
Regulatory Impact Assessment Manual

Project

BAYAN Project

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Table of Contents

Introduction to the guide	3
1 Introduction to RIA	4
1.1 What is a Regulatory Impact Assessment (RIA)?	4
1.2 What are the benefits of RIA?	5
1.3 When to begin an RIA	6
2 Sections of a RIA.....	7
2.1 Title of Proposal	7
2.2 Purpose and Intended Effect of the Proposal – Policy Objective.....	7
2.3 The Policy Problem	8
2.4 Options	15
2.5 Impacts Analysis.....	18
2.6 Quantifying the Impacts.....	21
2.7 Distribution of impacts.....	26
2.8 Consultation in RIA	30
2.9 Compliance – Enforcement and Sanctions	32
2.10 Monitoring and Evaluation	34
2.11 Summary and recommendation.....	35
3 RIA template	37
4 Glossary	40

Introduction to the guide

Who is this Guide for?

[1] This guide is designed to support drafters of Regulatory Impact Assessments in producing RIAs.

How is this guide structured?

[2] **There are a number of common features throughout the guide:**

- Chapters 1, 2 and 3 **contain key messages** about RIA. These are colour coded **blue**.
- Each chapter contains **useful tips for RIA drafters**. These are also colour coded **yellow**.

[3] **A glossary of useful definitions is included at the back of this guide.**

What you should know before doing a RIA

[4] **RIA is a useful policy tool for both government policy-makers and policy advocates within the private sector and civil society.** It is also important that parliamentarians understand RIA and its applications.

Regulatory Best Practice

[5] RIA is above all a tool for applying the principles of Regulatory Best Practice (RBP). RBP is an approach to regulation that seeks to reduce regulatory-related costs, risks and barriers to competition facing firms so that firms are able to operate in a climate which is positive for investment.

[6]

Tip: For more information on RBP, the OECD has produced Guiding Principles for Regulatory Quality and Performance available from <http://www.oecd.org/dataoecd/3/51/36328053.pdf>

RIA's in context

[7] RIAs should be seen within the broader context of improving the quality of policies, laws and regulations since they **address five broad principles that underpin good policy and law making:**

- Accountability – to Cabinet and Parliament, to users and the public.
- Proportionality – regulations should be proportionate to the risk.
- Consistency – laws should be predictable, so that people and businesses know where they stand.
- Transparency – regulation should be open, simple and user-friendly.
- Targeted – regulation should focus on the problem, with minimal side effects.

1 Introduction to RIA

1.1 What is a Regulatory Impact Assessment (RIA)?

Key message:

An RIA is a **systematic process to making policy and regulation** that assists governments in designing evidence based, innovative, precise and targeted regulation that achieves legitimate policy aims with the minimum burden on those affected.

Tip- you may wish to consult the glossary at the back of this guide for an understanding of what is meant by “policy”, “policy (and/or regulatory) proposal” and “regulation”.

- [8] The production of an RIA requires the need to complete a series of sequenced, analytical steps. These sequenced analytical steps include (but are not limited to): i) defining accurately the policy problem that should be addressed, ii) assessing policy options, and iii) consulting “early and often” with affected stakeholders to consider the possible impacts of a policy option.
- [9] RIA is therefore an important contributor to rational, evidence-based policy-making and can contribute to better governance and a business environment that is conducive to growth and poverty reduction.
- [10] The sections of an RIA are:
1. Title of Proposal
 2. Purpose and Intended Effect of the Proposal
 3. The Policy Problem
 4. Options
 5. Impacts
 6. Distribution of Impacts
 7. Results of Consultation
 8. Compliance (Enforcement and Sanctions)
 9. Monitoring and Evaluation

What makes a good RIA? – A good RIA will:

- Include the best information available at the time;
- Be clear, concise and specific;
- Be a stand-alone document that explains the problem clearly and how the proposed measure will address it;
- Use plain language that can be easily understood by stakeholders;
- Support the policy proposal by demonstrating why it is appropriate through a series of clear, logical arguments, supported by data

Common comments about RIA:

Some drafters may suggest RIA is already being used or conducted. To a certain extent **elements of RIA** are already being used but not in a consistent or systematic and standardised manner.

1.2 What are the benefits of RIA?

- [11] **From the perspective of government policy decision-makers**, the RIA process helps policy makers to understand the full consequences across society, the economy and the environment of the policy proposals they are considering within their Ministries.
- [12] **From the perspective of policy advocates in the private sector and civil society**, the process of RIA empowers them as stakeholders in the policy process because RIA requires government to consult with those affected by a policy or regulatory proposal.
- [13] **From the perspective of parliamentarians**, an RIA document attached to draft legislation provides them with supporting evidence and information with which to make an informed judgment in the scrutiny of legislation.

Key message:

There are 4 main groups in the policy process who benefit from the application of RIA.

These groups are:

- i) government policy decision-makers,
- ii) government policy initiators and/formulators,
- iii) policy advocates within the private sector,
- iv) policy advocates within civil society,
- v) parliamentarians scrutinising draft legislation that has been laid before parliament for approval.

Key message:

- **For government policy-makers RIA is a tool for more effective policy making within government,**
- **For parliamentarians RIA is a useful tool for scrutinising legislation**
- **For policy advocates in the private sector and civil society, RIA principles and techniques can help to improve the quality of policy advocacy.**

Roles and Responsibilities in the RIA process

- [14] The RIA process involves many different groups and each group has a different role and responsibility in order to make the process work. The Ministry charged with developing the regulations has the responsibility for producing the RIA. It is their responsibility to initiate the RIA process and involve other stakeholders. It is the role and responsibility of stakeholders to engage with the Ministry in developing the RIA by providing the necessary information, data and feedback that will help shape the right government intervention. It is also the responsibility of stakeholders to scrutinise the analysis in the RIA and challenge it if it is incorrect.
- [15] Finally it is the decision-maker's role and responsibility to use the RIA to help make a decision based on evidence and consultation. This will assist the quality of decision-making. However it is also their

responsibility to question any gaps in the analysis provided that may be required in order to come to a decision.

What to look for in an RIA

[16] The RIA should be ‘fit for purpose’. This means that the level of detail in the RIA should be sufficient to justify the course of action being taken. The analysis should be detailed enough to answer any possible queries that stakeholders may have about the impact and outcome of the proposed government intervention. This means that the RIA does not need to be an academic analysis of the problem and its’ impacts, Therefore the RIA should be simple, proportionate and focused on the problem being addressed.

1.3 When to begin an RIA

[17] It best to start an RIA as soon as is possible in the policy-making cycle. The RIA is an iterative document and should evolve as thinking evolves about the proposed way forward in the policy process. This includes using the RIA template to brainstorm ideas and to help identify gaps in thinking, information and data. This will help plan how these gaps can be filled and who needs to be consulted.

[18] Table 1 contains some questions you can think about when planning a RIA and filling it out for the first time.

Table 1- Questions to consider when beginning to plan an RIA

- | |
|--|
| <ol style="list-style-type: none">1) What are we trying to do? What is our vision?2) Why are we trying to do it?3) Who are the stakeholders?4) What is our desired outcome?5) What are the constraints?6) What outcomes do the priority stakeholders want?7) What are we prepared to do? Or what are we not prepared to do?8) What assumptions are we making?9) Where are the gaps? How can we fill the gaps?10) Who needs to participate in developing the proposal? What do we need from others?11) What sequence do they need to be done in?12) What resources do we have available?13) What are the risks and barriers to success? How can we reduce them?14) What contingency arrangements do we need?15) What's the plan? |
|--|

2 Sections of a RIA

2.1 Title of Proposal

- [19] In this first section of the RIA you should simply state the full title of their policy or regulatory proposal. Similarly for policy advocates in the private sector and civil society you should set out the title of the policy or advocacy paper you are preparing to develop. This title should be consistent used and easily understood.

Example:
A Bill entitled “The Traffic and Road Safety Act”.

2.2 Purpose and Intended Effect of the Proposal – Policy Objective

- [20] The purpose of the next section of an RIA is to describe clearly what the proposed measure is intended to do, i.e. what objective or solution it is intended to deliver (including any relevant targets), and how that objective will be delivered.

Good Examples of Policy Objectives	Bad Examples of Policy Objectives
<ul style="list-style-type: none"> ✓ Reduce heart disease in adults by 10% within the next 5 years. ✓ Increase the production of Agriculture in Ukraine by 10% for self-consumption by year 2020. ✓ Prevent accidents in manufacturing, specifically in the mining sector, caused by certain prescribed dangerous metals. ✓ Amend the State Compensation Scheme to achieve two aims: <ol style="list-style-type: none"> 1) Target the funds in the Scheme to those who most need protection and cannot afford private insurance cover. 2) Clearly define the boundaries for State Compensation and Private Cover, so that financial markets may develop services to cater for those not covered by the State Compensation Scheme. 	<ul style="list-style-type: none"> ✗ Improve public health. ✗ Provide State Subsidies for Agricultural production in order to achieve a 10% increase in production by 2020. ✗ Ban the use of any dangerous metals in the mining sector. ✗ Harmonize a number of legal acts to improve state compensations schemes that will provide a clear definition of cases for compensation for use of the state and the insurance sector so that government can target its compensation better and insurance markets can clearly provide services not covered by the state. This will strengthen the insurance market while protecting those that need state compensation.

