
2 Compliance by portfolio

In 1999-2000, both among and within portfolios, compliance with the RIS requirements varied significantly. While a substantial number of departments and agencies complied fully, others have some way to go to achieve best practice. Overall, the RIS process is facilitating more open and transparent policy development.

This chapter reports in detail on the 18 departments and agencies that made regulations in 1999-2000, for which RISs were required. It shows the extent to which RISs were prepared and contained an adequate standard of analysis at each of the decision-making and tabling stages. The emphasis is on compliance at the critical decision-making stage. However, for a department or agency to be considered fully compliant with the RIS requirements, it must have met all the requirements at both the decision-making and tabling stages (see chapter 1 for details).

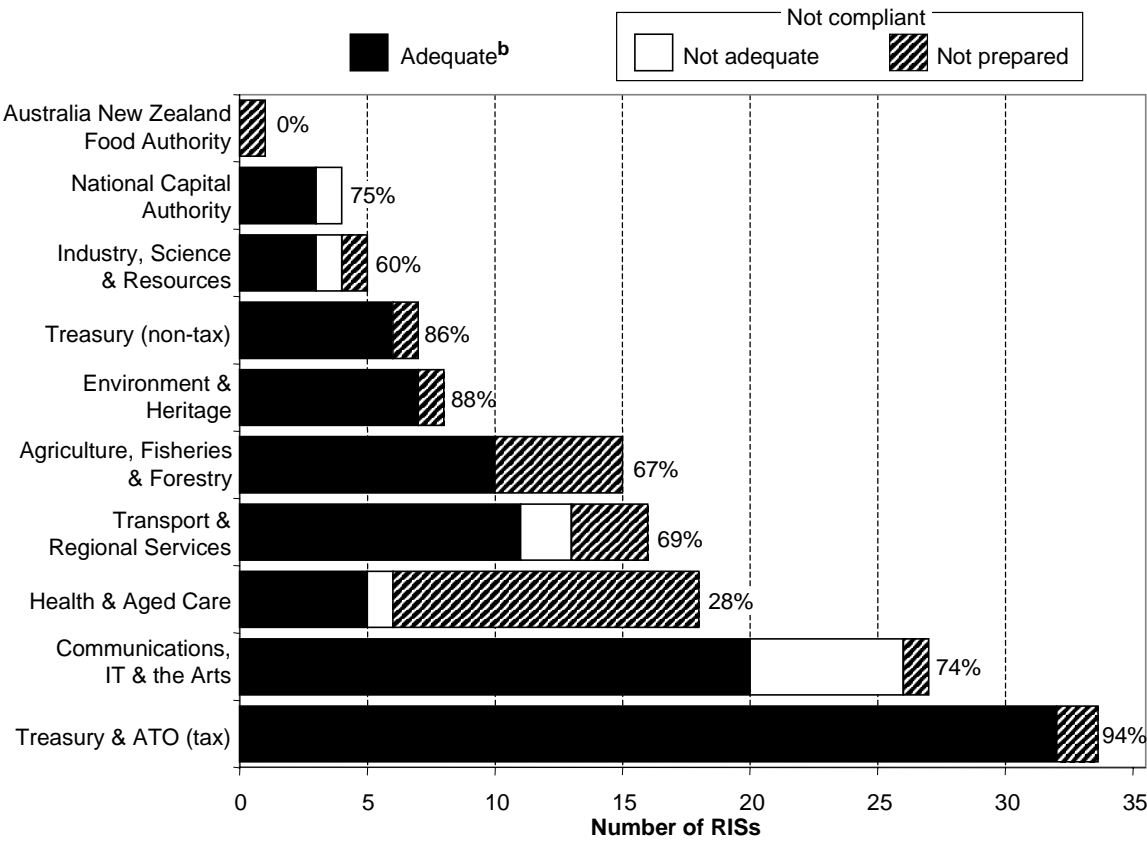
Eight departments and agencies complied with the RIS requirements for all relevant regulatory activity at the decision-making stage. They were:

1. Attorney-General's Department (5 RISs);
2. Department of Immigration and Multicultural Affairs (1 RIS)
3. Department of Employment, Workplace Relations and Small Business (2 RISs);
4. Civil Aviation Safety Authority (5 RISs);
5. Australian Competition and Consumer Commission (1 RIS);
6. Australian Securities and Investments Commission (15 RISs);
7. Australian Broadcasting Authority (15 RISs); and
8. Australian Communications Authority (28 RISs).

The first six departments and agencies fully complied with the requirements. They achieved a compliance rate of 100 per cent on all aspects of the process and for all types of regulation (from primary through to quasi-regulation) at both the decision-making and tabling stages. The remaining two complied with all requirements at the decision-making stage, but did not comply with all aspects of the process at the tabling stage.

The bar chart shows the aggregate results for the other ten departments and agencies that did not fully comply with the RIS requirements for all types of regulatory activity at the decision-making stage (figure 2.1). The total length of each bar indicates the number of RISs a department or agency was required to prepare at the decision-making stage. The black segment shows how many of those RISs were assessed to be adequate. The white and hatched segments show the RISs that were not compliant, either because the ORR assessed the RISs as not adequate or because RISs were not prepared. The compliance rate, as a percentage of the number of RISs required, is shown for each department and agency.

Figure 2.1 Compliance with RIS requirements at the decision-making stage, 1999-2000^a



^a The figure does not include departments and agencies that fully complied with the RIS requirements at the decision-making stage — ABA, ACCC, ACA, A-Gs, ASIC, CASA, DEWRSB and DIMA. ^b Percentages indicate the compliance rate.

Data source: ORR estimates.

Detailed results for departments and agencies follow, together with brief descriptions of selected RISs to illustrate how the RIS process is working. The examples 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. This is particularly important for more significant

regulatory matters. The examples, which include both compliant and non-compliant RISs, also indicate that the RIS process is facilitating more open and transparent policy making.

