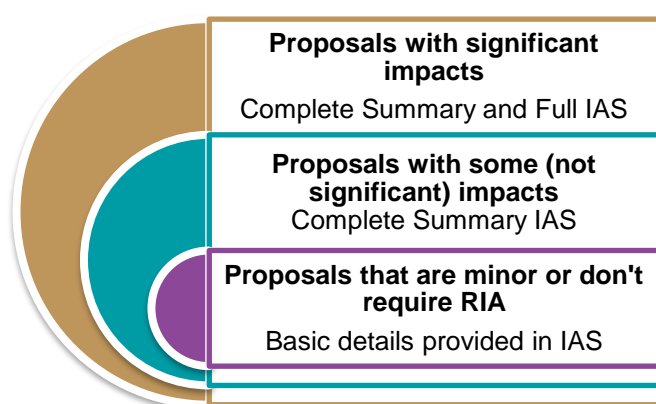


GUIDANCE NOTE

What level of IAS is required?

Under the Queensland Government Better Regulation Policy (the Policy), an Impact Analysis Statement (IAS) is to be prepared for all regulatory proposals.

An IAS is an assessment of a regulatory proposal. The level of information, consultation and analysis included in an IAS is to be proportional to the policy issue and potential impacts that may arise from the proposal.



Regulations not requiring RIA

Some regulatory proposals may not benefit from comprehensive regulatory impact analysis (RIA) because the costs of doing so would outweigh the benefits. Examples include proposals that would have negligible impacts on business and the community (for example correcting technical errors).

In addition, the Policy does not require certain types of regulation to undergo RIA. Examples include general criminal laws or regulations that impose taxation or a royalty. A full list is provided as Attachment 1.

In such cases, agencies are required to provide (in the IAS template) basic details of the proposed regulation and information as to why further RIA is not required under the Policy. Further sections of the IAS template are not required to be completed.

Proposals that have already undergone RIA

For proposals already subjected to extensive RIA (such as a Regulatory Impact Statement (RIS) prepared for National Cabinet or similar ministerial forums), agencies should complete the Summary IAS and attach the equivalent IAS document.¹

Proposals with some, but not significant, impacts

For proposals with only some or not significant impacts, the Summary IAS template should be completed. The IAS should identify direct costs and report consultation undertaken.

The trigger for a Full IAS is whether there are likely to be significant adverse impacts—even if there are likely to be significant benefits.

Proposals with potential for significant adverse impacts

A Full IAS, with in-depth analysis, is required to be prepared for those regulatory proposals with likely significant impacts (see Box below).

When is an impact likely to be significant?

To evaluate the significance of an impact, look at both the direct and indirect impacts likely to arise if the preferred policy option is implemented.

There is no specific threshold value to determine significance. Rather, agencies should evaluate a proposal against the list of potential impacts a proposal may impose (as listed in Table 1 below). Agencies should also consider the potential efficiency costs of a proposal, including the costs to society of distortions to businesses' production processes or changes in the type, quantity and prices of goods and services produced.

If there is doubt about the magnitude of an impact it should be assumed to be potentially significant.

The OBPR can provide further guidance to agencies to assist in determination of significance.

¹ Guidance on whether RIA undertaken is comparable to Queensland requirements is provided in the following note: https://s3.treasury.qld.gov.au/files/Guidance-Note_Implementing-National-Agreements.pdf

The Full IAS should include an estimate of the impacts of the proposal, compared to no regulatory change, including:

- economic (including competition and compliance) impacts
- social impacts
- environmental impacts.

The IAS template requires quantitative analysis to be completed to the extent possible. The agency also has the ability to qualify its estimated costs and benefits and record non-quantifiable costs and benefits in the template. If the impacts are considered to be negligible or trivial, the agency should explain how it has drawn this conclusion. A completed Summary IAS should be attached as a cover to the full document.

Exemptions from undertaking a Consultation IAS

Agencies can seek an exemption from undertaking a Consultation IAS under exceptional circumstances. If urgent implementation of a policy is required, or if public consultation on a proposal is not appropriate (for example, a commercial-in-confidence matter), a Cabinet exemption from preparing a Consultation IAS may be sought. Cabinet may attach conditions to the approval, such as requiring a Decision IAS or post implementation IAS be undertaken.