It is also important to state what government policy objectives the proposed measure reflects and supports, in other words, where it fits into the Government’s policy agenda, and it is important to describe how the measure contributes to key policy objectives.

An example

“In his policy speech on, the Minister of pledged Government action to improve the growth of the economy while protecting workers rights to not be harmed in the work place”.

- [21] There will be a strong link between this section of the RIA and the next which is where the policy problem is described. When developing an RIA it is important to demonstrate how the intended effect of the proposal directly and demonstrably addresses the policy problem that has been identified.

Tip: Often it can be more helpful to complete the next section on policy problem first before finalising the policy objective.

2.3 The Policy Problem

- [22] Identifying the problem can be quite difficult. This is because it can be easy to identify symptoms of a problem but not the actual problem itself. Be clear about the root problem that you are addressing in the regulation. You should include any relevant background information about this problem and wider issues that should be made known when dealing with the problem.
- [23] Here are examples of problem definitions:

Good Problem Definition	Bad Problem Definition
<ul style="list-style-type: none"> ✓ Evidence shows that 90% of adults do less exercise than the recommended daily exercise for their age group. However sales of fruit and healthy food products have only increased by 5% over the past 10 years. ✓ There has been an increase danger of accidents caused by speeding on newly built roads due to a lack of knowledge about the new speed restrictions. 	<ul style="list-style-type: none"> ✗ The public are eating too many foods that contain high levels of salt, fat and sugar which is leading to poor public health. ✗ There has been an increase danger of accidents caused by speeding on newly built roads. (Symptom)

In this section of the RIA you must evaluate the magnitude of the problem and how important the problem is. This should be based on evidence that you can use to prove the need for intervention or regulatory action. This is usually called a *Risk Assessment*.

You should also include an explanation of why state regulation is required to address this problem. Sometimes there are other mechanisms that may address the problem better than state regulation.

Finally you should describe the regulatory environment that the proposed regulation is being introduced into and explain why existing regulations, or amendments to them, cannot address the problem.

Here are some examples of Risk Assessment:

Good Risk Assessment	Bad Risk Assessment
<p>✓ The Insurance Industry Association has calculated that over \$10m was claimed to be spent on stolen credit cards last year. This amount has been increasing every year by 25%. The impact of this has been that banks are making it compulsory for credit card holders to have insurance against theft and fraud. The cost of credit card insurance was \$0.25 per day 2 years ago. It is now \$1.00 per day. This is an increase of 300% in 2 years.</p> <p>The amount that banks can charge for insurance is not regulated by Law and there are limited restrictions on who can hold a credit card, such as must be over 16 with limited checks. However there is also no requirement for businesses to check that a credit card belongs to the person using it, under state law. However the Society of Banks that regulates Banking procedures is currently reviewing the credit card authorization process in banks and also the processes for retailers to be able to access credit card payment.</p> <p>As a result of this occurrence, many people cancelling their existing credit cards and there is a 20% reduction in new applications for credit cards. This will have an impact on public spending and it</p>	<p>✗ There is an increase in credit card fraud in retail outlets. Therefore Banks are increasing insurance for credit card holders.</p> <p>There is no regulation on the insurance of credit cards.</p> <p>The result of this problem is that sales in retail outlets has decreased last month by a small amount.</p>

<p>is estimated that it could reduce consumer spending by 5% this year.</p>	
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Identifying the Problem Accurately

[24] Government policy makers can make the mistake of thinking that problem definition is the most straightforward part of an RIA, which is not the case. Similarly private sector and civil society advocates need to pay careful attention to identifying the problem they wish government to address.

Key message:
Problem identification and problem definition are two of the most important activities within an RIA. A failure to define the problem to be addressed accurately is likely to lead to a poorly designed solution.

[25] All participants involved in policy formulation (within government) and policy advocacy (within civil society and the private sector) should appreciate that clear problem definition is one of the most important contributions that can be made to good policy making, because one cannot usefully begin to think about what kinds of solutions will be appropriate until one fully understands every dimension of the problem.

[26] It is necessary to think very carefully about the causes of policy problems and to be as specific as possible in focusing on the root of the problem. This will help in defining a properly targeted solution.

Key message:
Consulting early and often will help policy makers and policy advocates to accurately define the problem to be addressed.

Confusing symptoms with problems – real diagnosis

[27] **A common mistake is to confuse symptoms with problems.** Table 5 below illustrates the difference between a “symptom” and a “problem.” The problem is the core reason for a failing. The symptom is a consequence of that core problem or failing. Confusion to this may lead to the wrong remedy due to the incorrect diagnosis. For instance, a policy may introduce the requirement for air filters for all buildings in a city to improve the air in buildings. This policy tackles the symptom and not the problem which could be air pollution or old air conditioning systems. Therefore the actual policy problem has not been identified and has been confused with a symptom. The result could be that the policy will not have its intended effect improving air in the buildings over the long term.

Key message:
When developing an RIA, consider whether the actual problem has been identified or only the symptom of the problem

Table 5- Confusing Symptoms and Problems

	Example of identifying a symptom rather than a problem	Example of identifying a problem
Problem definition	In this case the problem has been defined by a policy analyst as “ <i>Access to finance is the number one barrier to business growth</i> ”	In this case the problem has been defined by a policy analysts as “ <i>the requirement by law for only land assets to be used as a means towards finance agreements means that entrepreneurs are not able to use non-land assets as security for a loan, which makes it more difficult for them than it needs to be, to access lending.</i> ”
Problem defined accurately?	NO	YES
Why?	The policy analyst does not know why Access to Finance is a barrier to business growth.	In this case the policy analyst has identified an important <i>cause</i> behind why Access to Finance is a problem
What happens next	Without accurate information as to <i>why</i> Access to Finance is a barrier, government is likely to treat the symptom rather than the problem. In this case Access to Finance is the symptom	With a good understanding of the cause of the problem, the policy analyst is in a position to design an effective solution
Possible scenario	Responding to the symptom of the problem, Government produces a regulation that caps interest rates banks can charge or just produces more information to raise awareness of access to finance..	In designing the solution to the problem of Access to Finance, the policy analyst focuses on how best to reform the law.
Result	This response would be likely to have the effect of discouraging financial sector investors from operating, which would make the problem of access to finance even more acute.	Entrepreneurs are able to grow their businesses by accessing finance through the use of non land assets as security for a loan.

TIP: Here are *some helpful questions*:

- Why is the current situation unsatisfactory – what is the evidence?
- Has something changed to cause the problem – why has the problem arisen now?
- Who is asking for the change and what are their motives?
- How serious is the problem – how many people are affected and in what ways?
- How frequently is the problem occurring?
- What are the costs of the problem to those affected?

Common Policy Problems

[28] Different types of policy problems occur which potentially give rise to the need for governments to take action. Here are some different types of policy problems:

- When too much of something happens or is produced, because those benefiting from an activity are not liable for the full costs of the impact of the activity on society. (In economic terminology these are known as “**negative externalities**”). For example, some countries believe that smoking in public places has a negative externality – smokers only bear the impact of the damage they do to their own health, and not the cost of the damage done to the health of others who breathe in their smoke. Some countries, have banned smoking in public places as a way of trying to reduce this negative externality, or policy problem.
- When not enough of something beneficial or useful happens or is produced, because those paying the cost don’t get all the benefit. (In economic terminology these are known as “**positive externalities**”). For example, if person A pays to spray his land for mosquitoes, his neighbour will also benefit from the mosquito control without paying for it. So person A may choose not to spray his land. Another example is education – if one person gets educated, the total benefits to society are greater than the benefits to the individual. In such cases, there is a case for government to encourage people to do the things that create positive results for society that go beyond the individual gain. This is one of the reasons that education is often free, or subsidised by the State.
- **Weak competition** – where there is no real competition, prices often will be too high and governments often need to act either to increase competition or to control prices. Utilities, such as electricity and water are commonly subject to price controls because of the lack of a competitive market in the supply of these commodities.
- **Lack of accurate information** – sometimes consumers do not have sufficient information with which to make informed choices, so governments need to act to bring about greater information and awareness. This can be done by requiring product labelling (such as public health warnings on cigarettes and a description of contents, carbohydrate, protein and calorie value on food products) or by engaging in public awareness campaigns (such as warning the public about the dangers of driving too fast.)
- **Missing markets** – there are some goods that the government has to provide, because they are valuable to society but yet would not normally be provided by the private sector. These are known as “public goods” and are things that everyone benefits from. The two characteristics of public goods are (i) that one person’s consumption of them does not reduce the amount available for everyone else (i.e. they are “non-rivalrous”), and that (ii) it is impossible to prevent any individual from enjoying the goods once they are provided (i.e. they are “non-excludable”). National defence and air traffic control are examples of public goods. One of the policy problems presented by public goods is the “free rider” problem. A ‘free rider’ is a person who uses or consumes a public good without paying for it. Since it is available to everybody there is no incentive to pay or contribute to its improved quality.
- **Poor quality legal protections** – if people do not feel protected by the law, they might not enter into transactions that would be of benefit to both sides, and to the economy generally. Putting in place a high quality contract law that protects both

parties, is an example of how governments can create the right environment for growth.

