

Australian Government

Department of Finance

Best Practice Handbook on Standards and Conformance Policy

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Purpose

As part of the revitalised National Competition Policy (NCP), Commonwealth, state and territory treasurers have agreed to support work to "create a single national market for goods", which includes focusing on improving how standards are recognised and adopted in legislation. The Competition Reform Guidelines, which sits under the NCP Intergovernmental Agreement (IGA) and Federation Funding Agreement (FFA), outlines how governments can meet the key performance requirements and milestones under this policy reform.

This Best Practice Handbook is intended to support the implementation of the Competition Reform Guidelines at the Commonwealth level, as well as the Australian Government's Regulatory Policy, Practice & Performance Framework. It will assist Commonwealth policymakers and regulators[1] to determine if, when and how they adopt existing standards[2], risk assessments and conformity assessment procedures. As noted in the Competition Reform Guidelines, state and territory policymakers are encouraged to apply the Best Practice Handbook in their own jurisdictions.

If mandatory standards are appropriate to meet the regulatory objective, then policymakers should use International Standards, where one exists, unless demonstrably unsuitable for the Australian context. Similarly, policymakers should recognise regional, Australian or overseas standards, alongside the International Standard, where appropriate. Adopting a new mandatory standard that recognises multiple existing standards will help lower barriers to trade, reduce regulatory burden for businesses, and expand consumer choice. Where other standards are adopted alongside the International Standard, policymakers should work with Standards Australia to continue promoting the primacy of the international standard-setting architecture, including encouraging other national standard-setting bodies to fully adopt the International Standards and minimise deviations.

The Handbook has been designed to be adaptable, noting the diversity in risk postures, available legislative levers and scope of regulators across government. To improve the harmonisation and consistency of mandatory standards across government, this Handbook introduces several best practice interventions that policymakers should consider when developing standards and conformance policy. This guide should be read alongside:

- Standards Australia's Standardisation Guide 009: Preparation of Standards for legislative adoption[3], which outlines key considerations to assist technical committees in drafting and developing Australian Standards.
- The Organisation for Economic Co-operation and Development's (OECD) guidance on Reinforcing Regulatory Frameworks through Standards, Measurements and Assurance[4], which supports policymakers to better utilise existing standards and conformance infrastructure to design more effective regulation.
- The Department of Finance's Regulatory Policy, Practice & Performance Framework[5], which provides Commonwealth regulators and policymakers with six

[1] This document refers to "policymakers" as including departments, agencies, and regulators.
[2] The Handbook focuses specifically on standards referenced in regulation (i.e. mandatory standards). The process of developing voluntary standards, such as those made by standard-setting bodies, is out-of-scope for this guidance.
[3] Standards Australia, Standardisation Guide 009: Preparation of Standards for Legislative Adoption, 2023.
[4] OECD, Reinforcing Regulatory Frameworks through Standards, Measurements and Assurance, 2025.
[5] Department of Finance, Regulatory Policy, Practice and Performance Framework, 2024.

principles to drive fit-for-purpose regulation and regulatory systems for Australia and its people now and into the future.

- The Australian Government Guide to Policy Impact Analysis[6], which ensures advice to government is accompanied by robust analysis, data and an accurate overview of the effects of proposed policies on the community.
- The World Trade Organisation's Agreement on Technical Barriers to Trade (WTO TBT Agreement)[7], which aims to ensure that technical regulations, standards, conformity assessment procedures for goods do not create unnecessary obstacles to trade. All WTO Members, including Australia, are required to uphold the principles and obligations of the Agreement.
- The WTO TBT Committee's Guidelines on Conformity Assessment Procedures[8], which provides non-prescriptive practical guidance to support regulators in the choice and design of appropriate and proportionate conformity assessment procedures.

For more information on regulatory best practice and supporting resources, contact RPPPFramework@finance.gov.au.

Introduction

Importance of adopting international and overseas standards

Australia is a relatively small market, representing less than 2 per cent of the global economy. Our heavy reliance on trade makes the harmonised adoption of international, regional and/or overseas standards vital to our economic performance.

