

# Execution Commentary

## THE AUSTRALIAN GOVERNMENT GUIDE TO REGULATION March 2014

### GUIDE CONTEXT

The [Australian Government Guide to Regulation](#) was developed and released in March 2014 as part of the Coalition Government's focus on reducing the impact of red tape. It draws heavily from the Victorian Guide to Regulation 2011. It sets out how all policy-making public servants should consider regulatory impact in the policy process.

Central are 10 Principles for Policy Makers, the requirement for a Regulatory Impact Statement (RIS) for proposed regulation, and the 7 questions that policymakers must address in any RIS.

### GENERAL COMMENT

The Guide is a great start. That it is written in such an approachable and non-bureaucratic manner is encouraging. It hits all the right notes on what to consider for new regulations, and sets out a clear process for new regulations.

But like many red tape initiatives, it focuses on guidelines over execution. Worse, the execution guidance documents it refers to are not available one month after publication. This mis-timing of execution support is a common failing of headline political initiatives.

The Guide reinforces the view that red tape reduction is the province of policymakers rather than frontline staff. It also doesn't address reducing the impact of existing regulation. It focuses on major regulations rather than the incremental accretion of regulatory burden through minor administrative change.

And it has the unfortunate side effect of creating red tape hurdles for motivated staff who want to reduce red tape.

### WHAT IT'S GOT RIGHT

- Approachable, plain English document
- Clear principles and steps that address key regulation processes
- Allows for graded touch for organisations of differing size and specifically requires small business to be given special consideration
- Requires *no-regulation* as the default solution, requiring a clear case and benefit from regulation
- Requires clear evaluation of options, consultation requirements, and implementation planning
- Provides for independent assessment of RISs by OBPR
- Requires policymakers to make their analysis and decisions public.

### EXECUTION ISSUES

- The endgame is a changed approach to regulation. Implementing a mindset and culture change like this without explicit change management support is asking for failure. Particularly when measures can be easily subverted by the

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### ABOUT THE SERIES

This series of commentaries is designed to highlight execution issues for government policy, guidelines and processes.

It focuses on areas of smart regulation and red tape reduction, and core processes in service delivery.

### SEE ALSO

Rogers Carlisle Whitepaper: [Guidelines Aren't Enough: Execution Issues in Public Sector Efficiency and Red Tape Projects Apr 2014](#)

### CONTACT

[jamesfalk@rogerscarlisle.com](mailto:jamesfalk@rogerscarlisle.com)

[www.rogerscarlisle.com](http://www.rogerscarlisle.com)

flexibility of reporting and cost-benefit analysis methods. Without culture change, the outcome will be box-ticking.

- The Guide was released before supporting execution guides are available for: cost-benefit analysis, selection of policy options, regulatory burden measurement, implementation, and RIS Assessment by OBPR
- The Guide focuses on new policy development and provides no guidance for reducing existing red tape
- The Guide creates red tape to reduce red tape, in part to ensure reporting:
  - Explicitly requires an RIS for removal of regulation – creating a red tape barrier to removing red tape
  - Puts an administrative barrier in front of small, bottom-up changes from staff who give a damn about red tape impact
  - Requires a RIS on top of department internal regulatory assessments
- The Guide makes the RIS for *substantive* regulation the key tool to controlling red tape – de-emphasising minor day-to-day adjustments that can improve consumer and business experience
- The Guide gives Deregulation Units power to ensure RIS compliance and to control reporting – making them a compliance and calculation unit rather than an execution and change resource
- The Guide continues exceptions for politically-driven decisions:
  - Contains a short-form RIS that provides cover for politically-driven decisions that create rushed and poorly analysed regulation
  - Requires no comparative options to be considered in analysis if Cabinet says so – a recipe for politically-driven unintended consequences
- Expects non-economist policymakers to use general concepts from public economics that are routinely misunderstood or misused in debate: for example, market failure and public goods.

## SUGGESTED ACTION

Ensure execution guides are delivered and rolled out to policy makers.

Recognise this is a culture change and that you cannot mandate changed culture and mindset without a serious program, and above all, a willingness to change personnel if required.

Provide change management support to all Deregulation Units and make the approach to Regulation a change initiative, not a compliance initiative.

Provide guidelines for reducing existing red tape and consider how to formally involve frontline staff suggestions (bottom-up)

Tweak the process requiring an RIS for regulation reduction to allow administrative changes from the bottom up without an internal red tape barrier.

Ensure Cabinet and Ministerial Offices are publicly held to account when Short Form RIS and Cabinet exceptions result in poor regulatory outcomes.