- **Promoting health and safety** – the effects of ill health and accidents can have a considerable impact on society and the economy that go far beyond the harm to the individual directly affected. Governments will generally need to act to reduce risks to people's health and safety as far as possible. Imposing health and safety standards in the workplace and requiring employers to take out compulsory health insurance for their workers, is one way of doing this. Requiring the construction industry to comply with safe building standards, and hospitals to comply with proper hygiene standards, is another.
- **Protecting the environment** – An obvious cost of failing to protect the environment would be a loss of tourism revenue from the decline in the environment of a country. Governments will therefore sometimes need to regulate to protect the environment and support sustainable development. Most environmental resources exhibit 'public goods' characteristics and, since they are not bought and sold in the traditional sense, have no conventional prices.
- **Providing social protection** – social protection involves the provision of a series of recognised human rights and the protection of the weak and vulnerable in society.
- **Encouraging or discouraging behaviours** for essentially moral reasons. For example, many countries regulate gambling in the belief that it has a pernicious effect on society. By contrast, some countries regulate trading hours on days of religious worship in order to enable people to attend services, as this is believed to be the morally right thing to do.
- **Preventing discrimination** – Without legal protection there is a risk that the protections for vulnerable groups will not be realised and that legal remedies will remain out of reach of ordinary people.
- **Safeguarding security** – Certain circumstances have caused many governments to introduce legislation to safeguard national security.
- **Implementing international treaties** – international treaties and agreements usually require signatory countries to implement measures in their national laws.

Assessing the Size of the Problem

- [29] In this section of the guide the focus is on **the importance of trying to assess the size of a problem**. Identifying the problem is important, but policy makers then need to understand how best to respond to that problem, including the level of effort required to address the problem.
- [30] Equally policy advocates are much more likely to have their view heard by government if they have a sensible approach to dealing with the identified problem, and base any recommendations they may have around a sensible use of government's resources.
- [31] You should therefore ensure that you are able to understand and be able to state with as much accuracy as possible, **how significant the problem is**. In other words, be

able to assess the risk of the problem occurring, i.e. what is the likely incidence of the problem happening? **This is sometimes called “risk assessment.”**

- [32] For example, many proposals are introduced to deal with things that harm consumers, workers or the environment. In these cases, it is important to calculate how often the harm occurs, or the probability that it will occur, and how serious the impact will be when it does occur. This will ensure that there is full knowledge of how proportionate the government intervention should be. It also ensures that there is an idea of the level of detail that will be required in the RIA that should be proportionate to the problem and impacts.

An example – Risk to Health in Employment

✓ Good Example of Risk Assessment:

Every year there are 200 deaths and 1000 serious injuries in the work place. As well as the tragic loss incurred by families and relatives, this is estimated to cost business \$20m p.a. in insurance premium increases, loss in productivity and staff recruitment and retention. Two years ago there were 20 deaths and 200 serious injuries. This represents a 900% increase in deaths and 400% increase in serious injuries over two years.

× Bad Example of Risk Assessment:

There is a possibility that people may incur a serious injury and in some cases loss of life in the work place. There have been some reports of deaths increasing and businesses have also feedback that this has a negative impact on their fixed costs, such as insurance premiums, and productivity due to the disruption of their workforce.

- [33] It may be difficult to exhaustively quantify a problem. But putting a figure to the size of the problem wherever possible will help decide about the appropriate levels of cost to incur in addressing it. The estimate should be for a particular period of time, usually one year.

Key message

Wherever possible, policy makers and policy advocates should try to quantify a policy problem and understand how significant the problem is. Quantification will help to determine the appropriate type of response to solving a problem.

- [34] Calculating risk is important because risks are often not well understood by the public and policy makers. For example, people often feel that flying in an aeroplane is more dangerous than driving, even though all the evidence says that driving is the most dangerous form of transportation in terms of fatalities per mile travelled. The reason for this misunderstanding is that people feel less at risk when they are in control of their surroundings than when they are not.
- [35] Misperceptions of risk can lead to public outcries and pressure on governments to act. But when risk is calculated accurately, it can happen that the actual problem is

smaller than perceptions would suggest, and no government action is really necessary.

TIP:

Sometimes it is difficult to quantify a problem. Where the effect of problems cannot be calculated, these should still be described, as these effects form an important part of any problem definition. Qualitative information is an important compliment to quantitative data.

- [36] To conclude this section of an RIA, policy makers should demonstrate how the proposed measure will have the desired effect on the policy problem. They should set out how the proposed action will have the effect they are seeking on the problem they have identified.

2.4 Options

- [37] *How* to address a problem is as important as deciding *whether* to intervene at all. In this section of the RIA, policy makers should describe the options that have been considered as possible ways of tackling the problem.
- [38] The options they select will have emerged from their own analysis, from exploring how other countries have dealt with the same or similar issues, and also from discussions with those affected by the problem, or causing it.

Key message:

The decision about how to address a policy problem is as important as deciding whether to intervene at all.

- [39] Options Analysis is equally pertinent for private sector and civil society advocates. When formulating position papers and reports, they may have greater resonance for government counterparts if they already include suggestions on how to address a policy problem. Furthermore private sector and civil society advocates will be equipped with a better understanding of the kinds of processes government policy makers are required to adhere to in the formulation of an RIA.
- [40] *The next section describes the types of options a policy maker might choose when considering how to address a policy problem.*

Option 1: Maintain the Status Quo (Do Nothing)

- [41] The RIA process occurs before a policy decision has been made. Hence, the first option policy makers should consider is what would happen if the status quo was maintained and Government took no action. This helps to determine whether the problem would potentially solve itself in time, or whether those affected would find their own solutions.
- [42] Maintaining the status quo is often not seen by governments as an attractive option because governments want to be seen to be taking action. However, it is important to understand that taking no action is preferable to taking action and making the problem worse.
- [43] Assessing the ‘do nothing’ option will provide a baseline against which other options can be measured to show how they improve on or fall short of taking no action.

Assessing the ‘maintain status quo/do nothing’ option can also help justify the need for regulation.

Option 2: Use Existing Powers

- [44] Policy makers should next consider whether the problem could be addressed by using existing powers rather than by creating new ones. In other words, is the problem something that better enforcement of existing laws or amending existing laws would solve?

Option 3: Alternatives to Introducing New Regulation

- [45] Non regulatory options must be among those considered. Alternatives to regulation can sometimes provide a quicker and more flexible way of dealing with a policy problem.

Tip the glossary section at the back of this guide provides a useful definition of an “alternative to regulation”

Some Alternatives to Introducing Regulation

- **Self regulation** – encouraging trades and professions to regulate their own members’ activities to ensure certain standards are met. Standards are often set out in a **code of practice**. Self regulation requires supporting bodies and processes to make it work, and it is important to guard against self regulation acting as a barrier to entry for new firms.
- **Information and education campaigns** – informing the public of risks and actions to take to minimise risk. These are often most useful when governments want to influence the behaviour of individuals in the private sphere, for example, education campaigns can encourage people to drink alcohol responsibly, or to wear seatbelts when driving.
- **Financial and fiscal incentives** – such as tax increases/reductions, subsidies, concessionary loans with reduced interest rates, etc. For example, tobacco products are often heavily taxed in order to discourage people from smoking. Education is sometimes subsidised in order to encourage people to increase their qualifications and skills.
- **Quality assurance marks** – a way of signalling the quality of a product to consumers. For example, the Forestry Stewardship Council’s quality certification mark assures consumers that wood products have been harvested from sustainably-managed resources. In this way, the quality mark gives consumers more information and choice and harnesses consumer purchasing power to influence markets.
- **Service charters** – a way of setting minimum service standards that the public can expect to receive.
- **Better enforcement of existing regulations** – or amending existing regulations to achieve a less costly outcome, i.e. by changing the style of regulation from ‘command and control’ to ‘outcome based’ regulation.

Option 4: Traditional ‘Regulation’

- [46] Traditional ‘regulation’ is a government intervention based on legislation. This is a legitimate form of intervention, if it is the option that will achieve the intended outcome in the most effective and efficient way.
- [47] However, this is usually seen as the main way for Government to intervene and as a result may not always be the most appropriate form of intervention. This is why alternatives to ‘regulation’ should be considered to ensure when ‘regulating’ it does with the justification and evidence that it is the best way forward.
- [48] And if ‘regulation’ is considered the best form of government intervention, then the exact method of intervening needs to ensure that it is done in the most effective and efficient way – this is what is meant by ‘Better Regulation’. This acknowledges that ‘regulation is required however it should ensure that it will have its’ intended effects.
- [49] Reasons for traditional ‘regulation’ include when market forces cannot have the desired outcome, or if there are issues of public health, safety and security that require direct government intervention through legislation.

Justifying your chosen option

- [50] A description of the options considered must be accompanied by an explanation of why the preferred option was chosen while the others were rejected. Policy makers should be encouraged to demonstrate convincingly that the option selected has clear advantages over the others.

2.5 Impacts Analysis

- [51] It is very important that in this section of the RIA policy makers describe, and where possible, quantify the likely impacts of the proposal.
- [52] The same is true for private sector and civil society advocates who should focus, where possible, on the likely impacts of a policy problem that they are seeking to highlight. This will increase the evidence base of their lobbying efforts and further strengthen the credibility of their message.

Key message:

Analysing the impacts of a proposed policy proposal is a fundamental component of the RIA process.

- [53] There are a number of questions begin considering about the possible impacts of a policy proposal. These are illustrated in the text box below. There is also some additional information around each of these questions below.

Questions your should consider when beginning to analyse impacts:

- Will the benefits of a policy proposal outweigh the costs?
- What are the likely impacts of a policy proposal on different groups in society and the economy?
- What would have happened if no action had been taken?
- What are the **direct** and **indirect** impacts likely to be?
- What are the **time dimensions of possible impacts**?