International Standards enable businesses to leverage economies of scale and scope in production or supply, minimise transaction costs (e.g. avoiding suppliers having to undertake multiple tests) and improve consumer welfare. Harmonisation of mandatory standards – domestically and internationally – positions Australia as one market with one set of rules within the global economy. It can enhance Australia's attractiveness for trade by reducing regulatory burden, adaptation costs, and time to market for businesses. This can increase local competition and product choice, quality and safety for consumers. Australian producers further benefit from harmonisation as they can provide goods and services using the same standards for local and foreign markets – potentially increasing their international competitiveness by improving access to key export markets.

Australia has obligations around the development, use, and adoption of standards in regulation for goods under the WTO TBT Agreement. Under this Agreement, Australia is obligated to use International Standards as a base for technical regulations and conformity assessment procedures for goods wherever possible. Similarly, Australia has obligations under trade instruments like the Trans-Tasman Mutual Recognition Arrangement (TTMRA), which is an arrangement between the Commonwealth, state and territory governments of

[6] Department of the Prime Minister and Cabinet, Australian Government Guide to Policy Impact Analysis, 2023.
[7] World Trade Organisation, Agreement on Technical Barriers to Trade, 1995.
[8] World Trade Organisation, Guidelines on Conformity Assessment Procedures, 2024.

Australia and the Government of New Zealand.[9] Under the TTMRA, goods produced or imported into New Zealand may be legally sold in Australia, and vice versa, subject to exceptions.

Australia's standards and conformance architecture

The four members of the Australian Technical Infrastructure Alliance (ATIA) are responsible for maintaining and enhancing Australia's standards and conformance architecture. ATIA members work collaboratively to improve the performance of our national quality infrastructure to drive productivity, innovation and economic growth.

- **Standards Australia** is the peak non-government standards body responsible for developing voluntary standards in Australia and facilitating Australia's participation in International Standards development within the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC) frameworks**.** This process involves extensive community, industry and government consultation and includes consideration of the relevant international and overseas standards for adoption.[10]
- **The Joint Accreditation System of Australia & New Zealand (JASANZ)** accredits certification, inspection, validation and verification bodies to conduct conformity assessments certifying that a product, service, people or management system conforms to a particular standard, as well as validating or verifying claims.
- **The National Association of Testing Authorities (NATA)** accredits conformity assessment bodies focusing on calibration and testing laboratories, inspection bodies, reference material producers, proficiency testing scheme providers and biobanks.
- **The National Measurement Institute (NMI)** is part of the Commonwealth Government and governs the national measurement system and metrology, which conformity assessments, reference standards and other materials rely on.

