
2 Compliance by portfolio

In 2000-01, compliance with the Government's RIS requirements varied significantly both among and within portfolios. A substantial number of departments and agencies fully complied with the requirements. However, many departments and agencies have some way to go to meet the Government's regulatory best practice requirements.

This chapter reports in detail on the 22 departments and agencies that developed regulations in 2000-01 for which Regulation Impact Statements (RISs) were required. It shows the number of RISs that were prepared to an adequate standard of analysis at both the decision-making and tabling stages, and includes brief descriptions of selected RISs to illustrate aspects of the RIS process. The emphasis is on compliance at the (more critical) decision-making stage. However, for a department or agency to be considered fully compliant with the RIS requirements, it must prepare an adequate RIS (see chapter 1), provide it to the decision-maker before the decision is made and, for Bills, treaties and disallowable instruments, table the RIS with the explanatory material accompanying the instrument.

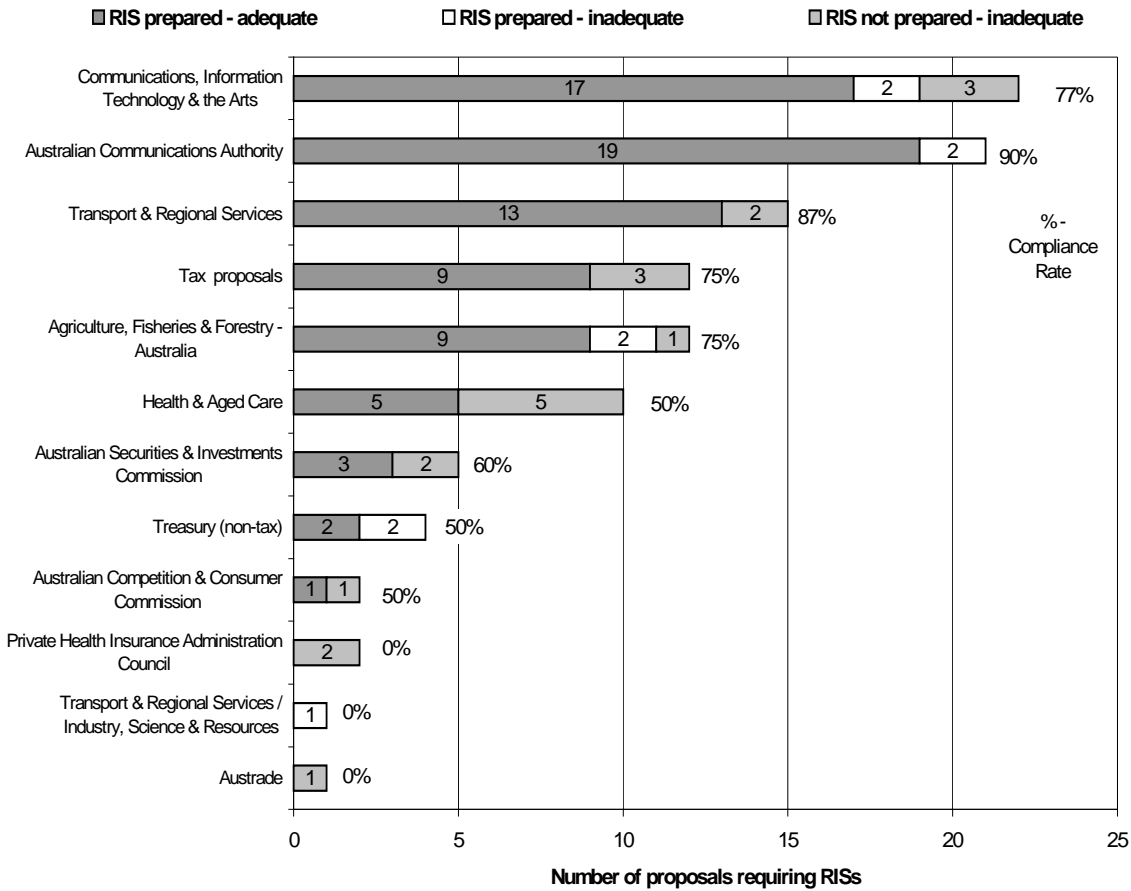
Twelve departments and agencies complied with the RIS requirements for all relevant regulatory activity at the decision-making stage. These were:

1. Attorney-General's Department (3 RISs);
2. Australian Broadcasting Authority (11 RISs);
3. Australian Customs Service (4 RISs);
4. Australian Prudential Regulation Authority (1 RIS);
5. Civil Aviation Safety Authority (4 RISs);
6. Department of Education, Training & Youth Affairs (5 RISs);
7. Department of Employment, Workplace Relations & Small Business (8 RISs);
8. Department of Environment & Heritage (9 RISs);
9. Department of Family & Community Services (1 RIS);
10. Department of Immigration & Multicultural Affairs (1 RIS);
11. Department of Industry, Science & Resources (5 RISs); and
12. National Capital Authority (1 RIS).