The importance of cost benefit analysis

- [54] It cannot be automatically assumed that the benefits of a policy proposal will outweigh the costs. **An assessment of the expected benefits and costs of the proposal is therefore a key part of the RIA.** The purpose is to determine whether the benefits caused by the regulation are sufficient to justify the costs that the regulation will impose on the economy, society, and possibly the environment.

Key message:

An RIA **MUST** contain cost benefit analysis around each of the policy options that have been considered. It is **ESSENTIAL** that the policy option that is recommended is supported by cost benefit analysis.

Impacts across society, the economy and environment.

- [55] When beginning to analyse the impact of a policy proposal, policy makers and policy advocates should consider the likely impacts on different groups and sections of society, the economy and environment. For example the possible impact on. business people, the poor, women, should be considered.

Key message:

The distribution of impacts of a policy proposal should be considered and described within an RIA.

The “do nothing option”

- [56] When identifying impacts care must be taken to include only those that are additional to what would have been incurred if no action were taken. This can be done by comparing the difference between the expected benefits and costs of the preferred option and the “do nothing option”.

Identifying Different Types of Impact

- [57] A range of possible economic, environmental and social impacts (positive and negative) should be considered by policy makers, keeping in mind that the proposed regulation can have both **direct** and **indirect** impacts. Taking this broad approach can help to identify any unintended impacts of the proposal.
- [58] A similar focus on direct and indirect impacts by private sector and civil society advocates in their own reports and position papers helps to further strengthen the evidence base of their work.

Key message:

Policy makers and policy advocates should consider both **direct** and **indirect impacts** of their policy proposal (for government policy makers) or their advocacy position paper (for policy advocates in the private sector and civil society). This approach can help to identify any possible unintended impacts of a policy proposal.

Tip: Direct impacts are directly related to the objectives of the proposal and result from measures taken under the proposal. **All other impacts are indirect impacts.**

- [59] It is sometimes helpful to distinguish between **private** impacts where individuals bear the costs or enjoy the benefits, and **social** impacts where the impacts are borne by society at large. It is also important to calculate separately, the costs to the **public sector** of implementing and monitoring the proposed regulation.

Examples of Direct & Indirect Impacts

A regulation that increases the cost of energy will have a **direct impact** on the energy company and on the price consumers pay for energy. It will also have an **indirect impact** on the costs of goods produced using energy, an indirect cost that is borne by consumers and businesses. It will also have an **indirect impact** on the environment, for example the high cost of HEP leads to the increased and unsustainable use of biomass energy.

Similarly, a regulation that increases the fee charged for waste collection will have a **direct impact** on people who pay for waste collection, and possibly an **indirect cost** in terms of more illegal dumping of waste by people seeking to avoid the increased charge. In this case, the direct cost is a **private** cost, because it is borne by individuals, and the indirect cost is a **social** cost, because it is borne by society.

The issue of indirect impacts (and indirect costs) highlights the importance of consultation in the RIA process. In the example of a government considering introducing an increased waste collection charge, it might be useful to discuss with local focus groups how much people would be prepared to pay for waste collection, and how much they would expect illegal dumping to increase. It might also be insightful to analyse experience from other countries to see what impacts occurred where they introduced increased charges for waste collection.

Unintended Effects – An Illustrative Example

A community wanted to improve the environment by requiring that drinks should be sold in recyclable glass bottles rather than in plastic bottles which were less easy to recycle. This seemed sensible at first. Further analysis revealed, however, that, since glass was much heavier than plastic, the vehicles delivering the bottled drinks would use more fuel on their deliveries. The environmental damage from the increased fuel consumption would have been more damaging to the environment than the use of plastic bottles, so the proposal was dropped. Without careful analysis, a regulation intended to improve the environment might have had the unintended effect of damaging it.

[60] In considering the possible economic, environmental and social impacts of the policy proposal it will be helpful to refer back to the earlier sections of the RIA where the purpose and intended effect of the proposal and the problem that the proposal is expected to address, are described. This will help in thinking through the causal chains which link the proposal to the possible impacts.

[61] In thinking through the possible impacts, it may be useful to begin by analysing the broad categories such as those shown in the box below, and then going on to identify more specific indicators for each of these core categories.

Examples of Impact	
Economic Impacts	
➤	Real income
➤	Investment
➤	Employment
➤	Equity
Social Impacts	
➤	Gender relations
➤	Poverty
➤	Education
➤	Health
Environmental Impacts	
➤	Environmental quality
➤	Natural resource stocks
➤	Biodiversity

Time dimension

[62] The time dimension (short, medium and long-term impacts) will also need to be considered in the assessment of impacts. Where possible, it should be made clear in the RIA whether the effects are one off, or develop over time.

[63] If the impacts are irreversible, this should also be recorded in the assessment. In the case of environmental impacts, it is important to establish how quickly a natural system might deteriorate and how much time is available for its stabilisation or enhancement.

2.6 Quantifying the Impacts

- [64] In this section of the guide there is introductory information on how to quantify impacts of a policy proposal and the policy options contained within that proposal.
- [65] Once the potential impacts have been identified, they should be quantified if at all possible. This allows comparisons to be made and assists in identifying trade-offs. It is particularly important to quantify benefits where the analysis reveals potential costs as being significant.
- [66] Where possible, it is helpful to quantify the impacts in monetary terms. Using monetary values enables comparisons to be made between different types of impacts.
- [67] Quantifying and putting a monetary value on benefits and costs can be difficult. As a general rule quantitative assessments should be used wherever possible, and qualitative assessments in all other cases.
- [68] Where it is difficult to calculate the impacts precisely, broad quantitative estimates can be used to give an indication of the magnitude of the benefits and costs. This means that it will often be impossible to give a single figure estimate of the net benefit or cost of the proposal. Since the estimates of benefits and costs are often more educated guesses than accurate predictions, it is important to make this clear by ensuring that the assumptions and sources of information used in arriving at the estimated benefits and costs are clearly identified and explained.
- [69] You can check your calculations using variables that are different from their initial assumptions in order to see how the costs and benefits are changed if the assumptions are proven incorrect. This is known as “sensitivity analysis” and will help you gauge how small changes could affect the results they expect to achieve.
- [70] Impacts that cannot be expressed in quantitative or monetary terms should not be seen as less important, as they may contain aspects that are significant for the overall assessment of the regulation proposal.

Key messages:

- Once the potential impacts of a policy proposal have been identified, they should be quantified if at all possible.
- Where possible, it is helpful to quantify the impacts in monetary terms.
- As a general rule quantitative assessments should be used wherever possible, and qualitative assessments in all other cases.
- Impacts that cannot be expressed in quantitative or monetary terms should not be seen as less important

Attaching a Monetary Value to Impacts

Compliance Costs

- [71] Given the importance of the economy it is important when carrying out an RIA to consider the impacts of a policy proposal on businesses.
- [72] An important and easy to use tool for assessing the impact on business involves assessing the “compliance cost” of complying with a government regulation. For

instance the cost of licenses. A licensing regime will cost government through the administration and issuing of licenses as well as any inspection costs. This can have further costs for the justice system in prosecuting and taking action for those without licenses. This is of course in addition to the cost of businesses in obtaining licenses. This not only includes the license fee, but the time and cost in applying, obtaining and maintaining the license. This is the ‘compliance cost’.

Key messages:

- It is essential to estimate the impact of a policy or regulatory proposal on businesses.
- Compliance costs are a useful way of estimating impact on businesses.

[73] Many regulations will have a direct impact on the businesses that have to comply with them, for example, by requiring businesses to buy new equipment, alter their labour contracts, or fill in more forms for government. These compliance costs can usually be calculated and given a monetary value because they involve:

- Direct expenditure on equipment or labour.
- Additional time costs in performing administration – this can be calculated by multiplying the time spent in complying with the regulation by the wages/earnings of the personnel involved.
- Cost of getting new licences.
- Cost of extra legal, accountancy and other consultancy advice.

[74] Similarly, benefits for business that result from savings can also be calculated and given a monetary value.

[75] When consulting with businesses, you should ask managers to calculate the monetary value of the impacts that would result from the regulatory proposal. Naturally, values reported by businesses will need to be considered carefully, as businesses have an incentive to over-estimate costs and under estimate savings.

[76] It is crucial to provide an estimation of the level of compliance that can reasonably be expected, or an estimate of how long it will take to achieve full compliance. Such a calculation can affect the entire outcome of the RIA and must be taken into consideration for instance knowing what the cost of enforcement will be as a result of the desired compliance level. (see also the section of the RIA that relates to enforcement and sanctions).

Shadow Prices

[77] In this section advice is provided on how to estimate monetary values for impacts that have no obvious price.

[78] Generally, market prices can be used as a measure of economic values of impacts. But the question often raised is how to put monetary values to impacts that have no obvious price, such as many environmental and social impacts. In addition, available market prices may not be reliable when market failures or price distortions are pervasive. This can occur, for example, where a single or small number of enterprises have a monopoly position in the market.

[79] Techniques have been developed to calculate the monetary value of benefits and costs that do not have a market value. Examples of techniques to calculate the

monetary value of benefits and costs that do not have a market value are shown in the text box below.