ATIA Coordination

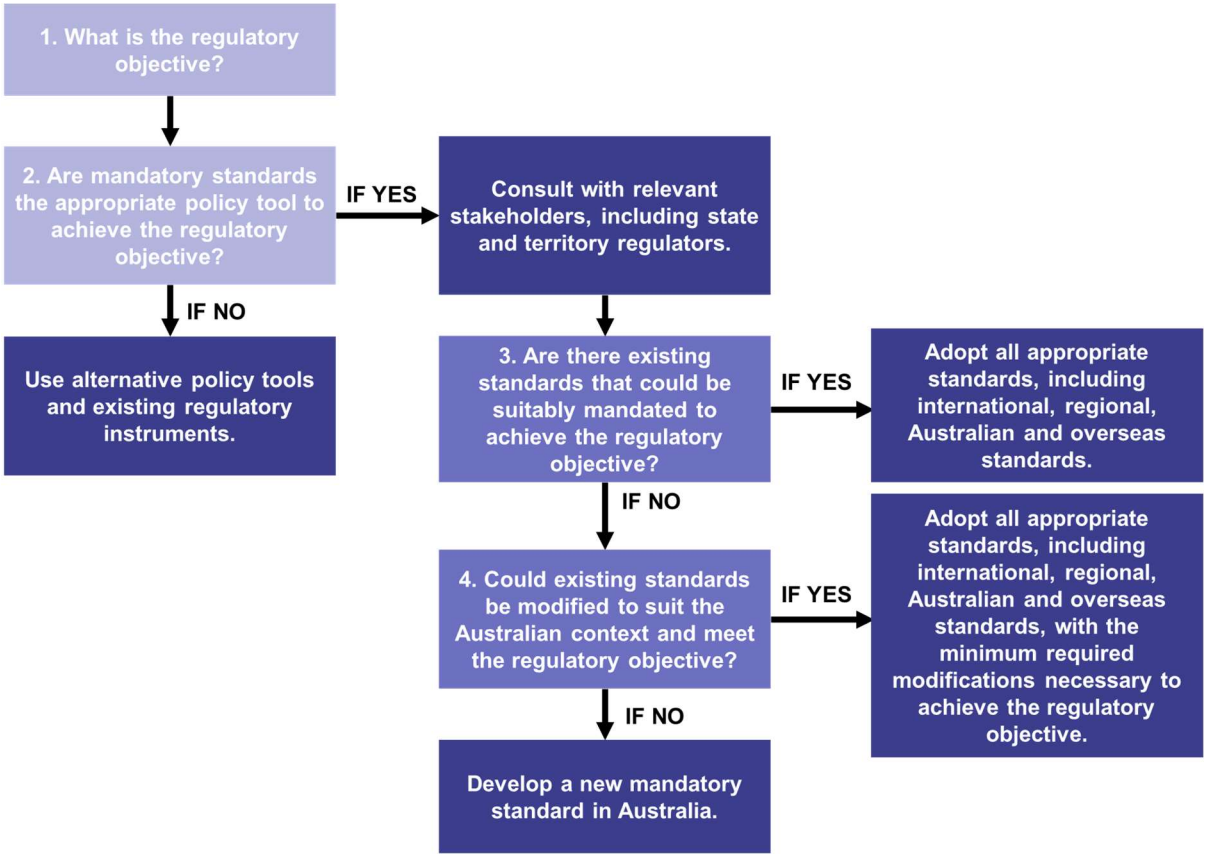
Early and ongoing consultation and coordination with ATIA members is essential to achieve regulatory objectives and ensure they are well-supported by the appropriate standards and conformance capability (see Question 2 for more information). Each ATIA member has a specific skillset, and there are rarely situations that would only require involvement of one member. Where there are issues regarding a lack of national technical capabilities, ATIA members may utilise international arrangements to establish confidence in and recognition of standards and conformance bodies and products, including International Standards, overseas metrology institutes recognised by the International Bureau of Weights and Measures, or overseas accreditation bodies who are signatories to the Global Accreditation Cooperation Mutual Recognition Agreement.

[9] New Zealand Ministry of Business, Innovation and Employment, A Users Guide to the Mutual Recognition Agreement (MRA) and the Trans-Tasman Mutual Recognition Agreement (TTMRA), 2014.
[10] See Appendix A: Glossary for the definitions of key principles and technical terms used throughout the document.

Regulatory design principles and questions for standards adoption and development

This Guide outlines regulatory design principles and questions that policymakers should consider when developing standards and conformance policy.[11] These principles should support policymakers to determine whether mandatory standards should be used, and if so, how they should be implemented. A more detailed explanation of the decision tree is available in Appendix B.

Decision tree for policymakers on standards adoption and development



Question 1. What is the regulatory objective?

Principle: Policymakers should state their regulatory objective/s and explain how this contributes to the government's desired outcomes for the community.

Policymakers should clearly state their regulatory objective/s before identifying and developing policy options.[12] Policymakers should clearly identify the market failure and/or unacceptable hazard or risk that they are trying to address through government intervention and link this issue to their regulatory objective. Policymakers may have to balance multiple

[11] Policymakers should consider these regulatory design principles alongside the seven Impact Analysis (IA) questions whenever new polices are being developed. The Australian Government Guide to Policy Impact Analysis provides a useful framework that policymakers should use, regardless of whether a detailed IA is required.
[12] Department of the Prime Minister and Cabinet, Australian Government Guide to Policy Impact Analysis, 2023.

regulatory objectives to achieve the government's policy objectives for the community. The regulatory objective/s should be specific, measurable, accountable, realistic, and timely.

Question 2. Are mandatory standards the appropriate policy tool to achieve the regulatory objective?

Principle: Policymakers should be empowered to use policy tools that most appropriately target the regulatory objective/s, while minimising the regulatory burden on individuals, businesses and community organisations.