Nine of these twelve departments and agencies were also fully compliant at the decision-making stage last year.

The bar chart shows the aggregate results for those departments and agencies that did not fully comply with the Government’s RIS requirements at the decision-making stage (figure 2.1).

Figure 2.1 Compliance with RIS requirements at the decision-making stage, 2000-01



Note: The figure does not include the 12 departments and agencies that fully complied with the RIS requirements at the decision-making stage.

Source: ORR estimates.

The total length of each bar indicates the number of RISs required to be prepared at the decision-making stage. The dark grey segment shows how many of those RISs were assessed to be adequate. The white and light grey segments show the number of RISs that were not compliant, either because the ORR assessed the RISs as not adequate or because RISs were not prepared. The compliance rate for each department and agency, as a percentage of the number of RISs required, is shown at

the end of each bar. The weighted average compliance rate for those departments and agencies was 74 per cent.

Detailed results for departments and agencies follow. As mentioned earlier, this year's report focuses on significant proposals. The examples of significant proposals described underline the importance of undertaking analysis in the early phases of the policy process and presenting the decision maker with an informative discussion of possible alternatives.

2.1 Agriculture, Fisheries and Forestry

In 2000-01, the Department of Agriculture, Fisheries and Forestry — Australia (AFFA) prepared 11 of the 12 RISs required at the decision-making stage (table 2.1). The ORR assessed nine RISs as adequate, resulting in a compliance rate of 75 per cent. AFFA tabled 12 RISs, of which 11 were considered adequate by the ORR (a compliance rate of 92 per cent).

Table 2.1 **AFFA: RIS compliance by type of regulation, 2000-01**

<i>Regulatory proposals introduced via</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Bills	1/2	0/2	2/2	1/2
Disallowable instruments	9/9	9/9	10/10	10/10
Non-disallowable instruments	1/1	0/1	..	..
Total	11/12	9/12	12/12	11/12
<i>Percentage</i>	92	75	100	92

.. Not applicable.

Source: ORR estimates.

In December 2000, the National Competition Policy (NCP) Review of the *Wheat Marketing Act 1989* recommended (among other things) that: the system of administering non-Australian Wheat Board International exports be simplified; the Wheat Export Authority introduce a simplified export control system for a three year trial period; and that the 'single desk' export monopoly be retained until a review in 2004, *but* that the purpose of that review be changed to provide one final opportunity to demonstrate the net public benefit of a single desk. If in 2004 no compelling case could be made that the single desk delivers a net public benefit, the NCP Review recommended that the single desk be discontinued; if a compelling case can be made, the Review recommended that the single desk continue, but with regular reviews and a further NCP Review in 2010.

The Government did not adopt the recommendations relating to the single desk export monopoly, although it announced some minor changes to the export consent system, to be implemented through non-legislative means. Since these changes were not assessed as part of the NCP Review, another RIS was prepared for the decision stage in accordance with the Competition Principles Agreement (CPA). This RIS was assessed as inadequate by the ORR. Since the changes were introduced through non-legislative means, there was no tabling stage, and consequently no final RIS was prepared. This matter has been recorded as non-compliant at the decision stage.

The *Horticultural Marketing and Research and Development Bill 2000* transferred the export control powers from the former Australian Horticultural Corporation and the Australian Dried Fruits Corporation to a new horticultural industry services company. For matters such as a single desk restriction on exports, the adequacy of the RIS is assessed against the criteria in the CPA, and must demonstrate a clear net benefit to the community and that the stated objectives can only be achieved through maintaining a restriction on competition. Although a RIS was prepared, it was assessed as inadequate by the ORR at the decision-making and tabling stages.

2.2 Attorney-General's

Attorney-General's Department

In 2000-01, the Attorney-General's Department (A-G's) fully complied with the RIS requirements for the three RISs it was required to prepare at the decision-making stage (table 2.2). Compliance at the tabling stage was only 50 per cent. Four RISs were required to be tabled. Of these, three adequate RISs were prepared. However, one RIS was inadvertently not tabled, although it has been subsequently placed on A-G's website. In the fourth instance, the Department did not prepare a RIS for tabling (having received an emergency exception for the decision-making stage).

The *Copyright Amendment (Parallel Importation) Bill 2001* removed controls on the parallel importing of new release books. These controls, implemented in 1991, allowed Australian publishers and distributors to retain exclusive import rights to new release books if copies of those books were made available in Australia within 30 days of their first publication overseas. An adequate RIS, assessing the impacts on Australian authors, publishers, printers and consumers was prepared for the decision-making stage and was tabled with the amending legislation.