Examples of how to calculate monetary value of benefits and costs that do not have a market value:

- Time savings – can be given a monetary value by multiplying the time saved by average wages/ earnings of the beneficiaries.
- Improvements in health – can be given a value by looking at the savings in costs of treating the illness; or by estimating the improvement in beneficiaries’ productivity.
- Training and education – use market value for similar services; or give a value to education by looking at the differences in wage rates of better- and less well educated employees.
- Environmental benefits – use surveys which show how much people are willing to pay for the improvement, or how much they are willing to accept as compensation for suffering from the environmental pollution; estimate the cost of cleaning up the environmental damage that the proposal is trying to avoid. More on the evaluation of environmental impact is given below.

[80] **The valuations that such techniques yield are often referred to as “shadow prices”** and setting them involves estimating what the hypothetical market value would have been, if there had been an actual market.

[81] Since market prices are a reflection of what individuals are willing to pay to acquire goods and services, the basic approach to calculating the value of impacts which do not have a market value, is similarly to estimate the ‘willingness to pay’ for (or willingness to accept) a particular outcome.

Key message:

Shadow prices are a useful tool for attaching a monetary value to impacts that do not have an obvious market value.

[82] Examples of shadow prices are below:

The Value of a Human Life Saved

Putting a value on a human life seems callous, and in a moral sense of course, a human life cannot be valued. But people and policy-makers around the world make judgements about the value of life every day. For example, if a person works in a dangerous industry that person incurs a higher than average risk of death in work. Hopefully that risk is still small, but the person will want to be rewarded for taking the risk, and wages for dangerous jobs often pay more than other, safer jobs requiring similar levels of skill. By looking at the difference between pay rates for dangerous and non-dangerous jobs and at the incidence of death in the dangerous jobs it is possible to calculate a shadow price for a worker’s life.

Calculating the social benefit of an easier journey to work

Imagine that a survey of 500 commuters in Ramallah revealed that 1 in 6 people would pay at least 15% more for their home in order to gain an easier journey to work. These people also gave the approximate value of their homes. Let’s say the average value of the homes was \$100 USD and the total number of commuters making the daily journey into Ramallah was 30,000. This enables us to put a monetary value to the social benefit of improving transport for commuters:

$30,000 \times 1/6 = 5,000$ people who would pay more.

$100,000 \times 15\% = \$15,000$ USD that they would each be willing to pay extra for an easier journey.

$\$15,000$ USD \times 5,000 people = $\$75m$ USD as a measure of the social benefit of improving the transportation system. This sum can then be weighed against the costs of the improvement in order to see whether the benefits justify the costs.

Discounting

[83] The costs and benefits flowing from a policy decision are spread over time. Costs are often borne up front, while benefits may be realised in the future. Even in the absence of inflation, money received now is worth more than money received at some time in the future. Conversely, spending money now is more onerous than spending money at some future time. This reflects the concept of “time preference” which can be seen in the fact that people normally prefer to receive cash sooner rather than later and pay bills later rather than sooner.

[84] In order to compare the costs and benefits flowing from a regulation that has an impact over time, it can sometimes be helpful to bring the costs and benefits back to a common point in time. This is done by discounting the value of future costs and benefits in order to determine their present value. The process of discounting is simply compound interest worked backwards.

[85] Discounting is not always necessary if it is clear that costs will be outweighed by benefits, but it can be a useful way of comparing these when they seem more finely balanced.

Discounting – An Example

Let’s say that a particular health intervention would bring benefits valued at \$5bn USD in each of the next 5 years by reducing suffering and the need for costly surgery. The intervention would cost \$15 billion USD now. You might be tempted to think that this was an easy decision because the savings over 5 years of \$25 bn USD appear to be greater than the up-front costs of \$15bn USD. However, when you calculate the present values of the benefits, the picture changes.

The formula for calculating the present value (PV) of future values (FV) is:

$$PV = FV / (1 + r)^n$$

Where r is the “discount rate” and n is the number of years from the present. Governments often establish a “discount rate” that they use for these calculations. Let us assume that in Palestine, it is 20%, ie 0.20.

	Year 1	Year 2	Year 3	Year 4	Year 5
Future Value	5,000,000,000	5,000,000,000	5,000,000,000	5,000,000,000	5,000,000,000
Present Value	4,166,666,667	3,472,222,222	2,893,518,519	2,411,265,432	2,009,387,860
Total Present Value	14,953,060,700				

So, in this example, the costs now, \$15 bn USD, are in fact marginally greater than the benefits, \$14.9 bn USD, when these are expressed as present values.

Non-Monetary Quantification of Impact

- [86] For some impacts it is not possible, or sensible, to try to ascribe a monetary value, even a shadow one. In such cases, it will be enough for policy makers to present Ministers with the different types of impact so that they can weigh up the evidence themselves.
- [87] Policy advocates within civil society or private sector representative organisations can adopt a similar approach when developing draft position papers or advocacy papers for approval as formal documents by senior decision makers within their organisation.
- [88] When it is not possible to ascribe a monetary value to an impact, it is still important to quantify the impacts so that their significance can be gauged.
- [89] There are other ways of expressing the magnitude of such impacts. Multi-criteria analysis (MCA) is one tool you can use as a way to cover a range of techniques that share the common aim of combining a range of positive and negative impacts into a single framework. The technique is used where it is not possible to attach an economic value to all the expected benefits and costs.
- [90] Multi-criteria analysis is useful, therefore, where there is a large amount of information on a number of different types of impacts (economic, environmental and social), and where the information on the impacts is presented as a mixture of qualitative, quantitative and monetary data.
- [91] In applying multi-criteria analysis it will often be helpful to present a summary of the possible benefits and costs in the form of a table or ‘impact matrix’. Remember that both negative (costs) and positive (benefits) impacts should be shown in the table. An example of an impact matrix is shown below:

Example Impact Matrix

Option	Timeframe	Economic	Social	Environmental
Do Nothing Option	Short Term	△		▽
	Medium Term	△		▽
	Long Term	?		▼
Preferred Option	Short Term	▼	?	
	Medium Term	▽	?	△
	Long Term	?	?	▲
Any other options??	Short Term			
	Medium Term			
	Long Term			

blank	impact has been evaluated as non-significant compared with the base situation
△	positive lesser significant impact
▽	negative lesser significant impact
▲	positive greater significant impact
▼	negative greater significant impact
△▽	positive and negative impacts likely to be experienced according to context (may be lesser or greater as above)
?	effects are uncertain

[92] The Impact Matrix summarises the information on expected impacts in a simple way; but for decision-making purposes, it will be necessary to establish significance criteria which can be used to compare the impacts associated with the preferred option. A scoring system may also be needed to show how the preferred option complies with the significance criteria. An example of a MCA format for reporting the expected benefits and costs is shown below:

2.7 Distribution of impacts

- [93] Governments have an interest in ensuring that regulation is as equitable as possible, but the costs and benefits of regulation seldom fall equally across all segments of society and the economy.
- [94] Assessing the distribution of impacts in a policy proposal across different groups in society and the economy will assist with transparency and help politicians decide whether the overall costs or benefits to society and the economy outweigh the burden or benefit given disproportionately to the one sector.
- [95] The fact that costs and benefits are not equally shared does not necessarily mean that the proposal is a bad one, but it is an important consideration in the policy debate.

Key messages:

- Assessing the distribution of impacts means analysing the degree to which the proposal would impact on some groups more than others.
- Assessment of the distribution of impacts is an important contribution RIA can make to the development of policy that mainstreams a specific focus on poverty reduction.

- [96] From the perspective of private sector and civil society advocates, an emphasis on the distribution of impacts in the development of their own policy papers, reports and position papers can help to identify other groups common to their own interests who may be affected by a government policy proposal.
- [97] This approach by policy advocates can help to foster alliances and demonstrate to government that a broader constituency of stakeholders may be affected. In addition an emphasis on distribution of impacts builds the credibility of a representative group by demonstrating to government that the lobbying group is not just a self interested actor, but is aware of the wider possible impact of a policy proposal on other members of society and the economy.
- [98] Assessing the distribution of impacts means analysing the degree to which the proposal would impact on some groups more than others. The text box below illustrates groups in society and the economy that you should pay particular attention to. There is some additional information around each group below.

Analysing distribution of impacts- specific groups for analysis within society and the economy:

- Micro and Small and Medium-sized Enterprises
- Vulnerable Groups (the poor, women, children, elderly, disabled, people living with HIV/AIDS, etc.)
- Different Districts, Regions and Religions
- Civil Society and Non Governmental Organisations

• **Micro and Small and Medium-sized Enterprises**

- [99] You should be aware that small businesses (or MSME's as they are sometimes known) are less able than large firms to absorb the costs of regulation or other government intervention. This is because they generally have lower productivity over which to spread these costs, and they generally have less management depth and therefore less management time to devote to regulatory compliance.
- [100] Despite the disadvantage they experience in dealing with regulation, small businesses are vital to the economic growth and development of an economy.
- [101] MSMEs are also particularly important in efforts to help lift people out of poverty. Establishing a micro-business, perhaps simply as a sole trader, offers an escape route from poverty for some people and it is important that as few barriers as possible are put in the way of that process.
- [102] It is therefore important to specify separately whether the proposed action will entail additional costs to small businesses. Where there are additional costs, these should be identified. Particular consideration should be given to whether there will be any impact in terms of employment.

Key message:

It is particularly important to assess the possible impact of a policy proposal on small businesses (MSMEs).

