



Frequently Asked Questions – Regulatory Impact Analysis

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Overview

1. What is a Regulatory Impact Assessment (RIA)?

Regulatory Impact Assessments (RIAs) are documents prepared by Victorian Government departments and agencies that explain the expected impacts (costs and benefits) of proposed regulations or legislation. The adequacy of RIAs is independently assessed by the Commissioner for Better Regulation, with support from Better Regulation Victoria (BRV). There are two types of RIAs:

- Regulatory Impact Statements (RISs), which are prepared for proposed statutory rules or legislative instruments; and
- Legislative Impact Assessments (LIAs), which are prepared for proposed legislation.

2. Why prepare a RIA?

Preparing RISs and LIAs helps to make best practice regulation by informing the Government of the expected costs and benefits of a regulatory proposal and alternative options. RIAs must clearly explain the problems that a proposal is intended to address, and analyse the range of costs and benefits to stakeholders, such as individuals, businesses and the broader community.

There are also requirements to prepare RISs under the [Subordinate Legislation Act 1994 \(SL Act\)](#). The [Cabinet Handbook](#) outlines when LIAs should be prepared for legislation.

3. When do I need to prepare a RIA?

In general, RIAs are required when proposed primary or subordinate legislation (instrument) is expected to impose a significant burden on the community relative to the base case (explained further below).

The SL Act outlines various exemptions from preparing a RIS. An exemption under s. 8(1)(a) of the SL Act (no significant economic or social burden) is a common exemption from preparing a RIS.

Please refer to [Questions 6 and 7](#) for further information about significant burden, a sector of the public, the base case, and exemptions.

4. How do I prepare a RIA?

The RIA process typically begins with a meeting with BRV to scope the project before drafting of the RIA commences. This provides an opportunity to discuss the project, the proposed approach (including whether a consultant is used), draft timelines and any other issues.

BRV staff will work iteratively on a series of drafts of the RIA before advising the Commissioner for Better Regulation on adequacy. Early and regular engagement is critical



to ensure the RIA process is effective and efficient. Please refer to [Preparing RIA and RIA Requirements](#) for further information.

5. What is the role of the Commissioner for Better Regulation and BRV in RIAs?

The Commissioner for Better Regulation is required to assess the adequacy of all RISs and LIAs in Victoria. BRV supports the Commissioner in assessing adequacy, and supports departments and agencies preparing RISs and LIAs. BRV's formal role in the regulation-making process begins when we are asked to provide feedback on early work on an RIA, and it ends when a letter of assessment is provided to a department or agency. BRV can provide advice or assistance at other points in the process as well (see [Preparing RIA and RIA requirements](#) below for more detail).

BRV also provides advice on whether a RIA needs to be prepared, including whether exemptions from the RIA process may be appropriate.



Definitions and exemptions

6. What do base case, significant burden and a sector of the public mean?

To determine whether a RIA must be prepared, departments and agencies should first assess whether the proposed instrument will impose a significant economic or social burden on a sector of the public, relative to the base case.

a. The base case

Establishing the base case is a critical part of a RIA. The base case is the state of the world going forward if none of the options being considered in a RIA are put in place (i.e., doing nothing). The base case provides a reference point to estimate the impacts of a regulatory proposal in a RIA and measure the impacts of a proposal once it is introduced.

For sunseting instruments, the base case is the state of the world where the instrument is allowed to sunset, but other parts of the regulatory framework remain in place. For example, if specific road safety regulations are sunseting, the general obligations from the Act or other parts of the regulatory framework will remain in place.

For proposals to introduce new instruments, the base case is the state of the world without the proposal, but other parts of the regulatory framework remain in place.

For amending instruments, the base case is the state of the world if the amendments were not made (i.e., the current regulations or legislation remain in place).

Determining the base case can be challenging, particularly for sunseting regulations that have been in place for a long time. Please contact BRV to discuss this.

b. Significant burden

Burden is a broad concept and includes quantifiable and difficult-to-quantify costs. For example, burdens range from financial or time costs to restricting people's choices such as limiting access to certain amenities or areas.