Table 2.2 **A-G's: RIS compliance by type of regulation, 2000-01**

<i>Regulatory proposals introduced via</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Bills	2/2	2/2	2/2	2/2
Disallowable instruments	1/1	1/1	0/2	0/2
Total	3/3	3/3	2/4	2/4
<i>Percentage</i>	<i>100</i>	<i>100</i>	<i>50</i>	<i>50</i>

Source: ORR estimates.

Australian Customs Service

The Australian Customs Service (ACS) prepared RISs for four proposals at the decision-making stage in 2000-01. The ORR assessed all four as adequate. These RISs were tabled with the *Customs Amendment (International Trade Modernisation) Bill 2000* and associated legislation.

2.3 Communications, Information Technology and the Arts

The Communications, Information Technology and the Arts portfolio includes the Department of Communications, Information Technology and the Arts,¹ the Australian Broadcasting Authority and the Australian Communications Authority.

Department of Communications, Information Technology and the Arts

In 2000-01, the Department of Communications, Information Technology and the Arts (DoCITA) prepared 19 of the 22 RISs required at the decision-making stage (table 2.3). The ORR assessed 17 RISs as adequate, resulting in a compliance rate of 77 per cent. Fifteen RISs were required at the tabling stage. Of the 13 prepared by the Department, 10 were cleared as adequate by the ORR (a compliance rate of 67 per cent). Following discussions between the Department and the ORR on compliance issues, compliance improved significantly in the second half of the year.

¹ The National Office for the Information Economy (NOIE) was made an Executive Agency during the reporting period. RIS compliance information for NOIE will be reported separately in the future.

Table 2.3 DoCITA: RIS compliance by type of regulation, 2000-01

<i>Regulatory proposals introduced via</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Bills	4/4	2/4	4/4	2/4
Disallowable instruments	7/10	7/10	8/10	7/10
Non-disallowable instruments	7/7	7/7	..	..
Treaties	1/1	1/1	1/1	1/1
Total	19/22	17/22	13/15	10/15
<i>Percentage</i>	86	77	87	67

.. Not applicable.

Source: ORR estimates.

The Department was responsible for several significant proposals in 2000-01 (table 2.4). The RIS for the *Radiocommunications (Spectrum Re-Allocation) Declaration Nos. 2 and 3 of 2000* adequately examined, at both the decision-making and tabling stages, the issues concerning the re-allocation of spectrum for the provision of third generation mobile services (2 GHz Band and 800 MHz Band). These included defining the spectrum to be made available for re-allocation, the treatment of those already using the spectrum, the time frame for the re-allocation process (how long incumbents had to relocate to other spectrum) and appropriate licensing arrangements for the re-allocated spectrum.

The *Broadcasting Services (Digital Television Format Standards) Regulations 2000* require broadcasters to comply with an audio digital standard for the delivery of standard definition digital television (SDTV). While the regulations allow the additional use of an alternative audio digital standard, broadcasters who choose to do so will have to transmit SDTV through both audio streams. The mandated standard was not the preferred choice of all the broadcasters, with some indicating that the ability to choose between the two standards for the delivery of high definition digital television (HDTV) should also be available for SDTV. A RIS was not prepared for the decision-making stage and the RIS prepared at the tabling stage was assessed as inadequate as it did not adequately examine the costs or benefits to either industry or consumers in providing for the mandated standard.

Table 2.4 **DoCITA: RIS compliance for significant proposals, 2000-01**

Title of instrument <i>Description of regulatory proposal</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
3G Auction				
Radiocommunications (Spectrum Re-Allocation) Declaration No. 2 and No. 3 of 2000 Decision to reallocate 2 GHz and 800 MHz spectrum	Yes	Yes	Yes	Yes
Australian Communications Authority (Allocation of 2 GHz and 800 MHz Spectrum) Direction No. 1 of 2000 Direction to the ACA under s12 of the ACA Act regarding configuration of spectrum lots for the allocation of the 2 GHz bands	Yes	Yes	..	..
Radiocommunications (Spectrum Licence Limits – 2 GHz Band) Direction No. 2 of 2000 Direction to the ACA to impose competition limits on the auction of the 2 GHz and 800 MHz bands	Yes	Yes	..	..
3.4 GHz Auction				
Radiocommunications (Spectrum Licence Limits – 3.4 GHz Band) Direction No. 1 of 2000 Direction to the ACA to impose competition limits on the auction of the 3.4 GHz Band	Yes	Yes	..	..
Copyright Amendment (Parallel Importation) Bill 2001				
Repeal of prohibition of the parallel importation of computer software	Yes	Yes	Yes	Yes
Broadcasting Services (Digital Television Format Standards) Regulations 2000				
Mandates an Australian Audio Standard for Delivery of Digital Standard Definition TV	No	No	Yes	No
Interactive Gambling (Moratorium) Bill 2000				
Moratorium on new licences to offer interactive gambling services in Australia	Yes	No	Yes	No
Interactive Gambling Bill 2001				
Ban on certain interactive gambling services in Australia	Yes	No	Yes	No
Radiocommunications (Datacasting Transmitter Licence Limits) Direction No. 1 of 2001				
Direction to the ACA to impose competition limits on the auction of datacasting transmitter licences	Yes	Yes	..	..
Total	8/9	6/9	5/5	2/5
<i>Percentage</i>	<i>89</i>	<i>67</i>	<i>100</i>	<i>40</i>

.. Not applicable.

