government released its response to recommendations 17 to 74 of IPART's report. The Government has undertaken to report on progress of the implementation of IPART's report on a six monthly basis.

The Government's response to IPART's report and more information on the BRO can be found on its website at http://www.cabinet.nsw.gov.au/better_regulation_office.

Review of regulations impacting on small business

On 17 January 2006, the NSW Premier announced a dedicated review of regulation impacting on small business, consisting of a program of rolling reviews of the regulatory and administrative burdens imposed in specific business sectors. The reviews assess identified regulatory burdens that impact on small firms and recommend actions to reduce those burdens. Under this program, reviews have been completed in the:

- motor vehicle retailing and services sector
- accommodation, food and beverages sector
- manufacturing (fabricated metal products, machinery and equipment, and furniture) sector.

Reviews currently underway

At the direction of the Minister for Regulatory Reform, the BRO is undertaking a program of targeted reviews of areas of regulatory concern and excessive red tape. The first of these reviews, into the regulation of shop trading hours, is underway. The issues paper for the review can be found on the BRO website.

The NSW Government also initiated a review of the undue regulatory burdens imposed on Government agencies in 2006. An examination of the central reporting and other requirements of agencies to determine whether those requirements could be achieved more efficiently or removed is underway.

A small business red tape review of the business and professional services sector is also being undertaken.

Future reviews

The NSW Government has committed to undertake ongoing targeted reviews of the regulatory and administrative burden imposed on small firms in specific business sectors in NSW. The NSW State Plan specifies a target of three industry specific red-tape reviews to be completed each year over the next five years. Accordingly, the Government has announced that the next review will be in the rental hiring and real estate services sector.

In addition to major reforms to the assessment processes for new proposals, the NSW Government will strengthen and coordinate the processes for the periodic review of existing regulation. A review clause is also generally included in new, significant legislation. These arrangements will be reviewed and strengthened as part of the recently announced reforms.

Consultation

There is a requirement for public consultation on RISs prepared for principal statutory rules. Consultation also occurs, as considered appropriate, throughout the policy development and regulation-making process.

As part of its recently announced reforms, the BRO is developing a new best practice guide to be followed by policy makers and regulators in the development of all regulatory proposals. The guide will include a whole-of-government consultation policy, to ensure that consultation processes with business and the community are effective and efficient, and tailored to the specific matter at hand.

Compliance reporting

There are currently no formal compliance reporting requirements within NSW. However, the Legislation Review Committee can report to the Parliament on compliance with the RIS requirements under the Subordinate Legislation Act.

The BRO has been tasked with reporting on the NSW Government's performance against best practice regulation requirements. Performance indicators will be developed to take into account the need to create incentives to achieve best practice while ensuring that undue internal government red-tape is minimised. It is envisaged that the reports will provide an annual overview of significant proposals that required the preparation of RISs, the adequacy of such RISs, and an overview of the operations of regulatory processes in NSW.

Sunset clauses

Under the Subordinate Legislation Act 1989, most regulations in NSW are subject to automatic repeal after five years. A RIS is required to support the remaking of a regulation that has been repealed through this process.

Resources and activity

The BRO was established administratively within the Department of Premier and Cabinet (then the Cabinet Office) in January 2007, and is now fully operational.

While the BRO scrutinises regulatory proposals to ensure a quality regulatory process has been undertaken, the quality control process for legislation and regulation making is not solely that team's responsibility. All officers in the Policy Division of the Department of Premier and Cabinet have, as a component of their roles, responsibility for ensuring that regulatory best practice principles are followed, including regulatory impact assessment for all such proposals.

Further, each NSW Government agency has generally assigned a similar role to some or all officers in its legal/parliamentary area, again as a component of their responsibilities. Beyond that, the preparation of new proposals and RISs, and compliance with best practice principles, begins as the responsibility of individual officers in line areas.

E.5 Tasmania

Regulatory impact analysis

Under the Tasmanian Government's Legislative Review Program (LRP), a RIS must be prepared for all proposed primary legislation anticipated to have significant restrictions on competition or significant negative impacts on business.

Proposed subordinate legislation, assessed as imposing a significant burden, cost or disadvantage on any sector of the public, also requires a RIS under the Subordinate Legislation Act 1992 (SLA).

Restrictions on competition are the trigger for the preparation of a RIS for both primary legislation and subordinate legislation. A restriction on competition or an impact on business is considered to be significant where it has economy-wide implications, or where it significantly affects a sector of the economy, including consumers.