Mandatory standards should be used when (a) the benefits to the community outweigh the costs and (b) other policy tools are less effective or inappropriate to achieve the regulatory objective/s.

Regulation, including mandatory standards, should not be the default solution for policymakers. In the first instance, policymakers should be empowered to consider the complete range of policy levers available, including both regulatory and non-regulatory approaches, to achieve their stated regulatory objective/s. These can involve some combination of *ex ante* regulation (e.g. voluntary self-regulation, co-regulation with industry, or mandatory code of conduct) and/or *ex post* regulation (e.g. tort liability, fines or penalties).

The net benefits of different policy options should be explored by policymakers before commencing the standards adoption or development process.[13] After accounting for the range of costs and benefits associated with each policy option, policymakers should recommend the policy instrument offering the greatest net benefit to the community that can be implemented. Policymakers should support the policy approach that maximises the public benefit, while minimising the regulatory burden for individuals, businesses, and community organisations.

If mandatory standards are identified as the most appropriate policy tool, then policymakers should consult with relevant stakeholders – including state and territory regulators – to help inform the standards development and adoption process. Policymakers should also notify Standards Australia when mandatory standards are introduced or updated to enable them to maintain an accurate and current register of mandatory standards.

If mandatory standards are appropriate, policymakers should consult with relevant stakeholders, including state and territory regulators, to inform the standards development and adoption process.

If mandatory standards are not warranted, policymakers should consider alternative policy tools and existing regulatory instruments.

[13] Public health and safety, social and community impact, environmental impact, competition and economic impact, consumer protection, geopolitical dynamics, and national security should be analysed in the assessment of the net benefit. This analysis may be required as part of any detailed IA process (see Appendix C and The Australian Government Guide to Policy Impact Analysis for more information). Regardless of whether a detailed IA is required, policymakers should develop an evidence base commensurate to the impacts of the decision.

Question 3. Are there existing standards that could be suitably mandated to achieve the regulatory objective?

Principle: Policymakers should be empowered to recognise multiple standards – including international, regional, Australian or overseas standards – where they are suitable and aligned with the desired outcomes for the community.

Where appropriate and aligned with the regulatory objective, policymakers should consider implementing a new mandatory standard that recognises multiple existing standards. Providing several pathways aligned with widely used standards may reduce barriers to trade, improve market access for businesses, and expand consumer choice (see the Bicycle Helmets case study below).

International Standards should be prioritised for adoption unless policymakers can demonstrate with clear evidence that the standard is unsuitable for the Australian context and/or does not align with the regulatory objective. Australian, regional and overseas standards should also be adopted, where suitable for local conditions.

Where standards are proposed to be adopted or revised in legislation, policymakers should undertake appropriate analysis and stakeholder consultation, set a suitable transition period, and consider whether the legislation should recognise future updates to the standard (see the Policy Toolkit for more information).

Policymakers should adopt the International Standard, unless they can demonstrate that the standard is unsuitable for the Australian context and/or does not align with the regulatory objective. Similarly, regional, Australian or overseas standards should be adopted alongside the International Standard, where appropriate, to provide multiple pathways to compliance.

Question 4: Could existing standards be modified to suit the Australian context and meet the regulatory objective?

Principle: Policymakers should be able to deviate from existing standards, including International Standards, where they do not meet local community needs. However, policymakers should only deviate if the benefit to the community outweighs the cost of deviating from existing standards (i.e. net public benefit).[14] The deviation should ensure suitability for the Australian context and align with the government's regulatory objective.

Existing standards should be adopted by policymakers, unless there is clear evidence the applicable standard is not suitable for the Australian context. Policymakers should consider whether and how the Australian experience diverges from other countries and the International Standard. Factors could include differences in the environment, climate or geography, issues related to national security, and potential economic benefits to competition, productivity and innovation. There may be circumstances where there is some divergence in the Australian experience, but the net costs to Australian consumers and businesses are outweighed by the benefits of fully adopting international, regional, Australian or overseas standards. In these situations, policymakers should fully adopt existing standards where appropriate to meet the regulatory objective.