2.1 Agriculture, Fisheries and Forestry

In 1999-2000, the Department of Agriculture, Fisheries and Forestry — Australia (AFFA) prepared ten of the 15 RISs required at the decision-making stage (table 2.1). The ORR assessed all ten RISs prepared as adequate, resulting in a compliance rate for AFFA of 67 per cent. AFFA complied with the requirements for all instruments at the tabling stage.

Table 2.1 **AFFA: RIS compliance by type of regulation, 1999-2000**

<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	7/11	7/11	11/11	11/11
Non-disallowable instruments	1/2 ^a	1/2 ^a	..	..
Quasi-regulation	-	-	..	..
Treaties	-	-	-	-
Total	10/15	10/15	13/13	13/13
Percentage	67%	67%	100%	100%

^a Policy responsibility for the one RIS that was not prepared resided with the Australian Dairy Corporation.

.. Not applicable.

Source: ORR estimates.

One of the five RISs not prepared related to the Meat and Livestock Industry (Lamb Export to the United States of America) Orders 1, 2 and 3. These resulted from a petition filed in late 1998 against Australian and New Zealand lamb imports into the USA. The United States International Trade Commission found that the imports posed a threat of serious injury to the US lamb industry, and recommended remedial action as provided for under the World Trade Organization Agreement on Safeguards. On 7 July 1999, the US Government announced that it would impose a tariff rate quota for three years, scheduled to come into force on 22 July 1999. Due to this short timeframe, a RIS was not prepared until after the Commonwealth Government's decision to establish a quota administration scheme. However, the RIS tabled with the regulations adequately reflected the analysis of options considered by the Government; for example, whether or not quota should be allocated, methods for allocations, who it should be allocated to, and whether any quota should be reserved.

Another RIS prepared by AFFA within a short timeframe that met the Government's best practice requirements at the decision-making stage, was the analysis of Export Meat Amendment Order 1999 (No. 2). This RIS was prepared in the three months following the European Commission's review of Australia's Hormonal Growth Promotant control scheme in 1999. The European Commission advised the Australian Government that Australian beef and buffalo meat would no longer be accepted into the European Union (EU) market, unless there was a major overhaul of the Hormonal Growth Promotant control scheme.

Importantly, the RIS analysed the cost and commercial implications of five options to determine whether or not Australia should make a major overhaul of the scheme to ensure continued access to the EU market. This included the somewhat 'blunt' option of banning Hormonal Growth Promotant in Australia. Applying an identification system to all cattle and buffalo, as preferred by the EU, was considered and rejected for the less costly system of applying it to cattle and buffalo intended for the EU only. Australia offered this latter option in a package of assurances, which the EU accepted.

AFFA also had policy responsibility for RISs on two relatively significant regulatory proposals introduced via Bills (table 2.2). AFFA fully complied with the RIS requirements for these Bills.

Table 2.2 AFFA: RIS compliance for Bills, 1999-2000

Bill Title	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Description of regulatory proposal				
Fisheries Legislation Amendment Bill (No. 1) 1999				
Decision to ratify UN Fish Stocks Agreement	Yes	Yes	Yes	Yes
Dairy Industry Adjustment Bill 2000 and associated excise, customs and general Levy Bills				
Dairy Industry Adjustment Program, which provides for dairy structural adjustment payments and dairy exit payments	Yes	Yes	Yes	Yes
Total	2/2	2/2	2/2	2/2
Percentage	100%	100%	100%	100%

Source: ORR estimates.

2.2 Attorney-General's

In 1999-2000, Attorney-General's Department (A-Gs) fully complied with the RIS requirements for the five RISs it was required to prepare. It achieved a compliance rate of 100 per cent at both the decision-making and tabling stages (table 2.3).

Table 2.3 **A-Gs: RIS compliance for Bills, 1999-2000**

Bill Title	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Classification (Publications, Films and Computer Games) Amendment Bill (No. 2) 1999				
To ban X-rated videos and introduce NVE classification	Yes	Yes	Yes	Yes
To restrict content of X-rated videos				
Copyright Amendment (Digital Agenda) Bill 1999				
To establish a legal framework to protect copyright material in the online environment	Yes	Yes	Yes	Yes
Family Law Amendment Bill 1999				
To compel couples getting divorced to obtain independent financial or legal advice when making financial agreements	Yes	Yes	Yes	Yes
Family Law Legislation Amendment (Superannuation) Bill 2000				
To enable superannuation to be taken into account in the division of property on breakdown of a marriage	Yes	Yes	Yes	Yes
Privacy Amendment (Private Sector) Bill 2000				
To implement the 'National Principles for the Fair Handling of Personal Information' which set minimum standards for collection, use, disclosure and secure storage of personal information.	Yes	Yes	Yes	Yes
Total	5/5	5/5	5/5	5/5
Percentage	100%	100%	100%	100%

Source: ORR estimates.

All A-Gs RISs were of a good quality, including the analysis of the Privacy Amendment (Private Sector) Bill 2000. This Bill was introduced following a review

of the privacy protection provided to the private sector by self-regulatory voluntary codes. The RIS examined three options:

- retaining voluntary codes;
- extending public sector rules to the private sector; and
- the preferred option, registering privacy codes developed by industry in accordance with new national privacy principles or relying on the principles where codes are not developed.

The RIS sought to balance key issues in the examination of the options including consumer certainty and protection and the potential to create barriers to trade. The relative merits of individual States or Territories implementing privacy legislation in favour of a nationally (and internationally) consistent approach were also thoroughly examined. While the analysis in the RIS was largely qualitative, compliance costs were considered. For example, the RIS proposed exemptions to the standards in cases where the compliance burden imposed on small businesses was likely to be disproportionately high and not commensurate with the likely benefits from privacy protection.