Burden must be assessed against the base case (i.e., not against the status quo), and in gross terms (i.e., before any benefits are considered). For readily quantifiable burdens, an indicative threshold of \$2 million or more in gross annual costs can be used to assess significance. For difficult to quantify burdens, the ordinary meaning of "significant" should be used. Further discussion can be found in Division 2 of Part 3 of the [SL Act Guidelines](#). This includes detailed guidance on assessing qualitative and quantitative burdens.

c. Sector of the public

A sector of the public is any part of the Victorian community that the instrument may impose a significant burden on. This could be individuals, community groups, businesses, certain industries, regions, or, for broad-ranging proposals, the Victorian economy.



Public sector bodies within the meaning of the [Public Administration Act 2004 \(PAA Act\)](#), are not considered to be a “sector of the public” in RIAs. However, certain exempt bodies under the PAA Act are a “sector of the public”. For more information, please refer to Division 2 of Part 3 of the [SL Act Guidelines](#).

7. How are exemptions from preparing a RIS granted?

Under the SL Act, a RIS is required to be prepared for all proposed regulations unless the responsible Minister or Premier issues an exemption certificate.

S. 8 and s. 12F of the SL Act outline the circumstances in which the responsible Minister may issue an exemption certificate for statutory rules and legislative instruments, respectively. S. 8 and s. 12G of the SL Act outline the circumstances in which the Premier may issue an exemption certificate for statutory rules and legislative instruments respectively. The key exemption category is that a regulatory proposal is not expected to impose a significant burden on a sector of the public.

If your team is seeking an exemption from the RIS process, BRV can meet to discuss whether an exemption might be available. We can provide written advice based on our experience with the SL Act. However, it is ultimately your Minister’s decision about whether a RIS is prepared. A Minister may direct that a RIS is prepared for regulatory proposals if an exemption is available. For further information on exemptions, please refer to the Division 3 of Part 3 of the [SL Act Guidelines](#).

8. How are legislative instruments treated in the RIA process?

Legislative instruments are subordinate legislation and in scope of the RIS process. The [SL Act Guidelines](#) explain the characteristics of a legislative instrument.

S. 12F of the SL Act and the [Subordinate Legislation \(Legislative Instrument\) Regulations 2021](#) outlines the RIS requirements for legislative instruments. These requirements mostly mirror the requirements for statutory rules. In general, a RIS is required for any legislative instrument that imposes a significant burden on a sector of the public (both new legislative instruments and amendments to existing instruments).

The SL Regulations prescribe some legislative instruments to be automatically exempt from preparing a RIS. Other instruments can be exempt from preparing a RIS if the Minister issues an exemption certificate under s. 12F of the SL Act. Departments and agencies should consult with BRV and their legal area to determine if a RIS is required for a proposed legislative instrument.



9. How do the RIS requirements apply to regulations designed to harmonise Victorian regulations with other jurisdictions?

Sometimes national regulatory schemes are established where participating jurisdictions implement 'model' regulations or make regulatory amendments to harmonise regulations across jurisdictions.

When Victoria is participating in a national regulatory scheme, it is important that there is adequate consultation with Victorian stakeholders and adequate analysis of the impacts on Victorians (e.g., in a RIS assessed by the Commonwealth Office of Impact Analysis). Any new or amending Victorian regulation to implement a national regulatory scheme requires a Victorian RIS or an exemption. An exemption from preparing a RIS may be granted under the SL Act if the proposed statutory rule or legislative instrument is required under a national uniform legislation scheme and an assessment of costs and benefits has been undertaken under that scheme (s. 8(1)(f) for statutory rules and s. 12F(1)(f) for legislative instruments). The [SL Act Guidelines](#) (s. 135) provide further guidance about this exemption, including in what constitutes a sufficient assessment of costs and benefits.



