



Coverage

Regulators play an important role managing risk and protecting our economic, social and environmental interests. However, the way regulators operate can impose unnecessary burden on those they regulate. Consequently, improving the way regulators administer regulation can reduce unnecessary compliance costs.

Improving regulator performance is a key pillar of the Government's deregulation agenda. It complements Regulatory Impact Analysis requirements focused on ensuring decisions about creating new or changing existing regulation are informed by robust policy and cost-benefit analysis. It also works alongside the Government's \$1 billion red tape reduction target to encourage policy agencies and regulators to think about the regulatory costs they impose and the way regulations are administered.

Who is subject to the Framework?

The Framework applies to those Commonwealth entities and functions that have statutory responsibility to administer, monitor, or enforce regulation by undertaking some or all of the following activities outlined in Box 1.

BOX 1 – ACTIVITIES OF A REGULATOR

- > licensing and/or approvals processes, including registration/accreditation, that control entry to or participation in a market;
- > monitoring and compliance activities, including imposing and collecting fees;
- > enforcement actions for non-compliance and complaints resolution; and
- > providing advice and guidance regarding compliance with regulation, including education around compliance.

These responsibilities were identified by the Productivity Commission as the primary activities undertaken by regulators.

An entity or function that merely provides advice or guidance about a Commonwealth programme or activity will not necessarily be subject to the Framework. For the Framework to apply, an entity or function would need to provide advice or guidance in conjunction with at least one of the other primary activities of a regulator. However, care will need to be taken to consider how a function

that appears to only provide advice and guidance fits into the broader structure of an entity. If the advice and guidance function directly supports one or more of the remaining activities of a regulator, the Framework will apply.

Who is not subject to the Framework?

The Framework *will not* apply to the entities and functions outlined in Box 2.

BOX 2 – ENTITIES AND FUNCTIONS NOT SUBJECT TO THE FRAMEWORK

- > regulatory bodies jointly owned with other governments. This includes bodies that are established under national schemes where Constitutional powers rest with the States and Territories, such as bodies established under Council of Australian Government agreement;
- > entities that only set regulatory policy or standards/codes of practice;
- > functions that create regulatory burden through activities relating to procurement, grants and the administration of benefits and entitlements, including programme eligibility and integrity;
- > entities that are not 'outwards facing' and do not interact with business or the community, and merely regulate internal government processes;
- > courts or administrative tribunals; and
- > law enforcement agencies as defined by the *Crimes Act 1914* , such as the Australian Federal Police.

How do I determine whether a regulator is subject to the Framework?

Portfolio deregulation units will need to determine the entities and functions in their portfolio that are covered by the Framework. In most cases it will be clear that an entity or function is, or is not, covered. However, there may be some entities or functions where this is not the case. For example, the Framework may only apply to some functions of a large agency rather than to the agency as a whole. In these instances, the Framework will apply to those functions that undertake some or all of the activities of regulators outlined in Box 1.

The following flowchart sets out criteria and a process to assist Deregulation Units to determine whether an entity or function is subject to the Framework.

FLOWCHART 1 – CRITERIA AND PROCESS FOR DETERMINING WHETHER AN ENTITY OR FUNCTION IS SUBJECT TO THE REGULATOR PERFORMANCE FRAMEWORK