2.3 Communications, Information Technology and the Arts

The Communications, Information Technology and the Arts portfolio includes the Department, the Australian Broadcasting Authority (ABA) and the Australian Communications Authority (ACA).

Department of Communications, Information Technology and the Arts

In 1999-2000, the Department of Communications, Information Technology and the Arts (DoCITA) prepared 26 of the 27 RISs required at the decision-making stage (table 2.4). The ORR assessed the RISs prepared and found six not to be adequate, resulting in a compliance rate for DoCITA of 74 per cent. DoCITA's compliance rate was 96 per cent at the tabling stage.

Table 2.4 DoCITA: RIS compliance by type of regulation, 1999-2000

<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	10/10	5/10	10/10	10/10
Disallowable instruments	11/12	10/12	11/12	11/12
Non-disallowable instruments	3/3	3/3	..	..
Quasi-regulation	-	-	..	..
Treaties	2/2	2/2	2/2	2/2
Total	26/27	20/27	23/24	23/24
Percentage	96%	74%	96%	96%

.. Not applicable.

Source: ORR estimates.

Among the RISs assessed by the ORR as not adequate at the decision-making stage were RISs on five significant proposals under the Broadcasting Services Amendment (Digital TV and Datacasting) Bill 2000 — see table 2.5. These proposals set down specific regulatory arrangements for digital TV, ready for its commencement in 2001. Two of the issues — in particular the regulation of datacasting and enhanced programming, and the regulation of the transmission of HDTV and standard digital television (SDTV) — involved regulation controlling standards, the timing of services and the technology to be used. While the Department had drafted material and consulted with the ORR, it did not allow enough time to develop RISs containing a sufficient level of analysis on these important matters.

Table 2.5 DoCITA: RIS compliance for Bills, 1999-2000

Bill Title	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Description of regulatory proposal				
Broadcasting Services Amendment Bill (No. 3) 1999				
To regulate Australian content on subscription television	Yes	Yes	Yes	Yes
To ensure Australian content requirements are consistent with the CER Agreement with NZ	Yes	Yes	Yes	Yes
Postal Services Legislation Amendment Bill 2000				
To reduce the scope of the postal services reserved to Australia Post	Yes	Yes	Yes	Yes
To establish an access regime for the postal industry	Yes	Yes	Yes	Yes
Broadcasting Services Amendment (Digital Television and Datacasting) Bill 2000				
Datacasting Charge (Imposition) Amendment Bill 2000				
To regulate datacasting and enhanced programming	Yes	No	Yes	Yes
To regulate the transmission of SDTV and HDTV	Yes	No	Yes	Yes
To mandate a standard for captioning of digital and analogue television programs	Yes	No	Yes	Yes
To encourage the provision of new services in underserved regional licence areas	Yes	No	Yes	Yes
To allow the ABA to determine which surplus broadcasting channels broadcasters hand back at the end of the simulcast period	Yes	No	Yes	Yes
Telecommunications (Consumer Protection and Service Standards) Amendment Bills (Nos 1-2) 2000				
Telecommunications (Universal Service Levy) Amendment Bill 2000				
To reform the telecommunications universal service obligation	Yes	Yes	Yes	Yes
Total	10/10	5/10	10/10	10/10
Percentage	100%	50%	100%	100%

Source: ORR estimates.

Australian Broadcasting Authority

In 1999-2000, the Australian Broadcasting Authority (ABA) prepared all 15 RISs required at the decision-making stage, resulting in a 100 per cent compliance rate (table 2.6). One RIS was, inadvertently, not tabled in Parliament, but was made public via the ABA website.

Table 2.6 ABA: RIS compliance by type of regulation, 1999-2000

<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	-	-	-	-
Disallowable instruments	1/1	1/1	0/1	0/1
Non-disallowable instruments	11/11	11/11	..	..
Quasi-regulation	3/3	3/3	..	..
Treaties	-	-	-	-
Total	15/15	15/15	0/1	0/1
Percentage	100%	100%	0%	0%

.. Not applicable.

Source: ORR estimates.

Australian Communications Authority

In 1999-2000, the Australian Communications Authority (ACA) prepared all 28 RISs required at the decision-making stage. The ORR assessed these to be adequate, resulting in a 100 per cent compliance rate (table 2.7). Four RISs were not tabled in Parliament with the regulations. The ACA stated that this was an oversight.

Table 2.7 ACA: RIS compliance by type of regulation, 1999-2000

<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	-	-	-	-
Disallowable instruments	20/20	20/20	16/20	16/20
Non-disallowable instruments	4/4	4/4	..	..
Quasi-regulation	4/4	4/4	..	..
Treaties	-	-	-	-
Total	28/28	28/28	16/20	16/20
Percentage	100%	100%	80%	80%

.. Not applicable.

Source: ORR estimates.

2.5 Employment, Workplace Relations and Small Business

In 1999-2000, the Department of Employment, Workplace Relations and Small Business (DEWRSB) prepared the two RISs required, which were found to be adequate at both the decision-making and tabling stages (table 2.8). It fully complied with the requirements.

Table 2.8 **DEWRSB: RIS compliance for Bills, 1999-2000**

Bill Title	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Description of regulatory proposal				
Coal Mining Legislation Amendment (Oakdale Collieries) Bill 1999				
To meet all outstanding entitlements of the employees of Oakdale Collieries Pty Ltd	Yes	Yes	Yes	Yes
Equal Opportunity for Women in the Workplace Amendment Bill 1999				
To streamline the <i>Affirmative Action (Equal Employment Opportunity for Women) Act 1986</i> to promote equal opportunity while minimising compliance costs for business	Yes	Yes	Yes	Yes
Total	2/2	2/2	2/2	2/2
Percentage	100%	100%	100%	100%

Source: ORR estimates.

