



## Australian Government Regulation Impact Statement Status – 2018-19

The Office of Best Practice Regulation (OBPR) publishes Regulation Impact Statements (RISs) on its website as soon as practicable from the date of regulatory announcements, in consultation with the relevant agency. RIS compliance, in aggregate and by agency, is reported concurrently in the following tables. RIS compliance for previous years is available on the OBPR website.

Departments and agencies were fully compliant with the Australian Government’s RIS requirements for the 27 proposals finalised between 1 July 2018 and 30 June 2019. Sixteen RISs were prepared, assessed by the OBPR and published. The OBPR assessed the level of analysis in 11 RISs as consistent with best practice. In ten cases, agencies met the requirements by certifying the analysis from an independent review or similar RIS-like process. The OBPR does not assess the quality of analysis in such cases.

The Prime Minister exempted one proposal from the RIS requirements due to exceptional circumstances. A post-implementation review (PIR) will be required for the proposal to strengthen the reporting, and removal of, abhorrent violent material that is reasonably capable of being accessed in Australia within two years.

Under the March 2014 Australian Government Regulatory Impact Analysis (RIA) process, the OBPR publishes each RIS, the associated agency certification letter and the OBPR assessment letter. A RIS can evolve during the policy development process, and can also be published for consultation at an early stage. The OBPR assesses RISs for compliance and best practice at the final decision point.

### RIS Summary of compliance

Stage	2017–18 Ratio	%	2018–19 Ratio	%
Compliance	39/39	100	27/27	100
Best practice – RISs	22/28	79	11/16	70
Independent Reviews	10		10	
RISs for consultation	1		2	
Exceptional circumstances	1 <sup>a</sup>		1 <sup>a</sup>	
Estimated annual impact on Regulatory Burden <sup>b</sup>	+\$106.8 million <sup>c</sup>		+\$138.4 million <sup>c</sup>	

*a* Included in total count RIS compliance

*b* Positive number represents an increase in regulatory burden. Regulatory burden in RISs are estimated using the Commonwealth Regulatory Burden Measurement framework and are assumed to be spread over 10 years. The estimate is based on RISs published at the final decision point.

*c* The total estimated annual impact on regulatory burden may differ from the other figures in this document due to rounding.

## Regulation Impact Statement Compliance, 2018-19 (by proposal)

	RIS Compliance	Best practice	PIR required	Regulatory Burden (\$m)
<b>Department of Agriculture and Water Resources</b>	<b>4/4</b>	<b>3/4</b>		<b>\$3.0</b>
Dairy Industry (Farmer-Processor Transactions) Code of Conduct	Compliant	No	No	\$0.5
Export Tariff Rate Quota Streamlining	Compliant	Yes	No	\$0.0
Murray Darling Basin – Basin Plan Amendment Instrument (No.1) 2018 – Independent Review	Compliant	Yes	No	\$0.0
Review of the Australian Standards for the Export of Livestock (ASEL): Sea Transport – Independent Review	Compliant	Yes	No	\$2.5
<b>Attorney-General's Department</b>	<b>1/1</b>	<b>N/A</b>		<b>\$0.3</b>
<i>Criminal Code Amendment (Sharing of Abhorrent Violent Material) Act 2019 – Prime Minister's Exemption</i>	Compliant	E/c <sup>1</sup>	Yes	\$0.3
<b>Department of Communications and the Arts</b>	<b>3/3</b>	<b>2/3</b>		<b>\$0.5</b>
Allocation Limits for the 3.6 GHZ Spectrum Auction	Compliant	No	No	\$0.0
Copyright Website Blocking Scheme	Compliant	Yes	No	\$0.5
Telecommunications Universal Service Guarantee	Compliant	Yes	No	\$0.0
<b>Department of Education</b>	<b>1/1</b>	<b>1/1</b>		<b>-\$2.2</b>
National Code of Practice for Providers of Education and Training to Overseas Students 2018	Compliant	Yes	No	-\$2.2
<b>Department of the Environment and Energy</b>	<b>1/1</b>	<b>0/1</b>		<b>\$1.9</b>
Default Market Offer Price Cap and Reference Bill on Retail Electricity Prices	Compliant	No	No	\$1.9
<b>Department of Foreign Affairs and Trade</b>	<b>2/2</b>	<b>2/2</b>		<b>\$0.2</b>
Australia – Hong Kong Free Trade Agreement – Independent Review	Compliant	Yes	No	\$0.2
Establishing Maritime Boundaries in the Timor Sea	Compliant	Yes	No	\$0.0

