



Australian Government

Department of the Prime Minister and Cabinet Office of Best Practice Regulation

Reference: 16303
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Mr Peter Baxter
Deputy Secretary Strategy
Department of Defence

Dear Mr Baxter

Regulation Impact Statement – second-pass final assessment – Amendments to the Defence Trade Controls Act 2012

Thank you for submitting the Regulation Impact Statement (RIS) for the above proposal to the Office of Best Practice Regulation (OBPR) for second-pass final assessment on 6 February 2015. I note that the RIS has been formally certified at the Deputy Secretary level consistent with best practice.

The Office of Best Practice Regulation's (OBPR) final assessment is that the Department of Defence is compliant with the Government's requirements. This assessment is based on:

- the regulatory cost and cost offset estimates having been agreed with the OBPR;
- the Department having twice submitted the certified RIS for the OBPR's assessment prior to a final decision being taken; and
- your letter of 6 February 2015 certifying the RIS responds to the OBPR's formal comments on the RIS submitted for first-pass assessment.

In addition, I note that the RIS:

- answers the seven RIS questions; and
- does not contain obvious errors.

The RIS notes that the preferred option attempts to strike a balance between ensuring Australia is able to comply with its counter-proliferation objectives and the promotion and advancement of innovation and economic objectives:

The RIS outlines the substantial public consultation that Defence has conducted on the proposal, and notes that public consultations will continue after the Amendment Bill is tabled in Parliament to facilitate implementation. It outlines the six-month delay to the commencement of the offence provisions from the date of Royal Assent for the Bill, and inclusion of a mechanism to provide for review of the operation of the Act at two years of commencement, and subsequently at intervals of not longer than five years.

Given the expected magnitude of the impacts of the proposal the OBPR considers the level of analysis is consistent with best practice.

Publication requirements

For legislation which is tabled in the Parliament, a copy of the RIS must be included in the explanatory memorandum (for primary legislation) or the explanatory statement (for legislative instruments). Please ensure that your officers provide the OBPR with a copy of (or link to) the explanatory memorandum or explanatory statement when these are made public.

The OBPR maintains a RIS website and the Government requires that RISs be posted within 5 business days of a regulatory decision being publicly announced. We would appreciate you advising us when a decision on this proposal is announced, and forwarding a final copy of the RIS in *Microsoft Word .doc* format in a form meeting the Australian Government's *Web Content Accessibility Guidelines*.

We suggest liaising with your web services team to ensure these guidelines are met. The OBPR should be consulted if the RIS is amended. It is the agency preparing the RIS, not the OBPR, which is responsible for the content of the published RIS.

The website provides a public comment facility on RISs posted on the site. The OBPR moderates this facility for offensive content but does not moderate debate.

Please retain this letter as a record of the OBPR's advice. Our reference number for this issue is 16303. If you have any further queries, please do not hesitate to contact me.

Yours sincerely



Jason McNamara
Executive Director
Office of Best Practice Regulation
9 February 2015