2.6 Environment and Heritage

In 1999-2000, the Department of Environment and Heritage (DEH) prepared seven of the eight RISs required at the decision-making stage (table 2.9). The ORR judged the RISs prepared to be adequate, resulting in a compliance rate for DEH of 88 per cent at the decision-making stage.

The ORR was not consulted until after policy approval was obtained for the Great Barrier Reef Region (Prohibition of Mining) Regulations 1999. This proposal largely formalised existing arrangements, so that the potential impact of the proposal was small. A RIS was prepared for tabling, which the ORR assessed as adequate. The Department was compliant at the tabling stage.

Table 2.9 DEH: RIS compliance by type of regulation, 1999-2000

<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	3/4	3/4	4/4	4/4
Non-disallowable instruments	1/1	1/1	..	..
Quasi-regulation	1/1	1/1	..	..
Treaties	-	-	-	-
Total	7/8	7/8	6/6	6/6
Percentage	88%	88%	100%	100%

.. Not applicable.

Source: ORR estimates.

The RIS process helped improve the analysis of some contentious environmental issues. For example, one RIS prepared by DEH was for a measure announced in November 1997, in the Prime Minister's statement *Safeguarding the Future: Australia's Response to Climate Change*. It foreshadowed a legal requirement for electricity retailers and other large electricity buyers to obtain an additional two per cent of their electricity purchases from renewable or specified waste-product energy sources by 2010. They currently obtain around 11 per cent of their purchases from renewable sources.

The proposal, introduced via the Renewable Energy (Electricity) Bills, is expected to lead to increased investment in the renewables sector and reduced greenhouse gas emissions of around 7 million tonnes each year (table 2.10). But it may increase the price of electricity in the short to medium term.

The Department prepared a RIS for final policy approval, which the ORR assessed to be adequate. This RIS was subsequently tabled in Parliament.

Table 2.10 DEH: RIS compliance for Bills, 1999-2000

Bill Title	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Product Stewardship (Oil) Bill 2000 and associated customs and consequential Amendments Bills				
To ensure environmentally sustainable management and re-refining of waste oil and its re-use	Yes	Yes	Yes	Yes
Renewable Energy (Electricity) Bill 2000				
Renewable Energy (Electricity) (Charge) Bill 2000				
To introduce a mandatory target for the uptake of renewable energy by electricity suppliers	Yes	Yes	Yes	Yes
Total	2/2	2/2	2/2	2/2
Percentage	100%	100%	100%	100%

Source: ORR estimates.

2.7 Health and Aged Care

The Department and the Australia New Zealand Food Authority within the Health and Aged Care portfolio were required to prepare 19 RISs in 1999-2000.

Department of Health and Aged Care

In 1999-2000, the Department of Health and Aged Care (DHAC) prepared only six of the 18 RISs required at the decision-making stage (table 2.11). The ORR assessed the RISs prepared and found one not to be adequate, resulting in a compliance rate for DHAC of 28 per cent at the decision-making stage. At the tabling stage, 13 of the 16 RISs prepared were assessed to be of an adequate standard.

Table 2.11 DHAC: RIS compliance by type of regulation, 1999-2000

<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	4/10	4/10	10/10	8/10
Disallowable instruments	2/8	1/8	6/8	5/8
Non-disallowable instruments	-	-	..	..
Quasi-regulation	-	-	..	..
Treaties	-	-	-	-
Total	6/18	5/18	16/18	13/18
Percentage	33%	28%	89%	72%

.. Not applicable.

Source: ORR estimates.

Compliance details for the 10 regulatory proposals that were in Bills are provided in table 2.12. The Department failed to prepare RISs for the decision-maker for six Bills.

It did work with the ORR on a draft RIS relating to the Gene Technology Bill, but could not get it to an adequate standard. The RIS on the Gene Technology (Consequential Amendments) Bill was assessed to be adequate by the ORR, but was not provided to the decision-maker.

Apart from the issue of whether RISs are of an adequate standard, it is important that they be prepared in sufficient time for the analysis to contribute effectively to well-informed decisions. In the case of the National Health Amendment Bill (No. 1) 2000 implementing the Third Community Pharmacy Agreement — which sets out negotiated provisions applying to pharmacy services under the Pharmaceutical Benefits Scheme, including controls on the opening of new pharmacies and where they can be situated — the four RISs were not ready until the Government had made its final decision to accept the Agreement.

Table 2.12 DHAC: RIS compliance for Bills, 1999-2000

Bill Title	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Description of regulatory proposal				
Health Legislation Amendment Bill (No. 4) 1999				
To set new accreditation arrangements for pathology specimen collection centres	No	No	Yes	Yes
Taxation Laws Amendment Bill (No. 6) 2000				
To alter the Medicare Levy Surcharge exemptions	No	No	Yes	Yes
Health Legislation Amendment (Gap Cover Schemes) Bill 2000				
To enable registered health benefits organisations to provide no gap and/or known gap private health insurance without the need for contracts	No	No	Yes	Yes
Health Legislation Amendment Bill (No. 3) 2000				
To allow private health industry to fund outreach services as a substitute for in-hospital care	No	No	Yes	Yes
National Health Amendment Bill (No. 1) 2000				
Third Community Pharmacy Agreement				
- Pharmacy Remuneration	Yes	Yes	Yes	No
- Pharmacy Location and Entry Controls	Yes	Yes	Yes	Yes
- Pharmacy Quality Assurance and Infrastructure	Yes	Yes	Yes	Yes
- Rural Access to Pharmacy and Specialised Service Measures	Yes	Yes	Yes	Yes
Gene Technology Bill 2000				
To establish a Gene Technology Regulator responsible for overseeing GMOs in Australia	No	No	Yes	No
Gene Technology (Consequential Amendments) Bill 2000				
To ensure access to advice on genetic safety	No	No	Yes	Yes
Total	4/10	4/10	10/10	8/10
Percentage	40%	40%	100%	80%

Source: ORR estimates.