<sup>1</sup> Prime Minister's exemption from the requirement to complete a RIS (exceptional circumstances)

<b>Department of Health</b>	<b>2/2</b>	<b>1/2</b>		<b>\$0.2</b>
Review of Australia's Sports Integrity Arrangements – Independent Review	Compliant	Yes	No	-\$0.4
Stronger Rural Health Strategy	Compliant	No	No	\$0.6
<b>Department of Home Affairs</b>	<b>1/1</b>	<b>1/1</b>		<b>\$0.0</b>
Migration Amendment (Offshore Resources Activity) Regulations 2018	Compliant	Yes	No	\$0.0
<b>Department of Industry, Innovation and Science</b>	<b>1/1</b>	<b>1/1</b>		<b>\$25.2</b>
Better Targeting the R&D Tax Incentive	Compliant	Yes	No	\$25.2
<b>Treasury Portfolio</b>	<b>11/11</b>	<b>9/11</b>		<b>\$109.3</b>
<b>Australian Competition and Consumer Commission</b>	<b>1/1</b>	<b>1/1</b>		<b>\$0.0</b>
Water Charge Amendment Rules 2019 – Independent Review	Compliant	Yes	No	\$0.0
<b>Australian Prudential Regulation Authority</b>	<b>4/4</b>	<b>4/4</b>		<b>\$12.9</b>
Life Insurance Reporting Standard – Reporting Claims and Disputes	Compliant	Yes	No	\$1.2
Prudential Standard CPS 234 Information Security – Independent Review	Compliant	Yes	No	\$6.7 <sup>3</sup>
Changes to prudential requirements for related entity risk management – Independent Review	Compliant	Yes	No	\$3.1
Strengthening Superannuation Member Outcomes – Independent Review	Compliant	Yes	No	\$1.9
<b>Department of the Treasury</b>	<b>6/6</b>	<b>4/6</b>		<b>\$96.4</b>
Australian Business Securitisation Fund	Compliant	Yes	No	\$0.1
Black Economy Taskforce – Independent Review	Compliant	No	No	\$4.0
Open Banking – Banking Sector Consumer Data Right – Independent Review	Compliant	Yes	No	\$86.6
Phoenixing – Restriction of Creditor Voting Rights	Compliant	Yes	No	\$0.1
Prohibiting Energy Market Misconduct	Compliant	No	No	\$0.8
Tax Treatment of Stapled Structures	Compliant	Yes	No	\$4.8

<sup>3</sup> Average annual regulatory costs estimated over three years not ten.

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## Detailed information

### Department of Agriculture and Water Resources

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
Dairy Industry (Farmer-Processor Transactions) Code of Conduct	Compliant	No	No	\$0.5

The code will create enforceable minimum standards of conduct for business practices between farmers and processors, and is aimed at improving pricing transparency in the industry. While the RIS reflected extensive consultation and thorough analysis, it did not provide sufficient evidence of persistent market failure and the need to intervene in farmer-processor pricing relationships to be assessed as best practice. As part of its assessment, the OBPR noted that greater economic analysis should be undertaken to understand the price impacts of intervention, particularly given the risks of intervention in farmer-processor relationships.

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
Export Tariff Rate Streamlining	Compliant	Yes	No	\$0.0

Streamlines the administration of export tariff rate quotas.