If policymakers need to adjust existing standards for Australian conditions, any deviation should involve the minimum amount of modification required to meet the regulatory objective and ensure suitability. The benefit of diverging from existing standards should be explored and quantified by policymakers to help inform government decision-making. Where the cost of deviating from existing standards outweighs the benefit to the community, policymakers should fully adopt the existing standard without deviation.

Policymakers may deem a new mandatory standard is necessary when existing standards are unsuitable and cannot be appropriately modified to meet the policy objectives. If appropriate, policymakers should consider working with Standards Australia to develop a new Australian Standard to serve as a foundation for future international standardisation. However, referencing existing voluntary standards in regulation should be prioritised over developing new mandatory standards, where appropriate.

If yes, policymakers should mandate the standard with the minimum required modifications necessary to achieve their regulatory objective.

If no, policymakers should develop a new mandatory standard in Australia. Policymakers should note that new mandatory standards should only be developed when existing standards are unsuitable for the Australian context and/or does not align with the regulatory objective.

[14] For further guidance on assessing net benefit, including the impacts of fully adopting versus deviating from the International Standard, please refer to Appendix C and The Australian Government Guide to Policy Impact Analysis.

Policy Toolkit

Once policymakers have determined that mandatory standards are necessary to achieve the policy objective (Question 2), there are several key design features that policymakers should consider when developing, drafting and implementing mandatory standards. The Toolkit includes further guidance on how policymakers should approach and utilise risk assessments and conformity assessment procedures in the policymaking process.

	Policy Toolkit
☐	Tool 1: Suitability for the Australian context
☐	Tool 2: Incorporating overseas risk assessments in decision-making
☐	Tool 3: Trade restrictiveness of regulation
☐	Tool 4: Sources of referenced standards
☐	Tool 5: Consistent referencing to standards
☐	Tool 6: Sunsetting clause and regular review
☐	Tool 7: Ambulatory referencing and transition periods
☐	Tool 8: Performance-based criteria
☐	Tool 9: Accessibility and affordability of mandatory standards
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Tool 1: Suitability for the Australian context

What	Why
▶ Policymakers must assess whether relevant risk assessments, standards, or conformity assessment procedures are appropriate for use in Australia.	▶ Significant differences between Australia and other countries may preclude international practices from being used in local regulations. Policymakers should evaluate these differences when deciding whether to adopt existing risk assessments, standards or conformity assessment procedures in Australia.

How

- ▶ Policymakers should consider several key factors to determine whether existing risk assessment, standard or conformity assessment procedures are suitable for adoption in the Australian context. This includes:
  - ▷ Environmental, climatic or geographic conditions;
  - ▷ Issues related to national security;
  - ▷ Potential economic benefits to competition, productivity and innovation;
  - ▷ Importing country requirements to support bilateral trade and consumer choice;
  - ▷ Cultural and community expectations;
  - ▷ Level of maturity, readiness and usage of existing risk assessment, standard or conformity assessment procedures;
  - ▷ Size and value of the overseas market where the risk assessment, standard or conformity assessment procedure was developed;
  - ▷ Consistency with Australia's other international obligations, including bilateral and multilateral trade agreements; and
  - ▷ Alignment with the government's broader policy and trade agenda.
- ▶ When considering suitability, regulators should evaluate both the object for adoption and the competency and reliability of the responsible organisation (e.g. Standards Development Organisations).
- ▶ An assessment of suitability requires extensive consultation on whether the risk assessment, standard or conformity assessment procedure:
  - ▷ Can be applied
  - ▷ Is or will be widely accepted amongst industry stakeholders
  - ▷ Can be harmonised amongst State and Territory governments
  - ▷ Does not create a barrier to trade or an impediment to other international agreements or treaties that Australia is a signatory to, such as the WTO TBT Agreement.

- ▶ Policymakers should give consideration to Australian Standards developed by Standards Australia. The Australian Government has signed a Memorandum of Understanding with Standards Australia, requiring them to base Australian standards on International Standards to the maximum extent feasible and apply the requirements of the WTO TBT Agreement as a benchmark. An open and transparent process of consensus involving key stakeholder groups and the Australian community is undertaken whenever Australian standards are being developed that deviate from International Standards.
- ▶ Engaging with international, regional or overseas Standards Development Organisations or regulators allows the Australian regulator to determine the credibility of the overseas body, quality of regulatory processes and products, organisational capacity, technical competency and compatibility with Australian legislative and policy objectives. It also facilitates the establishment of formal frameworks for cooperation and information sharing, assisting the understanding and adoption of risk assessments, standards and conformity assessments procedures and results.