Australia New Zealand Food Authority

The Australia New Zealand Food Authority (ANZFA) was required to prepare one RIS on the National Food Authority Amendment Regulations 2000 (No. 1) Statutory Rules 2000 No. 122, which prescribes various charges for the processing of applications. While ANZFA had commenced preparing a RIS, it was not completed in time for the RIS to accompany the proposal to the decision maker. Thus, ANZFA did not comply with the RIS requirements at the decision-making stage (see figure 2.1). An adequate RIS was included in the Explanatory Statement tabled for these regulations.

2.8 Immigration and Multicultural Affairs

The Department of Immigration and Multicultural Affairs (DIMA) fully complied with the best practice requirements for the Migration Legislation Amendment (Migration Agents) Bill 1999, which was the only Bill it introduced into Parliament in 1999-2000 that required a RIS. Tabled with it was an example of a good quality RIS. This is one of a set of examples that has been made available on the ORR web site (see appendix D for details). The proposal resulted from a review of the statutory self-regulation scheme for migration agents and considered issues with a view to moving the industry to a voluntary scheme.

The RIS provided a clear explanation of the problem that led to the regulatory arrangements under review and the role for government. It discussed the objectives of the original scheme and examined the impacts of the options of moving to a voluntary self-regulatory approach or retaining the statutory scheme. The review had found that statutory self-regulation had achieved its main objective of maintaining and improving consumer protection and ethical standards, but identified some problems with the conduct of a small segment of the migration advice industry. While data were somewhat limited because the scheme had operated for only a little over a year, the evidence indicated that compliance costs did not unduly restrict entry to the industry or adversely affect competition. The review and RIS recommended the existing regulatory framework be extended for three years and enhanced, including in relation to standards of professional conduct and complaints handling and registration procedures. The Government has accepted this and agreed to conduct another review prior to the expiration of the legislation. This is expected to allow sufficient time for the industry to mature and for data to be collected for a more comprehensive assessment.

2.9 Industry, Science and Resources

In 1999-2000, the Department of Industry, Science and Resources (DISR) prepared four of the five RISs required at the decision-making stage (tables 2.12-2.13). The ORR assessed the RISs prepared and found one not to be adequate, resulting in a compliance rate for DISR of 60 per cent. DISR's compliance rate was 100 per cent at the tabling stage.

Table 2.13 **DISR: RIS compliance by type of regulation, 1999-2000**

<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	3/4	4/4	4/4
Disallowable instruments	0/1	0/1	2/2	2/2
Non-disallowable instruments	-	-	..	..
Quasi-regulation	-	-	..	..
Treaties	-	-	-	-
Total	4/5	3/5	6/6	6/6
Percentage	80%	60%	100%	100%

.. Not applicable.

Source: ORR estimates.

Table 2.14 **DISR: RIS compliance for Bills, 1999-2000**

Bill Title	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Description of regulatory proposal				
Pooled Development Funds Amendment Bill 1999				
To make the PDF program more effective and PDF investments more commercially attractive	Yes	Yes	Yes	Yes
Tradex Scheme Bill 1999 including the Customs , Excise and General Amendment Bills				
To allow for the duty-free entry of goods that are subsequently exported or are incorporated in goods that are subsequently exported	Yes	No	Yes	Yes
Patents Amendment (Innovation Patents) Bill 2000				
To repeal the petty patent system and introduce an 'innovation' patent system	Yes	Yes	Yes	Yes
Customs Tariff Amendment Bill (No. 3) 2000				
To remove nuisance tariffs	Yes	Yes	Yes	Yes
Total	4/4	3/4	4/4	4/4
Percentage	100%	75%	100%	100%

Source: ORR estimates.

2.10 Transport and Regional Services

Within the Transport and Regional Services portfolio, the Department, the Civil Aviation Safety Authority (CASA) and the National Capital Authority (NCA) were required to prepare 25 RISs at the decision-making stage.

In addition, the Australian Maritime Safety Authority (AMSA) made nine Marine Orders in 1999-2000 and prepared eight RISs. These RISs were not assessed due to a misunderstanding between AMSA and the ORR. Consequently, AMSA's compliance results are excluded from this year's report.

Department of Transport and Regional Services

In 1999-2000, the Department of Transport and Regional Services (DTRS) prepared 13 of the 16 RISs required at the decision-making stage (tables 2.14-2.15). The ORR found two of those RISs not to be adequate, resulting in a compliance rate for DTRS of 69 per cent. DTRS tabled 16 RISs, one of which the ORR assessed as not adequate.

Table 2.15 **DTRS: RIS compliance by type of regulation, 1999-2000**

<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	6/7	6/7	7/7	7/7
Disallowable instruments	6/8	4/8	8/8	7/8
Non-disallowable instruments	-	-	..	..
Quasi-regulation	-	-	..	..
Treaties	1/1	1/1	1/1	1/1
Total	13/16	11/16	16/16	15/16
Percentage	81%	69%	100%	94%

.. Not applicable.

Source: ORR estimates.

One RIS, which failed the adequacy test at both the decision-making and tabling stages, related to the Customs (Prohibited Imports) Amendment Regulations 1999 (No. 9). This proposal implemented one of the tax reform measures announced in *Measures for a Better Environment* released in 1999. It would have prevented the importation of second-hand diesel engines designed for use in road vehicles unless the engines complied with the current Australian motor vehicle emission standards. Similar restrictions were not placed on the sale of engines sourced locally.