Developments in regulatory reform

There have been no new developments during 2006-07. However, a review of the SLA is currently being undertaken with the intent of reducing unnecessary administrative burdens, whilst ensuring that the Act continues to provide a scrutiny process for new and amending subordinate legislation, and to facilitate the removal of outdated or inappropriate subordinate legislation from the statute book. It is anticipated that the Subordinate Legislation Amendment Bill 2007 will be introduced into Parliament in the Autumn 2008 session.

Consultation

It is a requirement of both the LRP and SLA that mandatory public consultation of not less than 21 days be undertaken in respect of primary or subordinate legislation that has been assessed as requiring a RIS. The RIS forms the basis of the public consultation and a copy of the proposed draft primary legislation or draft subordinate legislation must accompany the RIS.

Resources and activity

During 2006-07, the Economic Reform Unit assessed two RISs under the SLA and endorsed a minor assessment statement under the LRP.

There are currently five officers within Tasmania's Economic Reform Unit. All officers undertake regulatory review work and other related tasks. The Unit's budgeted wage cost (including payroll tax, workers compensation premiums and superannuation) for 2006-07 is \$414 122, of which around 70 per cent can be directly attributed to regulatory review work. This proportion, however, will depend on the economic policy and regulatory issues in any given year.

E.6 Western Australia

Regulatory impact analysis

All new legislation, including subordinate legislation that restricts competition must be reviewed in accordance with the Competition Principles Agreement. The Western Australian Department of Treasury and Finance has a gate-keeping role for new legislation being considered by the Western Australian Cabinet, advising Cabinet whether review and consultation requirements have been met.

Cabinet submissions that significantly impact on small business must also be accompanied by a Small Business Statement, and those affecting regional Western Australia must include a Regional Impact Statement.

Developments in regulatory reform

Western Australia is committed to improving its regulatory gate-keeping and review processes, in accordance with its commitment to COAG's Regulatory Reform Plan. This process is yet to be completed. In addition to gate-keeping processes, a number of targeted regulatory reviews of existing regulations have been established or completed in 2007.

Targeted reviews, underway or being completed in 2007, include:

- an economic and regulatory review of land and housing affordability in Western Australia (to be completed by the Department of Treasury and Finance by 31 December 2007 as part of a broader review being facilitated by the Department of Premier and Cabinet)
- an inquiry into the price of bulk water for irrigators (completed by the Economic Regulation Authority (ERA) on 22 June 2007)
- an inquiry on competition in the water and wastewater services sector (to be completed by the ERA by 31 March 2008)

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- an inquiry into school bus operators' charter operations (completed by the ERA on 5 July 2007)
 - an inquiry into developer charges for water services (commencing before the end of 2007)
 - an inquiry into grain marketing arrangements in Western Australia (to commence before the end of 2007)
 - a review of ports and related infrastructure (in accordance with Clauses 4.1 and 4.2 COAG's Competition and Infrastructure Reform Agreement – currently being undertaken by a joint committee consisting of representatives from the Department of Treasury and Finance, the Department of Planning and Infrastructure and the Department of Agriculture and Food).

Consultation

Public consultation is an essential part of all reviews of new legislation or subordinate legislation where that legislation restricts competition. Evidence of public consultation must accompany all Cabinet submissions.

The Small Business Impact Statements (SBIS) must list the small business representatives/associations consulted about the proposal and indicate whether overall they were 'supportive', 'not supportive' or had 'mixed views'. Where appropriate, a brief summary of the nature of the consultation process undertaken with small business may be provided.

Further, the SBIS asks for an estimate of the costs, both direct and indirect, to small business of the proposal, including business compliance costs and red tape.

Compliance reporting

Western Australia does not have formal reporting on compliance with its regulatory gate-keeping arrangements. However:

- the Cabinet Standing Committee on Regional Policy may have a Regional Impact Statement referred to it for further assessment prior to it being considered by Cabinet
- the Small Business Development Corporation (SBDC) closely monitors any Cabinet submissions that impact on small business. Where an SBIS is necessary but not included, or is inadequate, the SBDC may make a report to that effect in its Cabinet comments

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- the Department of Treasury and Finance has a gate-keeping role for all new legislative proposals – either referring these to the Expenditure Review Committee of Cabinet for more detailed consideration or advising Cabinet on their compliance with gate-keeping requirements.