Source: ORR estimates.

The National Office of Information Economy was responsible for two regulatory proposals introduced in 2000-01. The *Interactive Gambling (Moratorium) Bill 2000* and the *Interactive Gambling Bill 2001* provided for a moratorium and for a subsequent ban on interactive gambling respectively. RISs were prepared at the decision-making and tabling stages and, although social benefits were discussed, the RISs did not demonstrate that the Government's objectives could only be met by restricting competition. In addition, they did not demonstrate a net benefit to the community from restricting competition, in accordance with the CPA. Consultation on a broad range of options was limited for both RISs.

For significant proposals, overall compliance for the Department at the decision-making stage was 67 per cent, and 40 per cent at the tabling stage.

Australian Broadcasting Authority

In 2000-01, the Australian Broadcasting Authority (ABA) prepared all 11 RISs required at the decision-making stage, resulting in a 100 per cent compliance rate (table 2.5). One proposal, the setting of standards for commercial radio, was classified as 'significant'.

Table 2.5 **ABA: RIS compliance by type of regulation, 2000-01**

<i>Regulatory proposals introduced via</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Non-disallowable instruments	8/8	8/8	..	..
Quasi-regulation	3/3	3/3	..	..
Total	11/11	11/11	..	..
<i>Percentage</i>	<i>100</i>	<i>100</i>	..	..

.. Not applicable.

Source: ORR estimates.

Australian Communications Authority

In 2000-01, the Australian Communications Authority (ACA) prepared and supplied to the decision maker 19 of the 21 RISs required at that stage. The ORR assessed all of those RISs as adequate, resulting in a compliance rate of 90 per cent at the decision-making stage (table 2.6). The Authority did not table two RISs, however one was made available on its website (a compliance rate of 92 per cent at the tabling stage).

One significant regulatory proposal administered by the ACA was the setting of procedures for the re-allocation of spectrum in the 3.4 GHz band. This re-allocation allows for the introduction of wireless local loop telecommunications technology, as well as high speed Internet services. The proceeds from the re-allocation amounted to more than \$112 million. The RIS, which contained an adequate level of analysis at both the decision-making and tabling stages, examined issues such as the method of allocation of the licences (for example, auction and auction type), length of the licences, the size of spectrum lots to be made available within the various licence areas and management of interference.

Table 2.6 ACA: RIS compliance by type of regulation, 2000-01

<i>Regulatory proposals introduced via</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Disallowable instruments ^a	10/12	10/12	11/12	11/12
Non-disallowable instruments	3/3	3/3	..	..
Quasi-regulation	6/6	6/6	..	..
Total	19/21	19/21	11/12	11/12
<i>Percentage</i>	90	90	92	92

.. Not applicable. ^a Includes two proposals (for the re-allocation of spectrum) that were introduced via a combination of disallowable and non-disallowable instruments.

Source: ORR estimates.

2.4 Education, Training and Youth Affairs

In 2000-01, the Department of Education, Training and Youth Affairs was fully compliant with the Government's RIS requirements, preparing, with the Department of Immigration and Multicultural Affairs, a RIS for five proposals for the decision-making stage. Assessed as adequate by the ORR, the RIS was tabled in Parliament with the *Education Services for Overseas Students Bill 2000*.

2.5 Employment, Workplace Relations and Small Business

In 2000-01, the Department of Employment, Workplace Relations and Small Business (DEWRSB) was fully compliant with the Government's RIS requirements, preparing to an adequate standard eight out of the eight RISs required at the decision-making stage (table 2.7) and tabling seven out of seven RISs.

Table 2.7 DEWRSB: RIS compliance by type of regulation, 2000-01

<i>Regulatory proposals introduced via</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Bills	7/7	7/7	7/7	7/7
Quasi-regulation	1/1	1/1	..	..
Total	8/8	8/8	7/7	7/7
<i>Percentage</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>

.. Not applicable.

Source: ORR estimates.

2.6 Environment and Heritage

In 2000-01, the Department of Environment and Heritage (DEH) fully complied with the Government's RIS requirements (table 2.8). The ORR assessed the nine RISs prepared to be adequate at both the decision-making and tabling stages.

The *Fuel Quality Standards Bill 2000* introduced a head of power to specify minimum fuel quality standards for petrol, diesel and other significant transport fuels sold in Australia. The Department was fully compliant with the Government's RIS requirements.