The Department had worked cooperatively with the ORR to improve the analysis in the RIS and to ensure that issues were discussed in a transparent manner. At the end of the process the ORR, while advising that the quality of the analysis was good, assessed the RIS not to be adequate because it could not satisfy the *Competition Principles Agreement* requirements that:

- the benefits of the restriction outweighed the costs; and
- the Government's objective could only be achieved by restricting competition.

The proposed regulations proved contentious and ultimately were disallowed in both the House of Representatives and the Senate. The Government has indicated its intention to 'introduce a more appropriate regulation ... which meets the environmental objectives of the regulation whilst reducing the unintended impacts on industry' (Australia, Senate 2000, p. 15220).

One example of a RIS that met the Government's best practice requirements, prepared by the Department jointly with Treasury, related to the Trade Practices (International Liner Cargo Shipping) Amendment Bill. This Bill implemented the Government's response to the Productivity Commission review under the *Competition Principles Agreement* of Part X of the *Trade Practices Act 1974* (TPA).

Part X is an industry-specific, legislated industry code which exempts liner shipping conferences from some general provisions of the TPA, provided they meet certain obligations to Australian exporters and do not misuse any market power. The Commission found that the existing regulatory approach had promoted the national interest because Part X allows coordination efficiencies in conference arrangements, while letting competition from non-conference lines and the countervailing power of Australian exporters constrain their potential market power. The Government accepted the Commission's threshold recommendation to retain Part X, with some relatively minor amendments, but also proposed a number of other changes to improve the application of competition policy to international liner shipping.

The RIS provided an appropriate level of analysis of the impacts of the proposals, including the costs and benefits of those additional changes that were not included in the Commission's recommendations. It represents a good example of how the RIS process should work and how it can add value when examining an issue that has been the subject of an extensive public inquiry. See appendix D for information on how this and other RISs can be obtained.

Table 2.16 **DTRS: RIS compliance for Bills,1999-2000**

Bill Title	RIS for decision		RIS for tabling	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Description of regulatory proposal				
Road Transport Charges (Australian Capital Territory) Amendment Bill 2000				
To implement updated nationally consistent heavy vehicle registration charges in the ACT	Yes	Yes	Yes	Yes
Interstate Road Transport Charge Amendment Bill 2000				
Interstate Road Transport Amendment Bill 2000				
To implement updated nationally consistent heavy vehicle registration charges	Yes	Yes	Yes	Yes
Aviation Legislation Amendment Bill (No. 1) 2000				
To relax the restrictions on foreign airline holdings to the limit that might be reasonably permitted by Australia's bilateral partners	Yes	Yes	Yes	Yes
Aviation Legislation Amendment Bill (No. 2) 2000				
To create a head of power to develop and promulgate future maintenance rules	Yes	Yes	Yes	Yes
To give CASA power to accept written undertakings from people in relation to compliance with CASR	Yes	Yes	Yes	Yes
Trade Practices (International Liner Cargo Shipping) Amendment Bill^a				
To amend Part X of the <i>Trade Practices Act 1974</i>	Yes	Yes	Yes	Yes
Protection of the Sea (Civil Liability) Amendment Bill 2000				
To require ships of 400 gross tons or more entering or leaving Australian ports to have insurance to cover the costs of a clean-up resulting from the spillage of bunker fuel or other oil	No	No	Yes	Yes
Total	6/7	6/7	7/7	7/7
Percentage	86%	86%	100%	100%

^a At the decision-making stage, Treasury also shared responsibility for the proposal.

Source: ORR estimates.

Civil Aviation Safety Authority

CASA fully complied with the RIS requirements at both the decision-making and tabling stages (table 2.16). At the decision-making stage, it was required to prepare five RISs. An additional three were required for tabling. These 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 requirements on certain aircraft flying to remote islands, following incidents where pilots had to make emergency landings because of insufficient fuel.

It should also be noted that CASA tabled about nine other proposals relating to emergency safety issues in 1999-2000. For example, seven disallowable instruments were tabled that dealt with the fuel contamination crisis. CASA is in the process of preparing RISs for those regulations. They will be included in CASA's compliance report for 2000-01 when the RIS process has been completed.

Table 2.17 **CASA: RIS compliance by type of regulation, 1999-2000**

<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	-	-	-	-
Disallowable instruments ^a	4/4	4/4	7/7	7/7
Non-disallowable instruments	-	-	..	..
Quasi-regulation	1/1	1/1	..	..
Treaties	-	-	-	-
Total	5/5	5/5	7/7	7/7
Percentage	100%	100%	100%	100%

^a Three regulatory proposals were subject to an emergency exception at the decision-making stage.
.. Not applicable.

Source: ORR estimates.

National Capital Authority

In 1999-2000, the NCA prepared the four RISs that were required. The ORR assessed one not to be adequate, at both the decision-making and tabling stages, resulting in a compliance rate for the NCA of 75 per cent.

2.11 Treasury

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

Department of the Treasury — non-tax regulations

For non-tax matters, Treasury prepared six of the seven RISs required in 1999-2000 (tables 2.17 and 2.18). The ORR assessed the RISs prepared to be adequate, resulting in a compliance rate of 86 per cent. An additional RIS was later prepared for tabling, which the ORR assessed to be adequate, making Treasury compliant with the RIS requirements on non-tax matters at this stage.

Table 2.18 **Treasury: RIS compliance for non-tax matters, by type of regulation, 1999-2000**

<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	4/4	4/4	4/4
Disallowable instruments	2/3	2/3	3/3	3/3
Non-disallowable instruments	-	-	..	..
Quasi-regulation	-	-	..	..
Treaties	-	-	-	-
Total	6/7	6/7	7/7	7/7
Percentage	86%	86%	100%	100%

.. Not applicable.