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
Murray Darling Basin – Basin Plan Amendment Instrument (No.1) 2018 – Independent Review	Compliant	Yes	No	\$0.0

Reduces the Northern Basin water recovery target from 390 gigalitres to 320 gigalitres per year, in addition to increasing the Basin-wide limit on groundwater use by 160 gigalitres per year. The OBPR does not assess the adequacy of the content of an independent review used in lieu of a RIS.

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
Review of the Australian Standards for the Export of Livestock (ASEL): Sea Transport – Independent Review	Compliant	Yes	No	\$2.5

The review was undertaken to ensure the standards for live exports are fit-for-purpose and reflect the latest science. It assessed the export of livestock by sea, from sourcing and preparation through to the management of livestock on-board vessels, and made 49 recommendations that have been accepted either in full or in principle. Key recommendations focused on support for animal welfare outcomes. Controls on sourcing certain livestock will remain, and more time will be provided in registered premises for stock to rest and prepare for the export journey. In most circumstances, more space is to be provided on export vessels, and for all voyages crossing the equator, a heat stress risk assessment must be conducted. Changes will also be made to personnel needed to manage animals on vessels, bedding and fodder provisions, and reporting requirements. The OBPR does not assess the adequacy of the content of an independent review used in lieu of a RIS.

## Attorney-General's Department

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
<i>Criminal Code Amendment (Sharing of Abhorrent Violent Material) Act 2019 – Prime Minister's Exemption</i>	Compliant	E/c <sup>4</sup>	Yes	\$0.3

New offences will be introduced in the Criminal Code to ensure that internet, hosting or content services proactively refer abhorrent violent material to law enforcement, and that hosting and content services expeditiously remove from their platforms abhorrent violent material that is capable of being accessed within Australia. The Prime Minister granted an exemption from the need to complete a RIS due to truly urgent and unforeseen events. The Department is must complete a post-implementation review by April 2021.

## Department of Communications and the Arts

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
Allocation Limits for the 3.6 GHz Spectrum Auction	Compliant	No	No	\$0.0

Sets out the procedures to be applied for the allocation of spectrum in the 3.6 GHz band to ensure that no person or specific group of persons may use more than an aggregate of 60MHz of spectrum in each metropolitan area, or an aggregate of 80 MHz in each regional area, in the frequency range 3400-3700 MHz. To be consistent with best practice, the RIS should have included more information from the ACCC on the likely impact on competition. In particular, it would have benefited from more detailed analysis about how the proposed competition limits balance the objectives of ensuring the spectrum is moved to its highest value use, against broader welfare considerations.

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
Copyright Website Blocking Scheme	Compliant	Yes	No	\$0.0

Enables copyright owners to more effectively enforce their rights by blocking Australian users from accessing overseas online locations that facilitate large-scale infringement of copyright.

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
Telecommunications Universal Service Guarantee	Compliant	Yes	No	\$0.0

Establishes a Universal Service Guarantee using the National Broadband Network to provide universal access to broadband services, while retaining the current Universal Service Obligation arrangements, using the Telstra copper and wireless networks in rural and remote Australia to provide voice services in NBN fixed wireless and satellite areas.

## Department of Education and Training

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
National Code of Practice for Providers of Education and Training to Overseas Students 2018	Compliant	Yes	No	-\$2.2

The 2018 revisions to the Code seek to improve safety and welfare outcomes for international students, especially those under 18 years of age, improve the quality of information provided to international students before they enrol, and streamline course attendance and student transfer requirements.

<sup>4</sup> Prime Minister's exemption from the requirement to complete a RIS (exceptional circumstances).

## Department of the Environment and Energy

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
Default Market Offer Price Cap and Reference Bill on Retail Electricity Prices	Compliant	No	No	\$1.9

The Default Market Offer (DMO) places a price cap on electricity retailers' standing offers. Under this proposal, retailers will not be able to price their standing offers above the price cap. The objective of the DMO is to reduce incentive for retailers to take advantage of disengaged customers in the market. A reference bill ensures all offers must be compared to the same base rate, which will be set at the same price as the DMO. Customers will be able to identify which are the cheaper or more expensive offers available in the retail electricity market. The Department was not consistent with best practice due to insufficient analysis on how the recommended option delivers the highest net benefit to the community, and the absence of a consultation RIS on the merits of such a significant proposal and viable alternative options.