Preparing a RIA and RIA requirements

10. What does the RIA process involve?

A RIA is part of the broader regulation or legislation-making process. Preparing a RIA should be conducted in parallel with developing the proposed instrument.

BRV's involvement in the process typically begins with inception and scoping meetings prior to drafting of the RIA commencing. This provides an opportunity to discuss the project, the proposed approach (including whether a consultant is used), draft timelines and analysis, and any potential issues.

Early and regular engagement is critical to ensuring the RIA process is effective (in supporting the design of better regulation) and efficient (in terms of minimising the burden on the department or agency preparing the RIA and stakeholders being consulted).

BRV staff will assess and provide feedback on a series of drafts of the RIS or LIA before advising the Commissioner on adequacy. BRV staff will work iteratively with staff in the department or agency preparing the RIS. BRV will aim to provide comments on drafts within one working week of receiving the draft from departments and agencies.

Once a RIA is adequate, the Commissioner will provide a letter of assessment to the relevant senior executive, which outlines the Commissioner's independent assessment.

RISs and LIAs must include analysis of the impacts to all relevant stakeholders (including to Government), analysis of small business and competition impacts, as well as discussion of implementation and evaluation planning.

For RISs, a minimum of 28 days of public consultation must be held before regulations can be made. Departments and agencies must consider submissions made during this time.

RISs are published, which promotes transparency and provides an opportunity for public feedback to refine regulatory proposals. LIAs are confidential advice to Cabinet on proposed laws, but the Minister can choose to publish the LIA.

11. How long does it take to prepare a RIA?

While each project varies in complexity and resourcing, BRV expects to work with a department or agency for 6-8 months on a RIA project. This begins with identifying the need to prepare a RIA, and ends with the RIA being finalised. Within this period, drafting of the RIS or LIA typically takes place over 4-6 months. The RIA process is one part of the overall instrument-making process, which typically takes 12 months to complete

Some projects have been completed within shorter timeframes, depending on urgency, complexity, resource capacity and capability within departments and agencies, and level of engagement with external stakeholders.



12. What is required for a RIA to be adequate?

Departments and agencies must show that their RIA is “adequate”. An adequate RIA must:

1. demonstrate **logical and evidence-based analysis** that is **proportionate** to the size of the problem;
2. be **transparent in assumptions**, reasoning and regulatory design choices made; and
3. be **clearly written** to allow interested stakeholders to easily understand the analysis.

An adequate RIS must also address seven key questions:

1. why is the Government considering action? (problem analysis);
2. which outcome(s) is the Government aiming to achieve? (objectives of action);
3. what are the possible different courses of action that could be taken? (identify feasible options);
4. what are the expected impacts (benefits and costs) of options and what is the preferred option? (impact analysis);
5. what are the characteristics of the preferred option, including small business and competition impacts? (summarise the preferred option);
6. how will the preferred option be put into place? (implementation plan); and
7. when (and how) will the Government evaluate the effectiveness of the preferred option in meeting the objectives? (evaluation strategy).

Specific guidance on each of the seven key questions is contained within the [Victorian Guide to Regulation \(VGR\)](#).

13. What internal resources (capacity) are required to prepare a RIA? What skills (capability) do I need to prepare a RIA?

a. Capacity

Departments and agencies need to appropriately resource RIA projects. The amount of resourcing required depends on, and should be proportionate to, the breadth and complexity of the RIA. It is important that executives are aware of, and are engaged with, RIA projects. Managers should also be ready to provide oversight and support if required.

Smaller or less complex projects can be led by 1-2 internal staff, with some BRV guidance. Larger or complex projects can require external support, particularly for the impact analysis section of the RIA.

b. Capability

Policy officers preparing RIAs do not need an economics degree or training. RIAs simply need to answer seven key questions outlined in the VGR. BRV can provide support to policy officers, particularly on impact analysis. BRV’s RIA training provides a detailed overview of the RIA process and what is required of an adequate RIA. It is tailored to policy officers



preparing RIAs. BRV also has extensive experience identifying and estimating the impacts of regulatory proposals and can work closely with policy officers preparing RIAs.