Source: ORR estimates.

Table 2.19 **RIS compliance for non-tax Bills for the Department of the Treasury**

Bill Title	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Description of regulatory proposal				
Choice of Superannuation Funds (Consumer Protection) Bill 1999				
To introduce consumer protection initiatives for the life insurance industry	Yes	Yes	Yes	Yes
Superannuation Legislation Amendment Bill (No. 4) 1999				
To determine the way small super funds invest in arm's length commercial arrangements	Yes	Yes	Yes	Yes
Financial Sector Legislation Amendment Bill (No. 1) 2000				
To allow the Treasurer to attach conditions when granting his or her consent for banks and related bodies to restructure their balance sheets, merge or takeover another business	Yes	Yes	Yes	Yes
Trade Practices Amendment Bill (No. 1) 2000				
To improve the enforcement aspects of the regulatory regime and address shortcomings in present legal remedies	Yes	Yes	Yes	Yes
Total	4/4	4/4	4/4	4/4
Percentage	100%	100%	100%	100%

Source: ORR estimates.

Australian Competition and Consumer Commission

The ACCC made one set of guidelines in 1999-2000, to prevent price exploitation during the introduction of the GST, for which a RIS was required. The ORR assessed the RIS prepared to be adequate at the decision-making stage and suitable for publication. The ACCC was accordingly fully compliant with the Government's RIS requirements.

Australian Securities and Investments Commission

ASIC made 15 quasi-regulations in 1999-2000 that required a RIS. The ORR assessed the 15 RISs prepared as adequate at the decision-making stage and suitable for publication. ASIC was accordingly fully compliant with the Government's RIS requirements.

Treasury and the Australian Taxation Office — taxation regulations

Taxation proposals fall under the joint responsibility of the Department of the Treasury and the ATO. In 1999-2000, tax RISs were prepared for 32 of the 34 required at the decision-making stage, resulting in a compliance rate of 94 per cent (table 2.20). Fourteen additional RISs were required at the tabling stage, for two main reasons:

- six of the proposals had been set out in quite precise terms in the Government's 1998 *Plan for a New Tax System* (Treasurer 1998), thereby becoming specific election commitments. In establishing the RIS requirements in 1997, the Government excluded such specific commitments. While these six proposals thus have been excluded from the total at the decision stage, RISs were prepared when the relevant Bills were tabled; and
- Australia had decided to enter into six treaties prior to the RIS requirements becoming mandatory, and they were tabled with RISs in 1999-2000.

At the tabling stage, 48 RISs were prepared and the ORR assessed three not to be adequate, resulting in a compliance rate of 94 per cent.

Table 2.20 Treasury and ATO: RIS compliance by type of taxation regulation, 1999-2000

<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	25/27	25/27	33/33	31/33
Disallowable instruments	7/7	7/7	9/9	8/9
Non-disallowable instruments	-	-	..	..
Quasi regulation	-	-	..	..
Treaties ^{a,b}	-	-	6/6	6/6
Total	32/34	32/34	48/48	45/48
Percentage	94%	94%	100%	94%

^a Treaty negotiations and decision making occurred prior to the RIS requirements becoming mandatory. ^b The Bills implementing these treaties are listed in table 2.21, but have been excluded from the Bills total in order to avoid double-counting. .. Not applicable.

Source: ORR estimates.

Because of the limited scope of taxation RISs — essentially, they examine only the implementation options for attaining a specified policy objective — the main value comes from analysis of the likely impacts. Consequently, the ORR places considerable importance on having detailed and objective analysis which includes, if possible, quantification of the effects of tax proposals.

The need for such analysis to facilitate good outcomes is not confined to the decision-making stage, but extends importantly to the tabling stage. In 1999-2000, there were two tax measures for which adequate RISs were prepared for the decision stage, but for which the tabled versions were not adequate (see table 2.21).

A good example of a tax RIS, in terms of demonstrating an appropriate level of analysis, was the one prepared for a New Tax System (Goods and Services Tax) Amendment Regulations 2000 (No. 3). These regulations reversed an unintended adverse cash flow impact from the original GST legislation for businesses purchasing imported goods. Importers would have been required to pay GST when they took possession of the goods rather than at the time of payment, as would typically occur when goods are bought domestically. This anomaly was corrected by permitting certain importers to defer GST for a period.

The RIS was of a high standard. Most aspects of the impacts, including the impact on particular groups, were quantified. Those aspects that were not quantified were described in adequate detail to explain the relative importance of the costs.

Table 2.21 Treasury and ATO: RIS compliance for taxation Bills, 1999-2000

Bill Title	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
A New Tax System (Tax Administration) Bill 1999				
To introduce generic collection and recovery rules for tax related liabilities and charges	a	a	Yes	Yes
To endorse deductible gift recipients and tax exempt charities	a	a	Yes	Yes
To administer Business Activity Statement obligations	Yes	Yes	Yes	Yes
A New Tax System (Tax Administration) Bill (No. 2) 1999				
To establish FBT instalments	a	a	Yes	Yes
International Tax Agreement Amendment Bill 1999^b				
To establish a Double Tax Agreement with South Africa	..	..	..	..
To amend a Protocol to the Double Tax Agreement with Malaysia	..	..	..	..
To establish a Double Tax Agreement with the Slovak Republic	..	..	..	..
To establish a Double Tax Agreement with Argentina	..	..	..	..
New Business Tax System (Capital Allowances) Bill 1999				
To remove depreciable assets from the CGT Regime and to replace accelerated depreciation with effective life depreciation	Yes	Yes	Yes	No
New Business Tax System (Capital Gains Tax) Bill 1999				
- To provide small business relief from CGT and establish other CGT measures	Yes	Yes	Yes	Yes

Continued on the next page

^a These measures were specific elements or integral parts of the ANTS (A New Tax System) proposal made public just prior to the 1998 election. Because they were specific election commitments (see The Guide, p. A4), they were not subject to the RIS requirements at the decision stage. ^b These Bills are the result of international treaties, for which RISs were prepared, and have been excluded from the Bills total to avoid double-counting (see table 2.20). .. Not applicable.