Table 2.8 DEH: RIS compliance by type of regulation, 2000-01

<i>Regulatory proposals introduced via</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Bills	5/5	5/5	5/5	5/5
Disallowable instruments	4/4	4/4	4/4	4/4
Total	9/9	9/9	9/9	9/9
<i>Percentage</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>

Source: ORR estimates.

2.7 Family and Community Services

In 2000-01, the Department of Family and Community Services fully complied with the Government's RIS requirements, preparing a RIS for the *Child Care Benefit (Eligibility of Child Care Services for Approval and Continued Approval) Amendment Determination 2001 (No. 1)*.

Close to 300 child care schemes will be required to be Quality Assurance (QA) accredited under the new arrangements, and around 14 000 carers will be required to comply with quality principles (for parents to continue to receive Commonwealth fee relief). The RIS compared the costs and benefits of extending accreditation to carers as well as schemes, and of introducing a higher accreditation standard for schemes, on a voluntary basis, as well as a mandatory minimum level of accreditation. The chosen option, which will increase costs across the sector by around 3 per cent a year, had the lowest compliance costs of the three QA options considered.

2.8 Foreign Affairs and Trade

Australian Trade Commission

The Australian Trade Commission, a statutory authority within the Foreign Affairs and Trade portfolio, did not prepare a RIS at the decision-making stage for the *Export Market Development Grants Amendment Bill 2000*. A RIS was prepared for the tabling stage, but it was assessed as inadequate by the ORR.

2.9 Health and Aged Care

Within the Health and Aged Care portfolio, the Department of Health and Aged Care and the Private Health Insurance Administration Council were required to prepare 12 RISs in 2000-01.

Department of Health and Aged Care

In 2000-01, the Department of Health and Aged Care (DHAC) prepared five of the ten RISs required at the decision-making stage (table 2.9). The ORR assessed the five RISs as adequate (a compliance rate for DHAC of 50 per cent at the decision-making stage). At the tabling stage, adequate RISs were prepared in seven of the ten cases. In a further two cases, the RISs prepared for the decision were not tabled.

Three of the ten proposals were considered significant by the ORR. Compliance for these was 33 per cent at the decision-making stage and 67 per cent at the tabling stage (table 2.10).

Table 2.9 DHAC: RIS compliance by type of regulation, 2000-01

<i>Regulatory proposals introduced via</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Bills	1/5	1/5	5/5	3/5
Disallowable instruments	4/5	4/5	5/5	4/5
Total	5/10	5/10	10/10	7/10
<i>Percentage</i>	<i>50</i>	<i>50</i>	<i>100</i>	<i>70</i>

Source: ORR estimates.

Table 2.10 DHAC: RIS compliance for significant proposals, 2000-01

Title of instrument <i>Description of regulatory proposal</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Health Legislation Amendment Bill (No. 1) 2001				
Enables the Minister to disallow private health insurance premium increases on the grounds of the public interest	No	No	Yes	No
Health Legislation Amendment (Medical Practitioners' Qualifications and Other Measures) Bill 2001				
Continues restrictions on Medicare subsidies for recently graduated doctors to those with post-graduate qualifications, or undertaking prescribed training or rural service	No	No	Yes	Yes
Gene Technology Regulations 2001				
Defines categories of genetically modified organisms for the purposes of regulation and prescribes the information required by applicants for a licence to deal with a genetically modified organism.	Yes	Yes	Yes	Yes
Total	1/3	1/3	3/3	2/3
<i>Percentage</i>	<i>33</i>	<i>33</i>	<i>100</i>	<i>67</i>

Source: ORR estimates.

The *Health Legislation Amendment Bill (No. 1) 2001* was amended by the Government in March 2001 to include a provision to enable the Minister for Health to disallow increases in private health insurance premiums on public interest grounds. The Government's decision to include this measure in the draft legislation was made without the involvement of officials, and a RIS was not prepared at the decision-making stage. The Government's RIS requirements include such amendments. A RIS was prepared for tabling, but did not include any statement on

consultation, or reasons why it was not possible to consult with affected groups. As such, the measure was only partly compliant at the tabling stage.

The *Health Legislation Amendment (Medical Practitioner's Qualifications and Other Measures) Bill 2001* included the removal of the sunset provision, due to come into effect in January 2002, on the 'provider number legislation'. This legislation restricts access to Medicare subsidies to patients of doctors who graduated before November 1996, or who have postgraduate specialist qualifications or are in a prescribed training course or program, including rural service.

The sunset clause was a significant feature of the original legislation — its removal therefore represented a change to existing arrangements and so triggered the RIS requirements. An adequate RIS was not prepared until after the decision to remove the sunset provision was made. Its assessment of the impacts drew on the monitoring and review of the original legislation which had been ongoing since its introduction. Around 6000 doctors are currently subject to the qualification requirements. Removal of the sunset provision is estimated to save around \$250 million a year in outlays.