## Department of Foreign Affairs and Trade

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
Australia – Hong Kong Free Trade Agreement – Independent Review	Compliant	Yes	No	\$0.2

The bilateral free trade agreement (FTA) is expected to guarantee free flow of data across borders without mandatory local data storage requirements, secure a legal guarantee that Australian exporters will continue to receive Hong Kong's zero-tariff treatment for their goods, and remove any risk for Australian service suppliers and investors that could arise from adverse future changes to Hong Kong's applied policy settings. It will also promote increased investment through a linked, modern Investment Agreement, deliver faster and deeper market access gains than are possible through multilateral or regional trade negotiations, be consistent with World Trade Organization requirements for FTAs, and complement Australia's efforts to seek additional trade liberalisation across the region. The OBPR does not assess the adequacy of the content of an independent review used in lieu of a RIS.

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
Establishing Maritime Boundaries in the Timor Sea	Compliant	Yes	No	\$0.0

The treaty defines Australia's permanent maritime boundaries with Timor-Leste; addresses the legal status of the Greater Sunrise gas fields and provide and pathway for joint development, exploitation, management, and revenue sharing of this resource through establishing the Greater Sunrise Special Regime; expands Timor-Leste's exclusive maritime jurisdiction, with some oil and gas fields transferring to Timor-Leste's maritime jurisdiction exclusively, and establishes transitional arrangements to ensure certainty and security for affected offshore petroleum operations in the Timor Sea.

## Department of Health

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
Review of Australia's Sports Integrity Arrangements – Independent Review	Compliant	Yes	No	-\$0.4

The two pieces of legislation introduced will amend the existing anti-doping, freedom of information, and privacy laws to ensure the efficient and effective implementation of the Australian Sports Anti-Doping Authority's (ASADA's) regulatory functions. In addition to this, they will establish a Tribunal to ensure the Australian community has access to a cost effective, transparent, timely, and independent sport dispute resolution process. The OBPR does not assess the adequacy of the content of an independent review used in lieu of a RIS.

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
Stronger Rural Health Strategy	Compliant	No	No	\$0.6

The proposal aims to build a sustainable, high quality health workforce distributed according to community need, particularly in rural and remote communities. The RIS was assessed as not best practice. The OBPR view was that it did not sufficiently explain oversupply in the GP context or fully draw out the risks this type of major reform presents to the broader health system. Noting the complexity of the labour market and the multiple layers of policy that interact with it, the decision would have been better informed by greater analysis of the key drivers expected to incentivise Vocationally Recognised GPs to both move and remain in regional areas.

## Department of Home Affairs

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
Migration Amendment (Offshore Resources Activity) Regulations 2018	Compliant	Yes	No	\$0.0

Allow Maritime Crew Visa holders to participate in, or support, offshore resource activities in Australia's migration zone.

## Department of Industry, Innovation and Science

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
Better targeting the R&D Tax Incentive	Compliant	Yes	No	\$25.2

Changes the R&D tax incentive to reward additional investment in R&D while improving the integrity and fiscal affordability of the program.



## Treasury Portfolio

### Australian Competition and Consumer Commission

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
Water Charge Amendment Rules 2019 – Independent Review	Compliant	Yes	No	\$0.0

Update the water charge rules to improve pricing transparency and make it easier for operators to comply.

### Australian Prudential Regulation Authority

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
Life Insurance Reporting Standard – Reporting Claims and Disputes	Compliant	Yes	No	\$1.2

Requires life insurers to report data on claims and disputes.

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
Prudential Standard CPS 234 Information Security – Independent Review	Compliant	Yes	No	\$6.7 <sup>6</sup>

The standard was developed to increase APRA-regulated entities' resilience against information security incidents (including cyber-attacks), and their ability to respond swiftly and effectively in the event of a breach. The OBPR does not assess the adequacy of the content of an independent review used in lieu of a RIS.