Resources for regulatory review

In the Department of Treasury and Finance, \$350 000 for salaries of four FTEs; and in the Economic Regulation Authority, \$300 000 representing half of the inquiries budget.

E.7 Australian Capital Territory

Regulatory impact analysis

In the Australian Capital Territory (ACT), any policy proposal that may have a regulatory impact requires a RIS to be completed as part of the policy development process. The ACT Government Cabinet Handbook (2007) requires a RIS to be attached to all Cabinet Submissions that have a regulatory impact.

The Legislation Act 2001 formally requires a RIS to be prepared for a proposed subordinate law and disallowable instrument in certain prescribed circumstances. This allows regulations made outside the Cabinet process to be subjected to a RIS analysis.

The Regulation Policy Unit (RPU) within the Department of Treasury is responsible for the regulatory oversight of policy proposals. The RPU offers assistance to departments and agencies in the development of a RIS and assesses all Cabinet Submissions for their compliance with RIS requirements. The ACT Government has published guidelines to assist with the preparation of a RIS.

Developments in regulatory reform

The ACT has commenced a regulatory reform program as part of its COAG commitments. The ACT is examining ways to reform the broader processes around regulatory impact assessment and regulation-making and improve the effectiveness of the requirements for post implementation review. As part of these reforms, the Government is updating the RIS guidelines, enhancing training measures for agencies, examining the Australian Government's gate-keeping arrangements and drawing on Australian Government reforms where appropriate.

Consultation

The ACT's RIS process requires that consultation take place with all affected stakeholders as part of the assessment of new or amending regulations wherever possible. This is consistent with the ACT's whole-of-government consultation policy contained in the ACT Government Community Consultation Manual (2005). The Manual encourages departments and agencies to engage stakeholders in the policy development process and provide feedback to those who have been involved in the consultation process.

E.8 Northern Territory

Regulatory impact analysis

All new legislative proposals must be subject to a Competition Impact Analysis (CIA), unless an exemption is granted.

The requirement to complete a CIA will be triggered if the proposed or amended legislation seeks to:

- govern the entry or exit of firms or individuals into or out of a market
 - control prices or production levels
 - restrict the quality, level or location of goods and services available
- or
- impose significant costs on business or confer advantages to some firms over others, for example, by shielding some activities from pressures of competition.

A quantitative figure for compliance costs is encouraged to be developed as far as possible in each CIA. Where this is not possible, the agency is encouraged to submit plausible costing options or estimates outlining the underlying assumptions. The CIA process affords a measure of efficiency and flexibility in the targeting of resources by allowing for the level and depth of analysis required to be proportionate to the magnitude of the problem and the size of the potential impact of the legislation.

The cost-benefit analysis is not limited to the affected sector alone. Agencies are required to outline the economy wide cost and benefits of the proposed legislation, including the financial, economic, environmental and social impacts. Distributional effects and opportunity costs are also required to be examined in the CIA.

Developments in regulatory reform

The Northern Territory Government commenced a review of its regulatory review framework in 2004. This was subsequently placed on hold pending the outcomes of national processes, including the review of NCP, the *Report of the Taskforce on Reducing Regulatory Burdens of Business* and the development of implementation plans for the best practice regulation component of the National Reform Agenda, endorsed by COAG in April 2007.

Key objectives of the review include alignment of the Territory's regulation review framework with National Reform Agenda commitments, including annual business red tape reviews, and establishing processes for improving the quality and timeliness of regulation impact analysis. The review was completed in June 2007, with findings approved by government in September 2007. Implementation of the review findings has commenced.

Consultation

The CIA Principles and Guidelines state that consultation with potentially affected parties, other agencies, and other levels of government should occur when legislation is being proposed. Public consultation is mandatory where the proposed legislation would have a major impact on the community.

The Guidelines are not prescriptive and allow the agency sponsoring a proposal to decide whether to make the draft CIA available to target groups.

Also required is a consultation statement providing a broad outline of the parties consulted, method used, details of views expressed and how they would be addressed.

Compliance reporting

Aside from the reporting requirements that applied under NCP, the CIA Unit provides bi-annual reports on the operation, compliance and reform progress of the CIA process to the appropriate Northern Territory Government minister (the Chief Minister prior to 1 May 2006 and the Treasurer post 1 May 2006). These reports provide information on the number of CIAs prepared, exemption details, the quality of CIAs, identification of training requirements within agencies, and any suggested process amendments.