14. What level of support can BRV provide to departments or agencies?

BRV aims to provide rigorous and timely advice to departments and agencies. For RIA projects, we aim to provide advice within one week of receiving a piece of analysis (for example, a draft of the RIA). We can work flexibly when reviewing RIAs. For example, we encourage agencies to provide partial drafts of a RIA to us, which can expedite projects by allowing BRV to review one part of a RIA while the department or agency works on another part. BRV's team will work collaboratively with departments and agencies and will guide your team through the RIA process.

We can assist your team with project planning and managing relationships with consultants, including advice on requests for quotes (RFQs) and providing the contact details of other departmental or agency policy staff that have prepared RIAs. As the Government's regulation help desk, we can also advise on the broader regulation-making processes, evaluation of regulatory systems, and ideas for regulatory reform.

15. What resources are available to help prepare a RIA?

a. RIA training

We strongly recommend signing up for the *Making Better Regulation in Seven Steps* training, a free course that BRV provides to VPS staff, aimed at Policy Officers and Managers who may prepare RIAs. Multiple sessions are run each year. For more information, including session dates, please see [Better Regulation Training](#).

BRV can also provide tailored training specific to a department, agency or team's needs. For more information, please email contact@betterreg.vic.gov.au.

b. Guidance documents and previous RISs

The [Victorian Guide to Regulation \(VGR\)](#) explains the Government's approach and requirements for impact analysis. [The SL Act Guidelines](#) also provides detailed guidance on RIS requirements. BRV publishes detailed [guidance notes](#) that may be relevant to your specific RIA project.

BRV also publishes completed RISs and the Commissioner's assessment of adequacy from the past decade. Previous RISs may assist in preparing a RIA. For more information, please see [Regulatory Impact Statements](#).

If you have any questions or require advice about the RIA process, BRV is available to assist you. For further assistance, please email contact@betterreg.vic.gov.au.



16. What facilitates a smooth and successful project?

Early and regular engagement with BRV throughout the project is the key to facilitating a smooth and successful project. Early engagement means prior to drafting of the RIA commencing. Meeting early enables clear timelines and approaches to be established from the onset. Engaging regularly facilitates closer cooperation between your team and BRV, which enables us to provide clearer, more consistent and proportionate advice. Meeting regularly also promotes flexibility as timelines or approaches change.

17. How long should a RIA be? How should it be written?

The length of a RIA will largely depend on the breadth and complexity of the regulatory proposal. The level of analysis in a RIA should be proportionate to the size of the problem. BRV's website contains past RISs, which illustrates how RISs (and LIAs) range in length. BRV can advise what the appropriate length is for your specific proposal.

All RIAs need to be written clearly since their purpose is to explain the impacts of a regulatory proposal. Ideally, a RIA is as short as it can be to meet adequacy requirements. A clear and short RIA helps an interested stakeholder understand the problems, options and impacts of the proposal, which facilitates stakeholder input, contributing to making better regulation.



Technical questions

18. How can my team develop multiple options?

RIAs are generally required to analyse at least three options to address the problem the proposed regulations are intended to address. These options must be feasible to implement and meaningfully different from each other. For sunseting regulations, options that reduce regulatory burden relative to the current regulations should be considered.

BRV encourages departments and agencies to carefully consider whether non-regulatory options can address the problem. Non-regulatory options should be analysed alongside regulatory options in a RIA.

Sources that may help to develop options include:

1. previous analyses of the problem by the department or agency (in the case of amending or reintroduced regulations);
2. regulatory approaches for the same problem in comparable jurisdictions;
3. approaches used in other regulations or by other regulators;
4. consultation with regulated parties or interested stakeholders;
5. academic or other research;
6. regulatory literature; and
7. BRV advice drawing on experience reviewing other regulatory proposals.

For some RIAs, the Government will have made a commitment or decision that limits the range of feasible options. In these RIAs, there may be alternative design options that can be analysed, which are consistent with the Government's commitment or decision. The range of feasible options may also be constrained for other reasons, for example, legislation might constrain the options that can be implemented through subordinate legislation.