Where an exemption is approved, information can be limited to a statement in the IAS template noting the reason for the exemption and whether Cabinet have requested completion of a post implementation IAS.

Table 1: Factors to determine the significance of a proposal

<p>Business: increases business costs or decreases profitability; imposes reporting requirements; alters or limits the way a business operates</p> <p>Competition: prevents entry to a market; reduces the ability to compete; affects costs, prices or employment, reduces customer choice</p> <p>Social/Environmental: reduces public health and safety; damages flora, fauna or diversity; increases waste</p> <p>Government: increases required resources; reduces operational capacity and efficiency; increases financial burden</p>						
Magnitude & breadth	Intensity	Proportionality	Frequency	Probability	Reversible	Certainty
Size / number stakeholders impacted	Impacts small number of stakeholders, but the impact is intense	Policy responses and their impacts are not proportionate to the issue being addressed and/or disproportionately affect a particular stakeholder group.	How often the impact occurs	Likelihood of the impact happening	Can the impact be reversed? Mitigated?	A high degree of uncertainty about the impact of a regulation
Is it a Queensland-wide impact?	e.g. licensing required for a specialised skill	Is it targeted or broad-based?	One-off or ongoing?	Is the probability high?	Would businesses be forced to exit the market?	e.g. it is not certain if a behaviour will change

Note: a proposal can be considered significant based on any one of these factors and does not need to be significant across all of them



Attachment 1: Proposals that do not require impact analysis

Proposal type		Examples
1. Regulatory proposals that make consequential amendments necessary to reflect changes in other legislation.	<ul style="list-style-type: none"> Amendments that are made as a consequence of an Act being enacted or subordinate legislation being made. New legislation may result in consequential amendments to other legislation for which there is limited discretion available to the decision maker. 	<ul style="list-style-type: none"> If the <i>Local Government Act 2009</i> was amended to change the term 'local government' to 'local council', consequential amendments would be required across the statute book to change all 'local government' references to 'local council'. Note: changes to subordinate legislation to prescribe matters provided for under a new 'head of power' in an Act are not considered consequential amendments
2. Regulatory proposals that impose taxation or a royalty (excluding the administration of taxation or a royalty).	<ul style="list-style-type: none"> Introducing a new tax or royalty or changing an existing tax or royalty. This exclusion category does not relate to introducing a new levy, fee or charge or changing an existing one. 	<ul style="list-style-type: none"> A tax is a compulsory exaction of money and is not a payment for services rendered. The revenue collected is not linked to a particular good or service and is allocated to general consolidated revenue. A royalty is a usage-based payment made by the user to the owner for the right to ongoing use of an asset.
3. Regulatory proposals for the internal management of the public sector or statutory authority.	<ul style="list-style-type: none"> Proposals that only impact on the internal operations of the public sector or a statutory authority but have no material impact on business or the community. [Note does not include statutory bodies such as universities] Implementation of changes to internal systems to improve performance and efficiency while maintaining the quality of services to the community. Where a function or service is moved within or between departments, or from a department to a statutory authority, or from a statutory authority to a department. 	<ul style="list-style-type: none"> Responsibility for HIV prevention being moved from the Department of Health to a new statutory agency. The merging of government departments where there is no reduction in the quality of services to the community. Regulation prescribing a wage increase for public sector employees covered by a continuing agreement under the <i>Industrial Relations Act 2016</i>.
4. Regulatory proposals of a (legislative) savings nature.	<ul style="list-style-type: none"> Applies to proposals which are designed to preserve or 'save' a law, a right, a privilege or an obligation that would otherwise be repealed or cease to have effect. 	<ul style="list-style-type: none"> specific savings provisions are needed to transition from a pre-amended Act to the amended Act.
5. Regulatory proposals that are of a transitional nature.	<ul style="list-style-type: none"> When a new Act is to come into operation or a principal Act is amended, it is often the case that special arrangements must be made for transitional matters. 	<ul style="list-style-type: none"> specific transitional provisions are needed to transition from a pre-amended Act to the amended Act.
6. Regulatory proposals that correct technical errors or amend legislation to take account of current	<ul style="list-style-type: none"> Amending the technical error will not result in a change from the originally intended effect or interpretation of the legislation. Amending the legislation to reflect a change in drafting practice does not affect the originally intended effect or interpretation of the legislation. 	<ul style="list-style-type: none"> Technical errors could include a typographical or punctuation error or incorrect reference to a section in the legislation but would not include inserting new provisions. Replacing 'meter operating charge' with 'meter usage charge' to ensure that the correct meter charge will apply.