The *Gene Technology Regulations 2001* are illustrative of subordinate legislation for which there are options that will affect industry differently, or restrict competition to different degrees. The Regulations were developed under the *Gene Technology Act 2000*, which created a national regulatory system for the control of genetically modified organisms (GMOs) and the use of gene technology in Australia.

The Regulations classify certain dealings with GMOs on the basis of their risk to public health and safety and to the environment, and prescribe information requirements in relation to those dealings. They cover an extensive range of activities including dealings that have been assessed over time as presenting minimal biosafety risk, and higher risk dealings that may or may not involve the intentional release of a GMO into the environment. The Regulations also include time limits for the regulator's consideration of applications for a licence to deal with GMOs.

A draft RIS was prepared at the public consultation stage. The further development of the RIS, for the decision and for tabling (with the ORR's involvement), assisted the development of the regulation.

Private Health Insurance Administration Council

The Private Health Insurance Administration Council made two significant disallowable instruments in 2000-01 that triggered the Government's RIS requirements. The *Health Benefits Organisations — Solvency Standard 2000* and the *Health Benefits Organisations — Capital Adequacy Standard 2000* established prudential requirements specifically tailored to private health funds, in recognition of differences in some of the risks applicable to this sector compared to those applicable to general and life insurance. A RIS was not prepared for the decision to adopt these standards. However, an adequate RIS was prepared for their tabling.

Within the overall requirement for health funds to meet these standards, there is considerable flexibility for organisations to structure their assets in appropriate ways. A review of the standards, to assess whether separate standards for this sector remain justified, is planned five years after their commencement.

2.10 Immigration and Multicultural Affairs

The Department of Immigration and Multicultural Affairs fully complied with the Government's regulatory best practice requirements. One RIS was required, and prepared by the Department, for the *Migration Amendment Regulations 2001 (No. 5)* which affected long-stay business visa holders. The ORR assessed the RIS as adequate at the decision-making stage and for tabling. During the year, the Department consulted the ORR concerning numerous regulatory proposals to ensure it complied with the Government's RIS requirements.

2.11 Industry, Science and Resources

In 2000-01, the Department of Industry, Science and Resources (DISR) prepared RISs for four regulatory proposals that are likely to have impacts on business.² All were cleared as adequate by the ORR for the decision-making stage, and were subsequently tabled in Parliament (table 2.11). The Department was also fully compliant for one treaty tabled in Parliament in 2000-01, preparing and clearing through the ORR RISs at the three stages required: entry into negotiations, signature and ratification.

² Two of the four proposals were co-sponsored by the Department of the Treasury and one was co-sponsored by the Department of Transport and Regional Services at the decision-making stage. A fifth proposal was co-sponsored by the Department of Transport and Regional Services — compliance for that is reported in section 2.12. A sixth was tabled by the Australian Taxation Office. See section 2.14.

Table 2.11 **DISR: RIS compliance by type of regulation, 2000-01**

<i>Regulatory proposals introduced via</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Bills	3/3	3/3	3/3	3/3
Disallowable instruments	1/1	1/1	1/1	1/1
Treaties	1/1	1/1	1/1	1/1
Total	5/5	5/5	5/5	5/5
<i>Percentage</i>	<i>100</i>	<i>100</i>	<i>100</i>	<i>100</i>

Source: ORR estimates.

2.12 Industry, Science and Resources/Transport and Regional Services

In 2000-01, the Government agreed to:

- restrict the importation (under the Low Volume Scheme) of used vehicles (except used motorcycles) to ‘specialist’ and ‘enthusiast’ vehicles and prevent the importation of what are effectively standard vehicles;
- introduce a scheme to regulate registered automotive workshops; and
- require imported used vehicles to be modified and inspected by registered automotive workshops, on a vehicle by vehicle basis, to ensure each vehicle's compliance with the appropriate national standards.

This proposal was jointly sponsored by DISR and the Department of Transport and Regional Services (DTRS) at the decision-making stage. A RIS was prepared by DISR for the decision, but was considered inadequate by the ORR. Whilst DTRS, which was responsible for the RIS at the tabling stage, considerably improved the RIS from the one prepared at the decision-making stage, the RIS tabled with the *Motor Vehicle Standards Amendment Bill 2001* was still not considered by the ORR to satisfy the Government’s requirements.

2.13 Transport and Regional Services

Within the Transport and Regional Services portfolio, the Department, the Civil Aviation Safety Authority and the National Capital Authority were required to prepare RISs in 2000-01.

Department of Transport and Regional Services

In 2000-01, the Department of Transport and Regional Services (DTRS) prepared RISs at the decision-making stage for 13 of 15 regulatory proposals that are likely to have impacts on business (table 2.12).³ The ORR assessed each as adequate, resulting in a compliance rate of 87 per cent.

