

Annual Regulatory Plans

**Guidelines for departments and agencies on preparing
and publishing annual regulatory plans**

**Office of Best Practice Regulation
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Introduction

Regulatory plans provide business and the community with ready access to information about past and planned changes to Commonwealth regulation, and make it easier for business to take part in the development of regulation that affects them.

The Australian Government, in consultation with regulatory agencies, has developed a strategy to implement this commitment. This guide provides information on how to prepare and publish regulatory plans.

Who has to publish an annual regulatory plan?

Any agency which is responsible for regulatory changes that may require a Regulation Impact Statement or Business Cost Calculator report (or equivalent) will be required to publish a regulatory plan. It is up to individual departments and agencies to manage the coordination and publication of regulatory plans within their portfolio.

There are two main options:

- Departments coordinate and publish an annual regulatory plan on behalf of the whole portfolio, including any portfolio agencies, or
- The department and each agency within the portfolio coordinate and publish individual annual regulatory plans.

For the regulatory plan process to be effective, all agencies should review their regulatory activities periodically and consider the need to identify any changes (including planned changes) through the publication of a regulatory plan or updates to their existing plan.

What is a regulatory plan?

Each regulatory plan will consist of two distinct types of entries:

- information about changes to business regulation which occurred in the previous financial year; and
- information about activities planned for the forthcoming financial year which could lead to changes in business regulation.

Regulatory plans provide business operators, business representatives, other stakeholders and the public with access to information about changes to Australian Government business regulation.

The Plan should include a consultation strategy for all regulatory proposals which require a BCC report or RIS to be prepared in the next twelve months or so. To provide transparency and embed best practice consultation requirements, the Plans should address the following.

- What consultation has already occurred on the proposal?
- What is the objective of each consultation round?
- Who will be consulted at each round?
- In what form will consultation occur at each round?
- When will each round of consultation commence?
- How long will the round last?

“Business regulation” includes primary legislation, subordinate legislation, quasi-regulation or treaties which have medium business compliance costs or a significant impact on business and individuals or the economy.

Quasi-regulation refers to rules or arrangements where governments influence businesses to comply, but which do not form part of explicit government regulation.

Information on how to identify relevant changes and future activities which need to be included in regulatory plans is at pages 5-7.

A description of the fields of information to be completed for each type of entry is incorporated in the templates on pages 8-10 of these guidelines.

When do agencies have to publish regulatory plans?

Each agency is to publish a regulatory plan on the Internet each July.

Agencies are advised to start preparation of their regulatory plan around the beginning of April in each year (or earlier, if agencies wish), to allow publication in July.

Agencies can amend their regulatory plan entries, add new entries or remove obsolete entries at any time.

What does an agency have to do to publish its regulatory plan?

Each agency is to publish its regulatory plan on its own website and forward a single Internet address for the plan to the Office of Best Practice Regulation (see contact details below). The Office of Best Practice Regulation will publish a links page which will provide links to all of the individual agency regulatory plans.

Agency websites will each have their own standard requirements for look and presentation, and it is expected that agency regulatory plans will conform to these varying requirements. This means that, while agency regulatory plans will have common standards for content as detailed below, they will vary in layout and presentation. The structure of each plan will also be at the discretion of the relevant agency. The only requirement is that there be a single internet address for access to the whole plan.

It is up to each agency to decide whether to continue to make previous year’s plans available through the website, or simply replace the old version of the regulatory plan with the new one each July.

Contact for further information

For further information or advice on the preparation of regulatory plans, please contact:

Office of Best Practice Regulation
Department of Finance and Deregulation

Phone: (02) 6215 1955

Email: helpdesk@obpr.gov.au

Preparing a regulatory plan

What sort of activities should be the subject of a regulatory plan entry?

Past changes

Any change to business regulation should be included unless the change falls into one of the exception categories set out below.

A change to regulation may take the form of introduction of new regulation, amendment to existing regulation or repeal of regulation.

Agencies should review all changes to primary and subordinate legislation, quasi-regulation or treaties which have occurred in the relevant period and consider whether they require an entry in their regulatory plan.

They should include all legislation which has been introduced or is awaiting introduction where opportunities for consultation have now concluded.

Future activities

Entries should be included, subject to the exceptions set out below, about any activity which is to take place during the forthcoming financial year which could lead to a change in business regulation.

The critical test is whether an activity such as a regulatory change or a review of legislation is to commence or continue in the next year. Information should be included in the regulatory plan, even if any regulatory change would not take place until a later year.

Activities should be included even if there is no certainty that regulatory change will result. If regulatory change is one of the possible outcomes of an agency activity, the activity should be included in the plan.

The following is a list of some of the types of activity which should be included:

- policy development processes aimed at finding a way to address a particular problem or achieve an objective where regulation is likely to be one of the options under consideration;
- development of the Government response to a report or inquiry, especially where regulatory change has been put forward as a possibility;
- review of a piece of legislation;
- sunseting legislation;
- implementation of election promises or government undertakings; and
- legislation in the process of drafting, where consultation is still being undertaken.