- [103] If the impact on small firms is likely to be significant, policy makers should consider whether it is appropriate to offer small firms an exemption from the proposed new regulations (if the regulatory option has been chosen), or to make them subject to less onerous requirements than their larger counterparts.

• **Vulnerable Groups**

- [104] You should ensure that you consider that there are a number of different type of vulnerable groups in society. These include:
- [105] **Women (the Gender dimension)** Governments are often committed to addressing gender imbalances. It is possible that the regulation under consideration will impact differently on men and women.
- [106] There could be several reasons for why a policy proposal may disproportionately impacts on women in society and the economy. For example women entrepreneurs are sometimes seen by enforcement officials as 'soft targets' and therefore more likely to be subject to requests for bribes than their male counterparts, and the fact

that women, because of their family and domestic responsibilities, tend to have less time than men to devote to regulatory compliance issues.

- [107] If the regulation under consideration would appear to have the potential to impact men and women differently, this should be brought to light in the section of the RIA that focuses on distribution of impacts.
- [108] **The Poor.** Regulation that increases burdens on micro- and small businesses is likely to harm the interests of the poor because it reduces the prospects for growth, wealth creation and jobs.
- [109] Since poverty means many things, there are other ways in which regulations can impact on the poor in addition to impacting their income – they can for example, result in a greater vulnerability being imposed on those who have to comply, such as in the case described above of women being seen as soft targets by enforcement officials .
- [110] These types of impacts might only be uncovered as a result of consultation with the various groups that are likely to be affected. It is important therefore to find ways to consult the poor, especially if the proposal has significant social or economic impacts. This guide does not attempt to provide a detailed discussion on pro-poor regulation, but some issues that should be considered when assessing whether there is a specific impact on the poor are:
- **Assets.** Assets mean more than financial capital such as income and savings. Regulation’s impact must also be assessed with respect to human capital (e.g. education, health, skills), physical capital (e.g. housing, roads), natural capital (e.g. land, water), and social capital (e.g. networks, relationships). Policy changes can directly or indirectly impact any of these assets. For example, energy price changes may impact on natural and human capital through people resorting to alternative energy sources with possible negative health impacts. As another example, women are often constrained in the extent to which they own and control land.
 - **Prices.** The poor are particularly vulnerable to changes in prices which can significantly diminish or increase real incomes.
 - **Adjustment is more expensive for the poor.** Adjustment for the poor is relatively more expensive than for people who are not poor. Regulation and changes in regulation should take this into consideration. The poor do not have savings that would help them to retrain or change their livelihood strategies, hence change is expensive and often impossible. Support measures, long transition periods and exemptions may be appropriate.
 - **Social ties are very important.** Social ties are particularly important for the poor as they constitute a line of defence against risk. Regulation must try to support and build on these bonds. Anything that interferes with traditional social support mechanisms, or breaks up communities, can increase the vulnerability of the poor.
 - **Access to services.** The poor often find it difficult to access services and markets. Will the regulation make this easier or harder for them?

- **Informal mechanisms.** The poor often find inventive ways of providing for their needs through informal mechanisms such as barter and mutual social protection. Will the regulation prevent these informal mechanisms from functioning?
- [111] **People living with HIV/AIDS.** People living with HIV/AIDS also have special needs that may be affected by new regulations. When a member of a household suffers from HIV/AIDS, costs can increase and incomes can be reduced. There are also additional responsibilities for care-givers. It is useful to describe where appropriate, how people living with HIV/AIDS would be disproportionately impacted by the regulation, and to consider for example, the following factors:
- Limited mobility. Many AIDS patients are homebound and need to receive care and services at home.
 - Orphans. Children are becoming the heads of households in areas heavily affected by HIV/AIDS. Will these children be affected by the law?
 - Stigma. For people living with HIV/AIDS, stigma is a strong barrier to accessing services, markets and rights. Is it necessary to consider how to provide for inclusiveness?
- [112] **Districts and tribes.** In any country, national cohesion can suffer if one district or group is seen to gain or lose more than others from a policy. If the policy proposal is likely to impact some districts or tribes more than others, this should be discussed in the distribution of impacts section of the RIA.
- [113] **Followers of different religions.** Sensitivity to religious differences is also important in a society where people follow different faiths. Consideration should be given to whether the proposal would impact on religious practices and therefore on any particular religious group.
- [114] **Civil society and non-government organisations (NGOs).** Non-governmental organisations, charities, trades unions, business representative organisations, independent educational establishments and other civil society organisations all have an important part to play in society, whether it is delivering services, helping the disadvantaged, protecting the environment or representing their members' interests.
- [115] Policy makers should therefore consider whether the policy proposal will impact on the functioning of these groups. In other words, will it help them work better in the furtherance of their goals, or will it put obstacles in their way? For example, tax policies, registration procedures, access to information and protection of civil liberties directly impact the development and effectiveness of civil society organisations. A regulation that reduces the information available publicly may reduce the ability of civil society to hold government to account.

2.8 Consultation in RIA

Key message:

Consulting with affected stakeholders is a fundamental component of RIA. Without effective consultation a policy or regulatory proposal is much less likely to be designed effectively, and those affected may be less likely to comply with the provisions.

[116] Consultation is a vital design tool in the development of a policy or supporting laws and regulation. The text box below suggests some best practice for consultation.

Consultation best practice:

- Consult widely throughout the process, allowing adequate time for consultation during the development of the policy.
- Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
- Ensure that your consultation is clear, concise and widely accessible.
- Give feedback regarding the responses received and how the consultation process influenced the policy.
- Monitor your Ministry's effectiveness at consultation to facilitate improvement.

These criteria must be reproduced within all consultation documents

[117] Consulting early and often in the policy process is the key to good practice in consultation. Even before a policy proposal has been drafted, policy makers should be consulting with potential stakeholders. This will help the policy maker to define the problem more accurately and identify unforeseen consequences of a policy proposal.

[118] A stakeholder analysis will help to remove subjectivity from the process of consultation- it can be tempting to limit consultation to who you know, or “who shouts the loudest”. The stakeholder analysis will also help the policy maker to appreciate how to use the information gathered from consultation and how to engage with different types of stakeholder.

[119] It is also vital that stakeholders receive easily accessible information that is clear and concise regarding the policy issue that is the subject of consultation. A suitable period of time should then be set to allow for the consultations to be fed into the policy process. In many European countries this can be from 4 weeks to 3 months for consultation.

The added value of consultation

Key messages:

- **Consultation helps to identify unforeseen and unintended consequences associated with a policy proposal**

- **Consultation helps policy makers to prepare for likely reactions to a new policy or law.**
- **Consultation increases stakeholders sense of involvement and ownership in a policy process, and as a result levels of compliance are likely to be higher**
- **Consultation lends credibility to a policy or law helping to show it has been tailored to local circumstances**
- **Consultation helps to improve the evidence base justifying the policy decision**

[120] Except in certain circumstances, the aim of government intervention is to impact positively on stakeholders or if not positively on all, then at least with minimised burdens. However despite the best will and planning, government can impact on stakeholders in a way that it did not intend to. Consulting stakeholders from an early stage in the development of proposals is an important process that will help to identify unforeseen and unintended consequences of a policy proposal.

[121] Consultation will help politicians and regulators anticipate and prepare for likely reactions to the policy proposal. Also, businesses are more likely to be more receptive of a new proposal that they have had an input into and helped to shape, than one that is imposed on them with no consultation. A failure to consult may lead to a failure to comply.

[122] The RIA process not only provides an opportunity to develop effective relationships with stakeholders, but it is also a useful communication tool that can improve public perception of government action.

Tip: Sometimes consultation can be viewed as a resource intensive and burdensome exercise. However consultation will lead to the design of better policies and laws, which will lead to increased compliance, and minimise the burden of monitoring compliance on public officials. Ultimately an effective approach to consultation will make their jobs easier and increase the of public officials' credibility in the eyes of the public.

How to present the results of consultation

[123] In the consultation section of the RIA, policy makers should describe who was consulted, the time period over which they were permitted to comment, and the main findings of the consultative process. Policy advocates within the private sector and civil society may find it useful to adopt a similar approach in the development of their position papers and reports.

[124] You must make sure that you describe how the stakeholders have been identified, who is likely to win and lose from the proposed new measures, how they consulted poor and vulnerable groups. Organisations from which views were received should be listed, and a summary of these views and of how they were taken account of in the proposal, should be presented.

The importance of feedback

[125] Having solicited the views of stakeholders through a process of consultation, it is essential that they are then kept informed of how their information has been used, and the progress in developing the policy or regulatory proposal in question. A failure to provide feedback can cause resentment and lead to a sense of exclusion from the policy process. Not providing feedback can also affect the flow of information, and make people less willing to help the next time.

[126] Information on how the policy-maker has responded to the consultations can be part of the ‘*results of the consultation*’ section and therefore the RIA can be made available for those who have been consulted as a way of giving feedback.

2.9 Compliance – Enforcement and Sanctions

[127] Obtaining compliance of the proposal is crucial to the successful implementation and effective delivery of the policy proposal. The compliance arrangements will involve enforcement and sanctions. These should be decided and planned for at the policy design stage and not be left to be decided after the policy proposal has been agreed and enacted.

Types of Compliance:

Voluntary Compliance

Three main strategies

- Education
- Persuasion
- Incentives

Reflect the “alternatives to regulation”

Enforced Compliance

The risk involved in non-compliance determines the different enforcement regimes that can be employed.

