



## Office of Deregulation - Guidance Note

# ACCEPTING AND ADOPTING INTERNATIONAL STANDARDS AND RISK ASSESSMENTS - FREQUENTLY ASKED QUESTIONS

**As at 24 April 2015**

### **Why has the Government decided to implement the principle of adopting international standards and risk assessments?**

The adoption of international standards and risk assessments can reduce duplication of regulatory approvals, reduce delays, increase competition and improve business competitiveness in Australia. This supports the Government's overall objective to reduce the regulatory burden on business, community organisations, families and individuals.

One way of reducing regulatory burden is to remove unnecessary duplication of multiple regulatory processes. This includes overseas approvals processes and extra delays that result from imposing Australian-specific requirements when an approved system, service or product already exists in an international market. That is, where an international standard or risk assessment already exists, the Government has decided that this should be adopted unless it can be demonstrated that there is a good reason to maintain a unique Australian standard or risk assessment.

### **What is a trusted international standard or risk assessment?**

The Government is seeking to adopt an approval process or certification for a service, process or product that already exists in an international market that can be trusted by the Australian Government and the community.

Whether an approved process or certification is judged to be trusted will vary from regulatory framework to framework and will be assessed by portfolios in consultation with stakeholders. Factors that could guide this assessment might include, but are not be limited to, whether the overseas regulating authority has:

- A credible and consistent track record in regulating;
- A publicly transparent assessment processes in place and provides full access to reports and the data its regulatory decision is based on;
- A record of actively managing the quality of approvals and risk assessment (such as peer review, independent assessment, auditing of processes and outcomes).

A trusted international standard may also be defined in an international agreement that Australia is a party to. In this case a regulator's only role would be to ensure compliance with the standard and not define or specify a unique Australian standard or additional requirements.

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For example, on 15 September 2014, the Government removed the requirement to modify rear mudguards on new motorcycles to meet unique Australian Design Rules, which imposed a requirement above the commonly accepted international rules. Abolishing this provision means nearly 70,000 new motorcycles per annum are no longer required to be retro-fitted with rear mudguard extensions. This is estimated to reduce regulatory burden by [\\$14.4 million](#).<sup>1</sup>

### **What are the criteria for assessing international standards?**

Criteria should be established by each portfolio. The diversity of factors affecting regulatory areas and differences in international coverage of regulation or international agreements means that it is not feasible or desirable to define centrally mandated criteria. Criteria should be developed that are a best fit for the regulatory frameworks in a portfolio and there could be multiple sets of criteria in a portfolio for different regulatory frameworks if the portfolio saw this as appropriate.

The criteria will form the basis for formation of the judgements by portfolios about international standards and risk assessments and will be used in consultations with stakeholders when making decisions about whether to adopt international standards and risk assessments.

The following are not intended as a direction to portfolios on the criteria required. Rather they are a suggestion to provide a starting point for portfolios to develop their own criteria.

#### *Suggested text to provide a basis for developing criteria.*

Any recommended unique Australian system should not impose additional requirements beyond those already applied under a trusted international regulation, unless it can be demonstrated that there is good reason to do so. The Government is seeking to align regulatory processes as much as possible to eliminate or minimise the regulatory compliance burden, including the costs of unnecessary delay of applicants who have already obtained regulatory approval overseas.

When an approved system, service or product already exist in an international market or an international agreement exists and it meets the Australian policy objectives adequately, the following criteria could form a basis for authorities to assess the potential for Australia to adopt and accept international standards and risk assessments and remove duplicate and/or unnecessary Australian-specific standards and risk assessment processes.

- Does the authority that has approved the system, service or product have:
  - A credible and consistent track record in regulating?
  - Publicly transparent assessment processes in place and provide full access to reports and the data that its regulatory decisions are based on?
  - Actively manage the quality of approvals and risk assessment (such as peer review, independent assessment, auditing of processes and outcomes)?
- In practice, if an adequate international standard or risk assessment exists, it should be adopted unless:

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<sup>1</sup> [http://www.minister.infrastructure.gov.au/jb/releases/2014/September/jb096\\_2014.aspx](http://www.minister.infrastructure.gov.au/jb/releases/2014/September/jb096_2014.aspx)

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- There is objective and independently verifiable evidence of unique Australian conditions that supports Australian-specific requirements (for example, genuine health and safety risks or environmental factors) that are not adequately addressed through the adoption of international standards and risk assessments;
- The adoption of an international standard or risk assessment would conflict with the delivery of transparently-stated Government policy objectives (for example, tobacco plain packaging or local content rules for broadcasting services);
- An assessment that the least-regulatory cost option is already being implemented in Australia, or independent evidence that Australia is already at least-regulatory cost and would continue to remain at the forefront of world-best-practice.
- Wider regulatory costs and benefits of adopting Australian-specific requirements, including the potential costs from fragmentation between Commonwealth regulations and those of the Australian states and territories; or
- Whether a decision by Australia to not undertake regulatory approvals and risk assessments, or adopt/accept international standards or risks assessments could affect its international standing, trading position, existing bilateral agreements, or its ability to negotiate international agreements.

### **What if the principle does not apply to our regulations?**

Undertaking the Government's agreed process will determine this and there is no option to do nothing based on a judgement by a portfolio. ***The Government's policy requires that a process be gone through to establish the application of international standards in an objective and transparent manner.*** Therefore, criteria still need to be established and assessment against the criteria made. This assessment should include stakeholder consultations.

### **How is the policy to be applied?**

This will vary from portfolio to portfolio and even within portfolios. The application of the policy needs to be assessed on a case-by-case basis. While international standards could include international agreements, portfolios should also examine the processes around local regulatory approvals and question whether duplication in approvals can be removed, for example by recognising the licensing of a piece of equipment or process by a reputable overseas regulatory agency.

Where it is judged that a separate Australian approvals process still needs to occur, it could be possible to better align those processes with overseas best practice. This could allow parts of the approval process to occur automatically, leading to focus on the part that matters for Australia, reducing the application costs and delays for proponents.

### **What if Australia is considered a world leader in a particular area of standards?**

This will need to be evaluated by the Government's agreed process. Criteria still need to be established and assessment against the criteria made. This assessment should include stakeholder

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consultations. We would expect if Australia is a world leader or best practice, then evidence of this and the costs involved in moving to a different system would be provided to decision makers when the regulatory framework or system is reviewed.

### **What if a decision is made to adopt international standards and risk assessments?**

Any proposed change to regulation will require the usual policy approval processes, including assessment through a Regulation Impact Statement if required.

### **What if there are two or more international standards and risk assessment systems that could be adopted, but they conflict?**

This is a matter for portfolios to assess as part of the process they go through. In order to guide portfolios and stakeholders in forming these assessments, the Government has asked that portfolios develop clear and transparent *criteria* for which the adoption or acceptance of international standards and risk assessments would be judged. In assessing which standard or standards to adopt, portfolios should make the reasons for their assessment clear and articulate any costs and benefits underlying the choice of standards.