Exceptions

The following should not be included in regulatory plans:

- regulations that are likely to have no or a low impact on business and individuals or the economy;
- regulations that involve consideration of specific Government purchases;
- regulations of a state or self-governing territory that apply in a non-self governing territory;
- anticipated activity about which it would be inappropriate to publish information.

In addition, there will be some regulatory activities which agencies are unable to foresee at the start of the financial year. Obviously, no information about such activities will be included in the agency's annual plan published at the start of the year. However, agencies will have the option of adding information about these activities when it becomes available.

What counts as “no or low” impacts

A change would only be regarded as having “no or low impacts” if the potential impacts on the regulatory environment for businesses were less than medium or significant. In considering whether to exclude matters from the regulatory plan on the grounds that they have no or low impacts, departments and agencies should consider whether businesses in affected industries would need to know about the matter in any circumstances. If it is likely that businesses would have an interest in knowing about a development, information about it should be included in the department's or agency's regulatory plan.

Examples of regulatory changes that are likely to have low impacts on business and individuals include:

- small changes in levies; fees (eg less than 10 per cent);
- business reporting requirements (eg a request to report electronically rather than on paper where possible etc).
- minor alterations to definitions to better clarify the meaning of regulations where this does not substantially alter behaviour of market participants;
- minor alterations or corrections to ensure regulations meet the original policy intent where this does not substantially alter behaviour of market participants;
- technical corrections to regulations (eg where reference has been made to the wrong Act); and
- updates to legislation to change references to revised Acts etc.

Confidential proposals

Agencies are not required to publish information which they consider would be inappropriate to disclose to the public. There will be some planned activities which should not be included in regulatory plans because there are good reasons for keeping them confidential.

There will also be situations where only limited information can be published about an issue. Where this is the case, it should be included in the agency's regulatory plan.

The considerations in deciding whether this exclusion applies are:

- Is there information about the activity in the public domain?; and
- If there is no information in the public domain, is there any information which could appropriately be published?

If there is some information about the activity in the public domain, then information should be included in the regulatory plan. This would be the case, for example, if the Government had:

- announced the development, review or amendment of legislation on the relevant matter;
- indicated that it will be considering options for dealing with a particular matter, where one of the options is likely to be regulation; or
- initiated consultation on the matter, for example by calling for public submissions or holding discussion forums.

An example of confidential activities is:

- an anticipated activity which is confidential because of national security considerations.

What should be covered by a single entry in an agency's regulatory plan?

As a general rule, each change to business regulation or planned regulatory activity should be the subject of a separate entry in the regulatory plan.

However, there will be occasions when one entry can cover a number of legislative changes, if they all relate essentially to the same issue. For example, in 1998 the Government changed long service leave arrangements to the coal industry, and this resulted in changes to five pieces of legislation. As all the changes contributed to the same basic change in the regulatory environment it would be appropriate to cover these changes by a single regulatory plan entry.

Conversely, if omnibus legislation makes more than one significant change to business regulation and the changes are not closely related, it would be appropriate to prepare more than one regulatory plan entry for a single piece of legislation.

What information should be included in each regulatory plan entry?

The templates on pages 8 and 9 set out the fields of information that should be included in each type of regulatory plan entry, and provide guidance on what each field should cover.

Template for entries on PAST REGULATORY CHANGES

Type of entry	<i>Each entry should indicate that it relates to a past change.</i>
Title	<i>For past regulatory changes, including legislation that has been introduced but not yet passed, or is pending introduction, provide the title of the Act, bill, legislative instrument or quasi-regulatory proposal.</i>
Description of issue	<p><i>The purpose of the description is to give readers enough information to determine whether the regulatory change is of interest to them. It should usually be 50 to 150 words long. If the readers require more detailed information they can obtain it through the contact person (see below).</i></p> <p><i>The description should provide a succinct explanation of what has occurred. This might include information about:</i></p> <ul style="list-style-type: none"> <i>• the nature of the regulatory change;</i> <i>• the purpose and benefits of the change; and/or</i> <i>• who is affected and how.</i> <p><i>A link to the regulatory instrument or information on how to obtain a copy of the instrument should be provided. Similarly, a link should be provided to the Regulation Impact Statement or Business Cost Calculator report, where one was required.</i></p>
Date of effect	<p><i>In this field the agency should indicate the date on which the regulatory change has come or will come into effect. If the change will come into effect on an unknown future date, this fact should be included.</i></p> <p><i>Where the date of effect is a future date which is subject to change, agencies should periodically review the data to ensure it is up to date.</i></p> <p><i>For legislation pending introduction, the date of proposed introduction should be noted.</i></p>
Contact details	<p><i>Contact details should usually consist of the name, position, telephone number, fax number and email address of a person whom members of the public can contact for more information about the regulatory change or activity.</i></p> <p><i>The contact person should be someone with adequate knowledge of the issue, but not of such seniority that they would not generally deal with inquiries personally.</i></p> <p><i>Agencies should not use general inquiry lines as the contact for regulatory plan entries. However, it may be appropriate for agencies to use generic contact phone numbers and email addresses for a range of regulations where there is a high likelihood that individual contacts would quickly become out of date. This is only appropriate if the generic contact is designed specifically to deal with inquiries on regulatory change, and there is a well maintained system for referring inquiries to a relevant project officer.</i></p>