Enforcement

Key message:

There is little point in bringing in a new regulation if it will not be able to be enforced fairly and consistently.

[128] Poor enforcement leads to uncertainty amongst those affected, encourages disrespect towards government and Parliament and a disrespect of the rule of law. Poor enforcement is a strong disincentive to serious investors, especially serious foreign investors who are unfamiliar with prevailing practices because if they are uncertain about what laws they and their competitors will have to comply with, this substantially raises the risk of their investment.

Costs of enforcement

[129] In this section of the RIA a detailed description should be given as to how the proposal will be enforced and at what cost. Costs of enforcement can include:

- Inspection visits. If the costs of these visits are to be borne by municipalities, consider whether additional funds been made available for this purpose?
- Training for enforcers;
- Administration costs;
- Police time;
- Prosecution costs, including lawyer and court costs.

- [130] It is important to state what level of compliance is expected and how this will be achieved. The level of compliance should also be used in the calculations of costs and benefits set out in the impact analysis section of the RIA.
- [131] It is key to consult with the authorities that will be responsible for enforcing the regulation to test the assumptions that have been made about levels of compliance, and the effort and cost required to enforce.

Key messages:

- An RIA should contain a detailed description of how a policy or regulatory proposal will be enforced and at what cost
- The RIA should also state what level of compliance is expected and this level of compliance should be included in the cost benefit analysis in the impact analysis section.
- When developing the proposal it is essential to consult with authorities who will be responsible for enforcement.
- Sanctions should be compatible with the seriousness of the non compliance.

Sanctions

- [132] Sanctions are the penalties that are applied when people do not comply with the regulation. Determining the appropriate sanction is not always easy. Sanctions need to act as a deterrent to non-compliance, but they must not be so disproportionately severe that they cause people to adopt an overly cautious approach and have the effect of making the regulation more restrictive than was intended.
- [133] Sanctions should be proportionate to the seriousness of the non-compliance and wherever possible, they ought to be compatible with sanctions already in place for lapses of a similar seriousness. Types of sanctions can include:
- I. Fines
 - II. Imprisonment
 - III. Withdrawal of licences/permissions
 - IV. Suspensions
 - V. Cautions

Helpful compliance questions:

- *What will be the process of implementing the options?*
- *Who will be tasked with implementing the option? How will they do this? What are the costs for implementing the option?*
- *What is the level of compliance that is being aimed for?*
- *Who will enforce the option? How much will it cost to enforce? What is the institutional capacity required to conduct the enforcement activity?*
- *Where does the proposed enforcement procedure fit in with other enforcement procedures that are conducted by the same body?*

- *Is there any duplication of effort in enforcement processes?*
- *Are there any unnecessary burdens that could be simplified?*
- *What will be the sanction for not complying? How realistic are the sanctions? Are they for deterrent purposes? Are they for enforcing punishment?*
- *Are there any unintended consequences of the sanctions?*
- *Will there be a 'lead in time' or 'period of grace' before the sanctions will be enforced?*

2.10 Monitoring and Evaluation

- [134] RIAs are in effect a living document and as such all RIAs should describe how, once in place, the proposed measures will be monitored and evaluated, to see how they are working in practice and whether they are achieving the desired result. The review mechanisms, e.g. surveys, should be identified, as well as the frequency with which such reviews will take place.
- [135] Focusing on monitoring and evaluation mechanisms before a regulation is put, in place will strengthen accountability on the part of government for policy outcomes and motivate higher quality decision-making.
- [136] Monitoring and Evaluation gives the opportunity to consult stakeholders on how the implementation of the regulation has gone and whether there have been unintended consequences. It should include consideration of whether the costs and benefits in the original RIA were correct, and the extent to which the regulation did actually solve the problem. Not only does this benefit the particular policy area, but it also allows lessons to be carried through to other areas.
- [137] Often a formal monitoring and evaluation process should be included in the RIA. This will include who is responsible for monitoring and evaluating and when this will take place. Considering how to evaluate can help to determine the monitoring procedures. By knowing what will be the evaluation requirements such what pieces of data and information will be used to evaluate the policy, will assist in knowing how to capture that data and information. This will assist finding the appropriate monitoring processes.
- [138] Sometimes there are already existing monitoring processes that can be used instead of requiring a new process and information obligation to be given to a monitoring body to conduct.
- [139] Even if formal monitoring and evaluation is not considered appropriate, arrangements will need to be made for monitoring and evaluating implementation. This includes monitoring the effectiveness of the proposed enforcement regime, and collecting reliable data on compliance levels. This process and its timing should be recorded in the RIA. An example of a monitoring mechanism which can be used is setting up a “congratulations and complaints” facility to record any ongoing complaints and suggestions from those affected by the proposals.

[140] In setting up a monitoring and evaluation process it is firstly important to recognise *who* will conduct the monitoring and evaluation. For instance will it be the responsibility of a government ministry or agency, or of an independent body. Then it is important to know how often the monitoring will take place and when an evaluation will take place. For instance a ministry may monitor the activity of an industry in response to a new regulation on a quarterly basis through the submission of reports or the collecting of data, and then it may conduct a full evaluation at the end of three years of the introduction of a new regulation. Finally the process should recognise what measures will be used to analyse the monitoring and evaluation for instance will there be customer satisfaction surveys, or statistical analysis of say the number of licenses granted or revoked. These three main components will help shape the monitoring and evaluation process.

Helpful Monitoring and Evaluation questions:

- *Who will conduct the monitoring and evaluation?*
- *Who will be accountable for the success of delivery/implementation?*
- *To whom will they be accountable? When will it happen? How frequently?*
- *What will happen as a result of the monitoring/evaluation?*
- *Can a sunset clause be introduced?*

2.11 Summary and recommendation

[141] The final decision of what course of action will be taken should be clearly stated in the Full or Final RIA. This can also be completed at the Partial RIA stage to help with the consultation exercise. This should be in the form a clear and concise explanation of the impacts of each option and the reason for adopting the proposed course of action. A summary table of the impacts of the options should be used in the RIA. Here is an example of a summary table:

	Option 1 – Do Nothing	Option 2	Option 3	Option 4
Costs				
Benefits				
Distribution of Impacts				
Other Considerations				
Overall Impact				

- [142] A short explanation of the why the proposed action will be implemented should be given based on the information in the summary table as a recommendation. This should then be presented to the relevant decision maker.
- [143] Finally the decision-maker responsible for the proposal should sign the following declaration to complete the Final or Full RIA:

<p>I have read the Regulatory Impact Assessment and I am satisfied that the assessment has been sufficient for the purpose of analysing the issue and proposing the recommended proposal which will have the most positive impact for Palestine.</p> <p>Signed</p> <p>Date</p>

3 RIA template

Regulatory Impact Assessment Template		
Code	Section of RIA	Content of section
1.0	Title of RIA	
1.1	Give the RIA a title that is easily understood and identifiable e.g. if it is accompanying legislation then give the RIA the same name as the name of the legislation.	What is the official name of the proposal? Or legislation? Is it called something different in the media? What title can be used that will be easily understood by the public, specialists and all of government?
2.0	Aim/Objective	<i>TIP – You may wish to do Section 3.0 first and then return here.</i>
2.1	Define the desired outcome of the proposed intervention.	What is the aim of the intervention? If applicable, what are the broad strategic aims? What is the purpose of the intervention?
2.2	If relevant, state any specific results or objectives that the intervention is trying to achieve.	What, if any, objectives are there? Objectives can be SMART i.e. Specific, Measurable, Achievable, Realistic and Time-related. Objectives can follow on from the overall aim.
3.0	Rationale for Intervention	
3.1	Include brief and relevant information about the background for the origination of the proposal.	What is the history to this proposal? What is the context for which this proposal is required? Are there any wider issues to be aware of?
3.2	Give an explanation of what the issue is that is being addressed and the need for the government action.	Why is government intervention required? What is the problem being addressed? What is the magnitude of the problem? Differentiate between the problem and symptoms. Is government intervention necessary?
3.3	State the regulatory environment that this new proposal is being introduced into.	What regulations exist that have a bearing on the problem being addressed? Why is more intervention required? What are the over-laps between the proposed intervention and the impact of existing regulations? Can existing regulations be abolished as a result of the proposed action?
4.0	Possible Options	
4.1	Describe the options being considered including the 'Do Nothing' option as the baseline for comparison.	Have all the possible alternatives been considered? Have self-regulatory or voluntary-regulatory options been considered as well legislative regulatory options?
5.0	Assessing the Options – Impact Analysis	<i>This section will analyse the impact of each option. Below is an indication of some of the questions that should be answered for each option.</i>
5.1	Assess the impacts of the 'Do Nothing' Option.	What will happen if government does not intervene? What are the consequences and impacts and for whom?
5.2	State the groups that will be directly affected by the proposed action in each option.	Have the stakeholders that will be directly impacted on been identified? What is the size of these groups? What is the scale of impact on these groups? Both positive and negative. Will there be any disproportionate impacts on any particular group or any vulnerable group?
5.3	State any indirect consequences in each	What are the wider consequences, positive or