Tool 2: Incorporating overseas risk assessments in decision-making

What	Why
▶ Where there are no Australian risk assessments to reference, comparable overseas risk assessments should be used to inform policy decision-making where they are relevant, suitable, recent and rigorous.	▶ Public health, safety and consumer confidence can be maintained through the involvement and review of comparable risk assessments produced overseas. Although upfront costs are involved in incorporating overseas risk assessments, this could deliver time and cost savings for policymakers.

How

- ▶ Risk assessments are used by policymakers to (a) determine the likelihood of risk and severity of consequences with allowing certain products, processes or services to be sold in Australia and (b) inform decision-makers as to whether regulatory action is required, including whether mandatory standards are needed.
- ▶ There are several approaches for using overseas best practice risk assessments. One approach involves introducing an expedited pathway to market for applicants who can provide a recent, unredacted risk assessment from a comparable source to help inform decision-making. Another approach is establishing or expanding international work-sharing arrangements with comparable overseas regulators and/or government agencies through formal arrangements (e.g. MOUs) or informal consultation.
- ▶ Policymakers should consider several issues before offering an expedited pathway for comparable overseas risk assessments. Applicants should submit all original data, including any context-specific data relevant for Australia. The data should be recent and unredacted to support transparency. Regulators should scrutinise assumptions or claims made in the risk assessment and assess the suitability of the risk assessment for use in Australian conditions before adoption. Pathways should rely on the establishment of a list of comparable sources, including international risk assessment bodies.
- ▶ Similarly, if establishing and/or expanding international work-sharing arrangements with comparable overseas regulators for risk assessment, regulators should also address any concerns around transparency and suitability for Australian conditions.
- ▶ Regulators should set preliminary criteria to identify potentially comparable sources of risk assessments. For example, criteria could include:
  - ▷ If the source is a multilateral agency, there has been critical engagement from many countries, preferably including Australian regulators, during the development of the risk assessments or methodologies;
  - ▷ If the source is a single country agency, the population demographic being regulated is broadly representative of the Australian population and the source agency has achieved similar outcomes to the regulatory objective in Australia;
  - ▷ The source follows international best practice for risk assessment (e.g. the Codex Alimentarius Commission and relevant joint FAO/WHO expert committees for food safety);
  - ▷ The source agency has a record of actively managing the quality of approvals and risk assessments (e.g. peer review, independent assessment, auditing of processes and outcomes);
  - ▷ The source agency has similar regulatory objectives and conducts similar pre- and post-market regulatory activities to your agency;
  - ▷ The source agency routinely provides their assessment reports in English, which are available to the applicant; and
  - ▷ A formal and robust framework for cooperation can be established with the agency.

More information

- ▶ Both the Therapeutic Goods Administration (TGA) and Australian Pesticides and Veterinary Medicines Authority (APVMA) have expedited pathways based upon overseas risk assessments from comparable regulators.
- ▶ APVMA engages in Global Joint Reviews of agricultural pesticides. This is a concurrent evaluation undertaken through a globally coordinated system of evaluations, peer reviews and report sharing. These reports are shared and used as the basis for each country's own risk assessment and decision-making. APVMA also collaborates with their Canadian and New Zealand counterparts on regulatory assessments of veterinary medicines.
- ▶ The TGA's framework utilises reliance and recognition of comparable overseas regulatory approvals – including assessments completed by authorities such as the US FDA, Health Canada, and EU Notified Bodies – to balance international alignment with domestic safety. This model of regulatory agility helps to accelerate access to safe and effective medical devices and medicines.
- ▶ FSANZ, in collaboration with Finance, undertook a stocktake of food safety standards. The review found changes to various food standards currently go through the same process, regardless of risk, incurring costs and time for low-risk changes. The recommended solution was to provide easier pathways for lower risk changes to be implemented, including the adoption of International Standards and expedited use of risk assessments. Businesses are estimated to save up to 16% over five years.