Template for entries on PLANNED REGULATORY ACTIVITIES

Type of entry	<i>Each entry should indicate that it relates to a planned activity.</i>
Title	<p><i>The purpose of the title is to inform readers of the broad subject matter of the regulatory change or activity. It should be in the order of three to fifteen words long.</i></p> <p><i>It may be appropriate to include the name of the regulation in the title if this indicates the subject area of the regulation (e.g. "Changes to Food Hygiene Standards"). However, where the name of the regulation does not indicate a specific subject area, a more descriptive title should be used (for example "Filing Fees for lodging unfair dismissals claims" would be a more appropriate title than "Workplace Relations Amendment Regulations").</i></p>
Description of issue	<p><i>The purpose of the description is to give readers enough information to determine whether the regulatory change is of interest to them. It should usually be 50 to 150 words long. If the readers require more detailed information they can obtain it through the contact person (see below).</i></p> <p><i>The description should provide information on the nature of the activity and the sort of change which may result. This might include information about:</i></p> <ul style="list-style-type: none"> <i>• the nature and objectives of the work to be undertaken by the agency;</i> <i>• the area of regulation which could be affected;</i> <i>• possible regulatory changes which may take place;</i> <i>• the purpose and benefits of anticipated changes; and</i> <i>• who may be affected and how.</i> <p><i>The type of information which can be included in the description of future activities will vary depending on the stage of development and the extent to which information can be made publicly available. For example, if a decision has been taken to consider an issue but work is at an early stage, the agency may only be able to include broad information about the issues to be considered. However, if work on an issue has advanced to the point where detailed legislative change has been drafted and made public, the description should provide an outline of the proposed change and how it will affect businesses.</i></p>
Consultation opportunities	<p><i>The purpose of this item is to inform readers about the opportunities they will have to contribute to the development of regulation (see page 3). Agencies are encouraged to use this field as a tool for communicating with stakeholders on consultation processes.</i></p> <p><i>Information included should be concrete, and cover such matters as:</i></p> <ul style="list-style-type: none"> <i>• what consultation has already occurred on the matter;</i> <i>• when future consultation will occur;</i> <i>• who will be consulted;</i> <i>• what they will be consulted on; and</i> <i>• how information on consultation will be provided, including the release of 'green papers' (required for highly significant proposals), discussion papers,</i>

<p>Consultation opportunities (continued)</p>	<p><i>draft Regulation Impact Statements and exposure drafts of regulations (required for complex regulations)</i></p> <p><i>A link to where more information can be found about these consultation opportunities should also be provided.</i></p> <p><i>Agencies are encouraged to include details of this sort even where they may be subject to change, noting that it will be possible to amend information if this occurs.</i></p> <p><i>Agencies should periodically review the information in this field to ensure that it is up to date.</i></p>
<p>Expected timetable</p>	<p><i>This field should include information about the estimated timetable for major stages and milestones in the development of planned regulation such as:</i></p> <ul style="list-style-type: none"> <i>• commencement and conclusion of reviews;</i> <i>• when policy approval is to be sought; and</i> <i>• when it is proposed to introduce regulation into the Parliament.</i> <p><i>The information provided would represent the best estimate which the agency could make at the time, and would be limited in some cases by confidentiality considerations or uncertainty.</i></p> <p><i>Agencies are encouraged to update information as timetables develop or change.</i></p>
<p>Contact details</p>	<p><i>Contact details should usually consist of the name, position, telephone number, fax number and email address of a person whom members of the public can contact for more information about the regulatory change or activity.</i></p> <p><i>The contact person should be someone with adequate knowledge of the issue, but not of such seniority that they would not generally deal with inquiries personally.</i></p> <p><i>Agencies should not use general inquiry lines as the contact for regulatory plan entries. However, it may be appropriate for agencies to use generic contact phone numbers and email addresses for a range of regulations where there is a high likelihood that individual contacts would quickly become out of date. This is only appropriate if the generic contact is designed specifically to deal with inquiries on regulatory change, and there is a well maintained system for referring inquiries to a relevant project officer.</i></p>
<p>Date last modified</p>	<p><i>Agencies should indicate the date when each entry was added or last reviewed, so that readers will be aware of the currency of the information.</i></p>