	option.	negative, of the options? Does the option contribute to a cumulative impact on a group? Are there any unintended consequences that stakeholders have identified?
5.4	Examine the potential risks of each option to success and include an explanation of the mitigating measures to address these risks and those risks of any unfair or disproportionate impacts on particular groups.	What are the risks of failure? What contingency plans are there to combat these risks of failure? What are the risks of the proposed action for particular groups, especially vulnerable groups, which could impact on the successful delivery of the proposal? What measures are there to minimize these risks? What are the resource implications of these measures? And if necessary have these resources been agreed?
5.5.	State the organizations such as public bodies that will be affected by the proposals.	Which institutions will be affected? How will they be affected? For instance, will coordination and consultation be required with local/regional government?
5.6	For each option include a cost benefit analysis of the impacts. This should be quantitative but can have some qualitative assessment too.	What are the benefits and costs of each option? <i>(Note: consideration should be given to the economic, social and environmental costs and benefits. Quantitative estimates are preferred to qualitative estimates, and these should be consulted on to verify the impacts.)</i>
6.0	Engaging with stakeholders	
6.1	Include a summary of the consultation process and responses.	Who has been consulted? Who will be consulted? What has been the feedback? (Give a summary of responses) Are there any plans for future consultations? If so what are they?
7.0	Compliance: Implementation, Enforcement and Sanctions	
7.1	Give a detailed explanation of the implementation plans for each option.	What will be the process of implementing the options? Who will be tasked with implementing the option? How will they do this? What are the costs for implementing the option? What is the level of compliance that is being aimed for?
7.2	Explain the enforcement mechanism that will be used for each option.	Who will enforce the option? How much will it cost to enforce? What is the institutional capacity required to conduct the enforcement activity? Where does the proposed enforcement procedure fit in with other enforcement procedures that are conducted by the same body? What other enforcement processes impact upon the same groups that are being impacted upon by the proposed option? Is there any duplication of effort in enforcement processes? Are there any unnecessary burdens that could be simplified?
7.3	Describe the proposed sanctions for each option.	What will be the sanction for not complying? How realistic are the sanctions? Are they for deterrent purposes? Are they for enforcing punishment? Are there any unintended consequences of the sanctions? Will there be a 'lead in time' or 'period of grace'?

		before the sanctions will be enforced?
8.0	Monitoring and Evaluation	
8.1	State the processes for ensuring successful delivery and implementation of the proposed options.	Who will conduct the monitoring and evaluation? Who will be accountable for the success of delivery/implementation? To whom will they be accountable? When will it happen? How frequently? What will happen as a result of the monitoring/evaluation? Can a Sun-setting clause be introduced?
8.2	Give the methodology for measuring the success of the proposed course of action.	Here are some questions that the monitoring process should consider: What were the aims/objectives of the proposed regulation? Is the problem still the same? Is there a new issue? Has the proposed action addressed the issue and met its aim/objectives? Are changes to the regulation required? Has the regulation had any unintended consequences? Has the regulation disproportionately impacted on any group/sector? Has the scope of the regulation been too broad? Or has it been too narrow? Has the enforcement process been effective, efficient and consistent? What does it cost to enforce the regulation? What does it cost to comply with regulation? Do the benefits outweigh the costs?
9.0	Summary and Recommendation	
9.1	Include a table that summarizes the positive and negative impacts of each option.	Answer the following for each option in the Summary Table: What is the option? What are the costs of the option? What are the benefits of the option? Are there any other considerations to note? What is the overall impact of the option?
9.2	Give an explanation of the chosen recommended option based on the summary table and analysis in the RIA.	Why has the recommended option been chosen in comparison to the other options? What were the key determining reasons for this choice?
9.3	The Decision-Maker with responsibility for the proposal must sign the declaration of the RIA.	Has the Decision-Maker seen and read the RIA? Does the Minister agree that they are satisfied with the analysis in the RIA? Does the Minister agree with the recommended course of action?

4 Glossary

‘Alternatives to regulation’: describes the range of options available to a government policy maker or regulator, to achieve an intended change in people’s behaviour or a policy solution, other than by using regulation.

The advantage of considering ‘alternatives to regulation’ when you are looking for a policy solution is that alternative methods can often be less costly, more flexible and sometimes more effective than passing a new law.

An example of an ‘alternative to regulation’ is for government to embark on an information and education campaign for example, so that people learn for themselves the pitfalls of engaging in certain behaviour, and avoid it voluntarily rather than being banned from engaging in that behaviour. Another example is for government to use economic incentives, such as a tax incentive, to encourage certain types of behaviour, e.g. a government which is concerned about road safety might decide to introduce a tax break for cars that are fitted with seat belts to encourage people to use seatbelts, rather than passing a law requiring that all cars are fitted with seat belts and incurring the cost of having to enforce this regulation.

Appraisal: the process of defining objectives, examining options and weighing up the costs benefits, risks and uncertainties of those options before a recommendation is made.

Assessment(s): either an appraisal or an evaluation (or both).

Cabinet Memorandum/Paper: this is a formal proposal for a new policy or law or a change in existing policy or law, that has been submitted by a ministry or regulatory body to Cabinet for approval by collective ministerial decision. By the time such a proposal gets tabled in Cabinet, it will already have been approved by the Cabinet Secretariat and by the Inter-ministerial Technical Committee.

Civil Society: This includes all institutions and individuals in society in particular non-governmental organisations (NGOs), charities and voluntary organisations.

Cost Benefit Analysis: quantifies in monetary terms as many of the costs and benefits of a proposal as feasible, including items for which the market does not provide a satisfactory measure of economic value.

Discounting: a method used to convert future costs or benefits to present values using a discount rate.

Discount rate: the annual percentage rate at which the present value of something is assumed to decrease over time.

Do nothing (maintain status quo) option: a description of what would happen with regard to the problem being addressed, if the Government took no action.

Effectiveness: a measure of the extent to which a project, programme or policy achieves its objectives.

Efficiency: a measure of the least costly or burdensome method for achieving a project, programme or policy objective.

Evaluation: retrospective analysis of a project, programme or policy to assess how successful or otherwise it has been, and what lessons can be learnt for the future. The terms ‘policy

evaluation' and 'post-project evaluation' are often used to describe evaluation in those two areas.

Externality costs or benefits: the non-market impacts of an intervention or activity that are not borne by those who generate them.

Implementation: the activities required during the period after appraisal to put in place a policy, or complete a programme or project once it is approved, at which point 'normal' service is achieved.

Legislation: normally refers to Acts of Parliament, which are also known as Statutes or laws. The word 'legislation' does not normally incorporate a reference to 'regulations' which are formal rules made under the authority of an Act of Parliament, are published in the Gazette and have the force of law. 'Regulations' are sometimes called 'subordinate or subsidiary legislation.' 'Regulations' must be consistent with all the provisions of the Act that authorise their making, in other words, they cannot provide for something which is in conflict with anything provided for in the authorising Act. Neither can regulations provide for something that is outside the scope of the authorisation in the principal Act, otherwise they will be held to be invalid.

Market based instruments: or economic incentives as they are sometimes known, can be used to encourage changes in people's behaviour through an alteration of the relative prices of goods and services, or through the creation of a market where none previously existed.

Taxes, subsidies and user charges are examples of market-based instruments. A tax will raise the cost of a certain activity, while a subsidy will lower it. User charges can be used to increase the cost of certain activities.

Taxes can also be used to create incentives by offering credits or favourable tax write-offs. For example, introducing a high 'excise duty' on every car which is imported into a country and is over 10 years old, will encourage people to buy newer cars which are less likely to pollute the environment, because the price gap between an 10 year old car and a 4 year old car for example, will now be lower with the imposition of the duty. This has had another effect of insurance companies also increasing premiums for those cars that are over 10 years old. Offering a subsidy to schools to supply milk to school children (in order to improve their nutrition), will lower the cost of doing so, and make this a more attractive proposition for schools to take up.

Market failure: an imperfection in the market mechanism that prevents the achievement of economic efficiency.

Net Present Value (NPV): the discounted value of a stream of either future costs or benefits. The term Net Present Value (NPV) is used to describe the difference between the present value of a stream of costs and the present value of a stream of benefits.

Option: A potential solution to a policy problem. See alternatives to regulation.

Option appraisal: see appraisal.

Policy: [statement of intention] usually refers to a high-level well defined government statement or position on a plan for achieving a certain goal or objective, e.g. poverty reduction, gender equality in the economy, private sector development, etc., and normally embraces a rationale behind the statement or position, the goals to be achieved and methods and actions for achieving them, and a monitoring and evaluation framework.

A policy is intended to guide and determine present and future government decisions and actions, and will need formal sanction by Cabinet to become official.

Policy Advocate- representatives from private sector or civil society who lobby government for reform within a sector or on a specific issue. Usually this is done through the production of advocacy papers, research papers or reports.

Present Value: the future value expressed in present terms by means of discounting.

Proposal: an idea for a policy, programme or project that is under appraisal.

Regulatory Impact Assessment: An analysis of the potential impacts for a new government intervention, usually termed 'regulation, through a standardised order and methodological process.

Regulation: widely defined as any government measure or intervention that seeks to change the behaviour of individuals or groups. This includes presidential/ministerial decrees, procedures, guidelines, codes of conducts, etc. However technically in legal terminology it is defined as in 'Legislation' above.

Risk: The scale and likelihood of something happening that will adversely affect the implementation of a policy, programme or project.

Shadow price: An estimate of the value of doing something for which there is no charge or a non-market charge.

Social Benefit: The total increase in the welfare of society from a policy

Social Cost: The total reduction in welfare of society from a policy.

Strategy: a plan of action for achieving a certain goal or objective.

Uncertainty: The degree to which the outcomes of a policy are unknown