In some RIAs, there is only one feasible option. In these cases, an adequate RIA requires thorough and transparent explanation of why alternative options are infeasible. A RIS or LIA can still add value in explaining the impacts of the proposed option and why alternative options have not been pursued.

19. What data do I need to prepare a RIA?

Data is an important input for preparing a RIA. Data helps to quantify the problem and assess the costs and benefits of the regulatory proposal and alternative options. Data collection and analysis should be proportionate to the size of the problem/s the regulatory proposal is intended to address. Publicly available data, e.g., from the Australian Bureau of Statistics, or research from academia will often be useful for a RIA.

Unfortunately, data is imperfect. It is sometimes infeasible or impractical to estimate a particular impact, so this impact will need to be analysed qualitatively. Departments and



agencies should be transparent about the limitations of data in a RIA. BRV can provide advice on potential data sources drawing on our experience reviewing RIAs.

The evaluation strategy in a RIA should discuss how key data gaps will be filled so that a baseline can be established and the impacts of the regulations can be estimated.

20. How should we conduct analysis if there is no relevant data on the problem?

As a first step, we encourage departments and agencies to confirm whether relevant data exists on the issue. Sometimes there is data on an issue but there is limited awareness of this data, for example, because it is not publicly available. Data sources that may be used for an impact analysis include:

1. data from other jurisdictions;
2. data from comparable regulators or policy areas;
3. academic or industry research; or
4. indicative case studies.

Where data directly related to the problem is unavailable, departments and agencies should consider whether there are other data sources that can be used as proxies for impacts of the proposed instrument.

Where there is a gap in relevant data, we encourage considering whether gathering data (e.g., through a survey) is a proportional approach to addressing the lack of data.

BRV can work with departments and agencies to find suitable information sources for a specific RIA project, and can advise on survey design.



Stakeholder consultation

21. What is the role of stakeholder input in the RIA process?

Consultation with key stakeholders is critical to enable departments and agencies to make effective and efficient regulation. Regulation is effective if it addresses the specific problem considered, and it is efficient when it does so with the least burden or cost.

Consultation during the development of the instrument and a RIA can be particularly important for problem analysis and options development. For example, input from industry or individuals can inform analysis about the size and nature of the problem. Moreover, non-regulatory options (such as self-regulation, co-regulation or quasi-regulation) can be explored and developed in conjunction with key stakeholders as feasible options that are analysed in the RIA.

Conducting thorough consultation, particularly relating to options development and impact analysis, can also minimise delays during the preparation of the RIS.

A RIS is required to be released for public consultation and made available for a minimum of 28 days of consultation, however, making the RIS available for 60 days is best practice. This allows businesses and other stakeholders affected by the proposal to provide feedback, which helps to improve the proposal.

Before regulations can be made, departments and agencies are required to prepare a 'statement of reasons' and 'notice of decision' explaining whether the proposal was modified based on feedback on the RIS (see s. 184 of the [SL Act Guidelines](#)).

22. How much public consultation is required for a RIA?

For proposed subordinate legislation (RISs), the SL Act requires a minimum of 28 days of public consultation be held following publication of the RIS. Departments and agencies may choose to extend the consultation period if it seeks greater stakeholder participation, if the proposal is particularly high-impact or sensitive, or if insufficient consultation was conducted before development or during development of the RIS.

As noted in the VGR, departments and agencies are encouraged to consult on RISs for 60 days. This enables stakeholders to assess the RIS and provide a more considered response.

The Victorian Government has released its [Public Engagement Framework 2021-25](#), which provides a consistent public engagement vision and a how-to guide for the design and delivery of engagement. Departments and agencies should refer to this framework when developing a RIA.

For proposed primary legislation (LIAs), there is no requirement to public consult, as LIAs are Cabinet-in-Confidence documents. However, departments and agencies may choose to publicly consult on proposed legislation.