A RIS containing an adequate level of analysis was prepared for tabling with a fourteenth proposal, giving the Department a compliance rating at the tabling stage of 93 per cent.

The ORR was not consulted, and a RIS was not prepared, before the decision-making stage for the fifteenth proposal: a package of amendments to the slot management scheme at Sydney airport. The amendments which included the capping of the number of regional slots allocated in peak periods at the current level and the establishment of a minimum aircraft seat limit for new slot allocations were introduced via the *Slot Management Scheme Amendment Determination 2001*.

Table 2.12 DTRS: RIS compliance by type of regulation, 2000-01

<i>Regulatory proposals introduced via</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Bills	1/1	1/1	1/1	1/1
Disallowable instruments ^a	12/14	12/14	13/14	13/14
Total	13/15	13/15	14/15	14/15
<i>Percentage</i>	87	87	93	93

^a Two instruments implemented COAG decisions from previous years.

Source: ORR estimates.

Civil Aviation Safety Authority

The Civil Aviation Safety Authority (CASA) fully complied with the Government's RIS requirements at both the decision-making and tabling stages in 2000-01. CASA was required to prepare four RISs at the decision-making stage. An additional seven were required for tabling. The additional RISs related to emergency issues, for which exceptions from the RIS requirements apply at the decision-making stage. One example was an Airworthiness Directive that imposed stricter fuel

³ Two proposals were co-sponsored by the Department of Industry, Science and Resources. One is reported in table 2.12. The other is reported in section 2.12.

requirements on certain aircraft flying to remote islands following incidents where pilots had to make emergency landings because of insufficient fuel.

National Capital Authority

In 2000-01, the National Capital Authority was fully compliant with the Government's RIS requirements, preparing one RIS at the decision-making and tabling stages for *Amendment 30 (Canberra Airport)* to the *National Capital Plan*.

2.14 Treasury

The Treasury portfolio includes the Department, the Australian Competition and Consumer Commission, the Australian Securities and Investments Commission and the Australian Tax Office. For taxation matters, policy responsibility is shared between the ATO and the Treasury.

Department of the Treasury — non-tax regulations

The Department of the Treasury was responsible for four non-tax regulatory proposals introduced via primary legislation in 2000-01 that triggered the Government's RIS requirements. The Treasury prepared two of the four RISs required at the decision-making stage. The ORR assessed these RISs to be adequate, resulting in a compliance rate at the decision-making stage of 50 per cent. The Department was fully compliant at the tabling stage. For two proposals deemed significant by the ORR, the compliance rate was 50 per cent at the decision-making stage and 100 per cent at the tabling stage (table 2.13).

The *Financial Services Reform Bill 2001* contained reforms affecting the entire Australian financial services sector. As at 30 June 2000, the consolidated total financial assets on the books of financial institutions was \$1389 billion. The main thrust of the reforms was the introduction of consistent rules and obligations and a single financial licence, covering all financial services and financial service providers. The Bill was initially approved in 1997. The ORR was not consulted at this stage and a RIS was not prepared. An adequate RIS was prepared for tabling. While generally the level of consultation with interested parties was adequate, there was only limited consultation on the telephone monitoring proposal.

The *General Insurance Reform Bill 2001* contained reforms to the prudential regulatory framework for general insurance involving \$53 billion in assets, or 4.1 per cent of the total capitalisation of the Australian financial system. The

regulatory framework for general insurance had remained relatively unchanged for 28 years. The reforms included raising the minimum level of capital required from \$2 million to \$5 million and provision for the Australian Prudential Regulation Authority (APRA) to make standards, as disallowable instruments. Also, consultation with industry in the development or variation of the standards has been made mandatory. The ORR was consulted before the decision-making stage, and an adequate RIS was prepared and tabled.

Table 2.13 **Treasury: RIS compliance for (non-tax) significant proposals, 2000-01**

Title of instrument <i>Description of regulatory proposal</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Financial Services Reform Bill 2000				
To implement further reforms from the Wallis inquiry	No	No	Yes	Yes
General Insurance Reform Bill 2001				
To increase capital requirements and provide a standards-making power to APRA under the <i>General Insurance Act 1973</i>	Yes	Yes	Yes	Yes
Total	1/2	1/2	2/2	2/2
<i>Percentage</i>	<i>50</i>	<i>50</i>	<i>100</i>	<i>100</i>

Source: ORR estimates.

Australian Competition and Consumer Commission

Two RISs were required for two proposals introduced via non-disallowable instruments by the Australian Competition and Consumer Commission (ACCC) in 2000-01. One RIS was prepared for the ACCC's record keeping rules for telecommunications companies. It was cleared as adequate by the ORR, giving a compliance rate of 50 per cent. This RIS was subsequently made public.