Table 2.21 (continued)

Bill Title	<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 (Integrity and Other Measures) Bill 1999				
New Business Tax System (Former Subsidiary Tax Imposition) Bill 1999				
To introduce various integrity measures such as:	Yes	Yes	Yes	No
- disposal of leases and leased plant;				
- value shifting through debt forgiveness;				
- preventing a deduction and a capital loss arising from a single economic loss;				
- transfer of losses within wholly-owned groups of companies				
To reform Capital Gains Tax by:	Yes	Yes	Yes	Yes
- limiting indexation of cost bases;				
- extending concessions to individuals and some other entities				
New Business Tax System (Income Tax Rates) Bill (No. 2) 1999				
To remove Capital Gains Tax averaging	Yes	Yes	Yes	Yes
New Business Tax System (Miscellaneous) Bill 1999				
New Business Tax System (Venture Capital Deficit Tax) Bill 1999				
To convert franking rebates into imputation credits and remove the inter-corporate dividend rebate on unfranked dividends	Yes	Yes	Yes	Yes
To exempt capital gains on venture capital investments made by pooled development funds exempt from tax				
Customs Tariff Amendment Bill (No. 1) 2000				
Excise Tariff Amendment Bill (No. 1) 2000				
To introduce 'per stick' customs duties on tobacco	a	a	Yes	Yes
Taxation Laws Amendment Bill (No. 10) 1999				
To confine the amount of capital expenditure which is allowable as a deduction	Yes	Yes	Yes	Yes
A New Tax System (Fringe Benefits) Bill 2000				
To enhance the fairness of the taxation system through various amendments to FBT and its interaction with GST.	a	a	Yes	Yes

Continued on the next page

Table 2.25 (continued)

Bill Title	<i>RIS for decision</i>		<i>RIS for tabling</i>	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Description of regulatory proposal				
International Tax Agreements Amendment Bill (No. 1) 2000^b				
To establish a Double Tax Agreement with Romania	..	..	..	..
To amend the Protocol to the Double Tax Agreement with Finland	..	..	..	..
New Business Tax System (Alienation of Personal Services Income) Bill 2000 including Tax Imposition Bills Nos 1-2				
To address the threat posed to the tax base by the alienation of personal services income	Yes	Yes	Yes	Yes
New Business Tax System (Integrity Measures) Bill 2000				
To limit the extent to which non-commercial losses can be used to reduce other income	Yes	Yes	Yes	Yes
To target investors in tax shelter schemes by preventing immediate deductions for work to be carried out over the next 13 months	Yes	Yes	Yes	Yes
New Business Tax System (Miscellaneous) Bill (No. 2) 2000				
To prevent multiple recognition of losses by a company	Yes	Yes	Yes	Yes
To broaden the tax base for life insurers	Yes	Yes	Yes	Yes
To amend the imputation system to take account of PAYG instalments and to amend the imputation treatment of life assurance companies	Yes	Yes	Yes	Yes
To amend the CGT cost base adjustment provisions applying to capital payments made to a beneficiary for an interest in a trust	Yes	Yes	Yes	Yes
To introduce a general anti-avoidance rule for the PAYG system	Yes	Yes	Yes	Yes
Taxation Laws Amendment Bill (No. 5) 2000				
To introduce an alternative method (public offer price) for determining the market value of shares acquired by employees	Yes	Yes	Yes	Yes

Continued on the next page

Table 2.25 (continued)

Bill Title	RIS for decision		RIS for tabling	
	<i>prepared</i>	<i>adequate</i>	<i>prepared</i>	<i>adequate</i>
Sales Tax (Customs) (Industrial Safety Equipment) Bill 2000 and related customs, excise and transitional provisions Bills				
To clarify the sales tax exemptions on 'industrial safety equipment'.	No	No	Yes	Yes
Indirect Tax Legislation Amendment Bill 2000				
– To provide an exemption from Wine Equalisation Tax (WET) payable for cellar door and mail order sales	Yes	Yes	Yes	Yes
– GST treatment of supplies (of goods & services) involving non-residents	Yes	Yes	Yes	Yes
– GST arrangements for financial supplies	Yes	Yes	Yes	Yes
– GST treatment option for agents	Yes	Yes	Yes	Yes
– Definition of gambling turnover for GST purposes	Yes	Yes	Yes	Yes
– Transitional GST arrangements for alcoholic beverages held on 30 June 2000	Yes	Yes	Yes	Yes
A New Tax System (Tax Administration) Bill (No. 2) 2000				
To introduce a uniform administrative penalty regime	Yes	Yes	Yes	Yes
To allow for the provision of BAS services by people other than registered tax agents	No	No	Yes	Yes
Excise Amendment (Compliance Improvement) Bill 2000				
To change compliance arrangements for tobacco excise regime	a	a	Yes	Yes
Taxation Laws Amendment Bill (No. 7) 2000				
To simplify how beneficiaries of trusts determine investment income	Yes	Yes	Yes	Yes
Total	25/27	25/27	33/33	31/33
Percentage	93%	93%	100%	94%

^a These measures were specific elements or integral parts of the ANTS (A New Tax System) proposal made public just prior to the 1998 election. Because they were specific election commitments (see The Guide, p. A4), they were not subject to the RIS requirements at the decision stage. ^b These Bills are the result of international treaties, for which RISs were prepared, and have been excluded from the Bills total to avoid double-counting (see table 2.20). .. Not applicable.

Source: ORR estimates.