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
Strengthening Superannuation Member Outcomes – Independent Review	Compliant	Yes	No	\$1.9

The package consists of a new prudential standard, guidance, and a revised standard. The framework is designed to strengthen the focus of registrable superannuation entity (RSE) licensees on delivering quality outcomes for their members, and includes new requirements for RSE licensees to conduct an annual member outcomes assessment as well as making improvements to strategic and business planning and fund expenditure management. The OBPR does not assess the adequacy of the content of an independent review used in lieu of a RIS.

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
Changes to prudential requirements for related entity risk management – Independent Review	Compliant	Yes	No	\$3.1

Updates and streamlines requirements to account for lessons learnt from the global financial crisis on mitigating the flow of contagion risk to an authorised deposit-taking institution (ADI), particularly from related entities, and ensures general alignment with APRA's revised ADI Large Exposures Framework, which came into effect on 1 January 2019.

<sup>6</sup> Average annual regulatory costs estimated over three years not ten.

## Department of the Treasury

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
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Australian Business Securitisation Fund	Compliant	Yes	No	\$0.1
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The proposal will facilitate access to securitised funding and related warehouse funding by lenders (banks and non-bank lenders) to small and medium enterprises (SMEs). This is intended to allow smaller banks and non-bank lenders to compete more effectively against the four major banks, which in turn, may lead to reduced prices in the market, increased diversity of SME lending products and increased access to finance for SMEs.

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
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Black Economy Taskforce – Independent Review	Compliant	No	No	\$4.0
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Denies income tax deductions for certain payments if withholding obligations have not been complied with. Expands the Taxable Payments Reporting System to the road freight, information technology, security, investigation, and surveillance industries. Changes excise arrangements to address the illicit trade in tobacco. To be consistent with best practice, the certified report should have been tabled with the legislation. The OBPR does not assess the adequacy of the content of an independent review used in lieu of a RIS.

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
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Open Banking – Banking Sector Consumer Data Right – Independent Review	Compliant	Yes	No	\$86.6
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Provides consumers of banking services with more control over their information and, thereby, enable more choice in where they take their business, or provide more convenience in managing their money and services.

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
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Phoenixing – Restriction of Creditor Voting Rights	Compliant	Yes	No	\$0.1
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Puts in place measures to restrict related creditor voting rights and prevent phoenix operators colluding with related creditors to ensure their preferred insolvency practitioner is appointed or kept in place or to impede the legitimate actions of external administrator.

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
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Prohibiting Energy Market Misconduct	Compliant	No	No	\$0.8
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Prohibits conduct by electricity corporations that is detrimental to competition or to consumer welfare. To be consistent with best practice, the RIS should have included more evidence on how the preferred option delivers the highest net benefit to the community and more discussion on the views of stakeholders. Consultation should also have been more broad-based and should have been for a period of at least 30 days, consistent with the Government's minimum requirement.

Proposal	RIS Status	Best practice	PIR required	Regulatory Burden (\$m)
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Tax Treatment of Stapled Structures	Compliant	Yes	No	\$4.8
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Ensures trading income is taxed at the corporate tax rate in the hands of foreign investors, even when that income has been channelled through a managed investment trust. It also limits access to existing concessions for passive income utilised by foreign governments and foreign pension funds.

## Appendix A – RISs published for consultation

Two Australian Government RISs were published for consultation between 1 July 2018 and 30 June 2019.

Proposal	Agency	Closing date
Franchise Relationships Between Car Manufacturers and New Car Dealers	Department of Industry, Innovation and Science	13 February 2019
<p>The Department of Industry, Innovation and Science released a Regulation Impact Statement (RIS) for consultation to explore policy responses to new car dealers' concerns with their franchising relationships with car manufacturers.</p>		
Black Economy – Increasing the Integrity of Government Procurement	Department of the Treasury	21 December 2018
<p>The Department of the Treasury released draft procurement connected policy (PCP) guidelines, which set out key components to increase the integrity of Commonwealth Government procurement to reduce black economy activity in the supply chain.</p>		