In November 2000, the ACCC issued the *Telecommunications (Number Portability) Directions 2000*. Given the importance that number portability has for effective competition in the telecommunications industry — especially in the mobile phone market — these directions were of a significant nature. They instructed the ACA to facilitate number portability between carriers. Under the directions, the ACA had to amend the numbering plan to allow portability and to allow the ACA to set the date of implementation. With respect to mobile phone number portability, the ACA had to set an implementation date at the earliest possible time, in consultation with the ACCC. Since these directions are a non-disallowable instrument that affects

business, a RIS was required. The ACCC did not contact the ORR and an adequate RIS was not prepared.

Australian Securities and Investments Commission

The Australian Securities and Investments Commission made 5 quasi-regulations in 2000-01 that required RISs. The ORR assessed the 3 RISs prepared as adequate at the decision-making stage and suitable for publication (a compliance rate of 60 per cent).

The *Electronic Funds Transfer (EFT) Code of Conduct*, jointly developed by Government, industry and consumers, is a voluntary code designed to protect consumers when funds are transferred electronically. The Code ensures that members have appropriate dispute handling mechanisms, enables consumers to track transactions and establishes procedures to protect consumers' privacy. The *EFT Code of Conduct* is used in *A Guide to Regulation* as an example of quasi-regulation. The Code was revised in April this year under the auspices of ASIC. The revision extends protection to the Internet, computer and telephone banking, and stored value facilities (including smart cards). The Code is a clear example of quasi-regulation. However, the ORR was not contacted and a RIS was not prepared for the decision-making stage or for publication.

Taxation Proposals

Taxation proposals fall under the joint responsibility of the Department of the Treasury and the Australian Taxation Office (ATO). In 2000-01, tax RISs were prepared at the decision-making stage for 9 of the 12 proposals that triggered the Government's requirements, resulting in a compliance rate of 75 per cent (tables 2.14 and 2.15). The Department and the ATO were fully compliant at the tabling stage, tabling 13 RISs (including one for a proposal that did not require a RIS at the decision-making stage) of an adequate standard in 2000-01.

There were four significant tax proposals introduced via primary legislation in 2000-01. RISs were prepared, and cleared as adequate by the ORR, for three of the four proposals at the decision-making stage (a compliance rate of 75 per cent). A RIS was prepared for the fourth proposal, after the decision was made, and was cleared by the ORR for tabling (table 2.15).

Table 2.14 Treasury and ATO: RIS compliance by type of taxation regulation, 2000-01

<i>Regulatory proposals introduced via</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Bills	8/11	8/11	12/12	12/12
Disallowable instruments	1/1	1/1	1/1	1/1
Total	9/12	9/12	13/13	13/13
<i>Percentage</i>	75	75	100	100

Source: ORR estimates.

Table 2.15 Treasury and ATO: RIS compliance for significant (taxation) proposals, 2000-01

Title of instrument <i>Description of regulatory proposal</i>	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
New Business Tax System (Capital Allowances) Bill 2001				
Introduce a uniform capital allowances regime	Yes	Yes	Yes	Yes
Taxation Laws Amendment Bill (No. 3) 2001				
Streamline GST reporting and revise the Business Activity Statement (BAS) requirements	No	No	Yes	Yes
New Business Tax System (Thin Capitalisation) Bill 2001				
Introduce a new thin capitalisation regime to ensure that multinational entities do not allocate an excessive amount of debt to their Australian operations	Yes	Yes	Yes	Yes
Taxation Laws Amendment (Research and Development) Bill 2001				
Enhance the research & development tax concession arising from the Innovation Action Plan 'Backing Australia's Ability'	Yes	Yes	Yes	Yes
Total	3/4	3/4	4/4	4/4
<i>Percentage</i>	75	75	100	100

Source: ORR estimates.

The *Taxation Laws Amendment Bill (No. 3) 2001* introduced proposals designed to simplify the GST return and lodgment system and to modify the conditions for lodgment of quarterly business activity statements. While a RIS was prepared for the introduction of the GST, one was not prepared for the original GST return and lodgment system. Neither was a RIS prepared for the simplified system at the

decision-making stage. However, a RIS was prepared for tabling. This RIS examined, in detail, the impacts of the proposals on compliance costs for business (especially small business) and was assessed as adequate.

Through the *Taxation Laws Amendment (Research and Development) Bill 2001*, the Government proposed four reforms to the tax concession for research and development:

- the introduction of a premium 175 per cent concession for additional R&D;
- the introduction of a refundable R&D tax offset for small companies;
- changes to the eligibility requirements applicable to R&D plant; and
- tightening of the definition of R&D activities.

A RIS prepared by the Department of Industry, Science and Resources for the decision-making stage was assessed as adequate by the ORR. The RIS, which focused on ways to improve certainty, reduce complexity and minimise compliance costs for Australian businesses seeking to avail themselves of the assistance provided, was then further developed by the ATO before being tabled with the *Taxation Laws Amendment (Research and Development) Bill 2001*.