Proposal type		Examples
Queensland drafting practice.		
7. Regulatory proposals that are of a machinery nature.	<ul style="list-style-type: none"> No substantive / material regulatory policy change has been made. Consists of provisions that are merely declaratory. Repealing redundant regulations (with no change or increase in the regulatory impacts). Facilitating routine tasks of government. Adds or removes items from prescribed lists to reflect technological developments. Updates thresholds and dates. Gazettal processes. <p>Note: repealing of an expiring regulation or minor regulatory changes, as part of a 'remake' of a regulation, do not constitute a machinery in nature change and should be considered as part of an agencies sunset review.</p>	<ul style="list-style-type: none"> An Act provides for a person to delegate powers to a prescribed person. Proclamations that are required before an Act or sections of an Act can be brought into operation. Some are also required as part of the day-to-day operation of complex legislative schemes. Setting opening and closing dates for fisheries. Adding drug testing saliva analysing instruments to the prescribed list in the <i>Traffic Regulation 1962</i>. Gazetting changes made to Queensland's protected area estate.
8. Regulatory proposals that put forward standard annual fee variations in line with or below a government endorsed indexation factor.	<ul style="list-style-type: none"> The annual government indexation rate for fees and charges that applies to the fees and charges of departments and statutory bodies. 	<ul style="list-style-type: none"> Applying an annual government indexation rate for fees and charges.
9. Regulatory proposals for variations to fees/premiums in line with actuarially determined assessments.	<ul style="list-style-type: none"> Relates to specific regulatory-imposed fees/premiums where an actuarially based formal risk assessment is required to determine an appropriate fee/premium structure to cover the budget/financial risk to the State. 	<ul style="list-style-type: none"> Some specific premium adjustments may need to be considered for insurance premiums imposed by the Motor Accident Insurance Commission where an actuarially based assessment has determined a shift in the risk profile. Section 26A of the <i>Queensland Building and Construction Commission Act 1991</i> requires the Commission to manage the Queensland Home Warranty Scheme in accordance with actuarially sustainable principles to ensure the amounts paid into the insurance fund are sufficient to meet the cost of claims and administration.
10. Regulatory proposals relating to police powers and administration, general criminal laws, the administration of courts and tribunals	<ul style="list-style-type: none"> Changes to police powers and administration. Changes to laws/rules relating to the administration of courts and tribunals. Changes to the powers of corrective service officers. Changes in the general criminal law and procedure. 	<ul style="list-style-type: none"> Changes to general criminal laws such as the <i>Criminal Code</i> and the <i>Penalties and Sentences Act 1992</i>. Changes to legislation providing for the administration of courts and tribunals and to associated rules of court and practice directions. Changes to the <i>Corrective Services Act 2006</i> and <i>Corrective Services Regulation 2017</i>.



Proposal type		Examples
and corrective services.		
11. Regulatory proposals for matters that require an immediate response to prevent damage to property or injury to persons (such as a temporary regulation to address an immediate biosecurity risk)	<ul style="list-style-type: none"> The time required for the preparation of a RIS would represent an unacceptable increase in the risk of damage or injury. 	<ul style="list-style-type: none"> Urgent, temporary response of an outbreak of a newly emergent disease or biosecurity threat.
12. Regulatory proposals that are deregulatory (remove regulation), and do not increase costs or regulatory burden on business or the community	<ul style="list-style-type: none"> Removing or reducing the requirements on business or the community that are unlikely to increase costs or risks on third parties. No change or increase in the regulatory burden (or penalties) on any business, government or the community stakeholders. 	<ul style="list-style-type: none"> Reducing unnecessary or excessive compliance cost burdens on business.