Resources and activity

From July 2006 to June 2007, the CIA unit consisted of one full time senior research officer (0.6 full-time equivalent) and one Director (0.15 full-time equivalent) from Northern Territory Treasury.

Salaries and on-costs for the CIA unit for 2006–07 are estimated at approximately \$75 000. However, this excludes time attributed to CIA Committee members in assessing and advising agencies on CIAs.

E.9 Comparisons across jurisdictions

The following tables provide comparisons of the main regulation-making frameworks in Australian jurisdictions.

Table E.1 **Regulatory impact analysis requirements in Australian jurisdictions**

<i>Jurisdiction</i>	<i>Bills</i>	<i>Subordinate Instruments</i>	<i>Quasi-regulation</i>	<i>RIA required for consultation</i>	<i>RIA for decision maker</i>
COAG	✓	✓	✓	✓	✓
Australian Government	✓	✓	✓	✓ ^a	✓
NSW	✓	✓	– ^b	✓	✓
Vic	✓	✓	– ^f	✓	✓
Qld	–	✓	– ^c	✓	✓
SA	✓ ^d	✓ ^d	✓ ^d	✓ ^g	✓
WA	– ^e	– ^e	– ^e	–	–
Tas	✓	✓	✓	✓	✓
ACT	✓	✓	– ^b	–	✓
NT	✓	✓	–	✓	✓

RISs are generally required only when the regulatory proposals impose a significant economic or social burden on business. ^a Under the Australian Government's requirements, for highly significant proposals a green paper is required and/or for complex regulations an exposure draft is required. ^b Not a formal requirement, but agencies proposing quasi-regulation are expected to comply with best practice for regulatory impact assessment. ^c RIS requirements are only applicable to subordinate legislation identified under the *Statutory Instruments Act 1992*. ^d Every cabinet submission is to consider community impacts — which include regulatory, small business, regional, environmental, families and society. ^e Every Cabinet submission is to consider impacts on competition, small business and regional impacts. ^f The requirement to measure and offset material changes in the administrative burden applies to quasi-legislation. ^g Consultation is required only on formal regional impact assessment statements.

Source: OBPR and correspondence from states and territories.

Table E.2 RIS processes in Australian jurisdictions

<i>Jurisdiction</i>	<i>RIS guidelines</i>	<i>Cost-benefit assessment</i>	<i>Report on RIS compliance</i>	<i>Regulatory plans</i>	<i>Sunset clauses</i>	<i>RISs - Local Government</i>
COAG	✓	✓	✓	..	✓	..
Australian Government	✓	✓	✓	✓	–	..
NSW	✓	✓	✓	–	✓	–
Vic	✓	✓	✓	✓	✓ ^c	–
Qld	✓	✓	✓	✓	✓	–
SA	✓	✓	✓	–	✓	✓
WA	–	–	–	–	✓	–
Tas	✓	✓	–	–	✓	✓ ^a
ACT	✓	✓	–	–	–	✓ ^b
NT	✓	✓	✓	–	–	–

.. Not applicable. ^a Under the *Local Government Act 1993* (Tas), the Director of Local Government must issue a certificate of adequacy of the RIS process undertaken by Council before a proposal may progress to full public consultation. ^b Responsible for both state and local government. ^c Under the *Subordinate Legislation Act 1994*, all statutory rules are automatically revoked after 10 years.

Source: OBPR and correspondence from states and territories.

Table E.3 Resources for state and territory regulation review units and related activities, 2006-07^a

<i>Jurisdiction</i>	<i>Full time equivalent staff</i>	<i>Budget \$ (including salary & on-costs)</i>
Victoria	6.8 ^b	780 000
South Australia	3.6	n/a
Queensland	n/a	n/a
New South Wales	n/a	n/a
Western Australia	4.0	650 000 ^d
Tasmania	5.0	286 441 ^c
ACT	1.5	160 000
NT	0.75	75 000

n/a – Not available. ^a In 2006-07, the OBPR had 23.1 full time equivalent staff and a budget of about \$4 million. ^b There are also approximately 4.7 full-time equivalent staff within the Better Regulation Unit of the Department of Treasury and Finance. ^c Directly attributable to regulatory review work. ^d WA, salary budget only.

Source: Information provided by state and territory Regulation Review Units.