Tool 3: Trade restrictiveness of regulation

What	Why
▶ Regulation should be designed to support trade to the largest extent possible while achieving the regulatory objective (i.e. regulation should minimise trade restrictiveness).	▶ Overly trade restrictive measures unnecessarily increase transaction costs, disincentivise businesses to enter the Australian market, and reduce consumer choice. In addition, regulations pertaining to goods that are more trade restrictive than necessary may contravene WTO TBT obligations as well as the WTO Agreement on Sanitary and Phytosanitary (SPS) Measures.

How

- ▶ Regulation should be as minimally burdensome as possible and regulators should require the most effective and, where possible, simplest solutions to achieve the policy objectives.
- ▶ When assessing the regulation's potential trade impact, policymakers should consider the regulatory objective/s (e.g. harm reduction or market access), potential consequences of no control, and what alternate options might be available. Regular reviews should help identify if less trade-restrictive approaches are feasible.
- ▶ There are several legitimate regulatory objectives. For example, the WTO TBT Agreement, which sets out obligations for technical regulations and conformity assessment procedures applied to goods, recognises the following as legitimate objectives[15]:
  - ▷ national security requirements;
  - ▷ the prevention of deceptive practices; and
  - ▷ protection of human health or safety, animal or plant life or health, or the environment.
- ▶ While the WTO TBT Agreement is focused on goods, these objectives are broadly applicable.
- ▶ When policymakers determine that mandatory standards are necessary, regulations should reference existing standards (including international, regional, Australian and/or overseas standards), where they exist and are deemed appropriate to meet the policy objective.
- ▶ Regulations which use International Standards are generally (rebuttably) presumed not to create an unnecessary obstacle to international trade. However, there may be cases where there is no relevant International Standard or an existing International Standard may be deemed not suitable.
- ▶ Protection of local industry is not a legitimate reason to deviate from International Standards. Broadly, Australia has obligations not to introduce regulations which are discriminatory or intended to favour domestic products.
  - ▷ For example, in Australia identical adoption of International Standards may not be appropriate because of specific voltage requirements or ensuring goods can handle Australian heat. In these cases, a modified version of the International Standard may be used, or a completely different standard.
- ▶ Standards, conformity assessment procedures and technical regulations should not simply be trade barriers in disguise.[16] Local manufacturers and industry bodies may influence the development of a national standard, overseas standard, private standard or risk assessment (through consultation) that differs significantly from the International Standard to protect themselves from competition with imported products.
- ▶ Deviating from International Standards can raise trade barriers, as using other standards (even modified International Standards) may impose additional Australian testing costs for suppliers and importers, especially when businesses intend to enter multiple markets. Modified International Standards should be assessed to determine whether they are more trade restrictive than necessary to achieve legitimate objectives. Where Australian-specific standards are necessary, recognising regional or overseas conformity assessments results could help the reduce transaction costs.

[15] World Trade Organisation, Agreement on Technical Barriers to Trade – Article 2.2, 1995.
[16] International Organisation for Standardisation, Good Standardisation Practices, 2019, p 44.

Tool 4: Sources of referenced standards

What	Why
▶ There are many different standards in use throughout the world, however not all are appropriate for the Australian regulatory context. Policymakers and regulators should preference options in line with government policy and international obligations.	▶ This approach best balances local conditions, trade restrictiveness and international obligations.

How

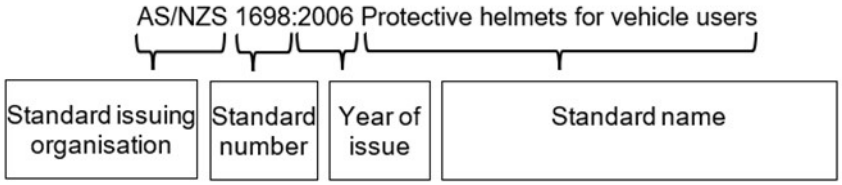
- ▶ International Standards should be preferred for referencing in regulation, unless unavailable or unsuitable.
- ▶ Policymakers should also consider other suitable options including:
  - ▷ Regional standards
  - ▷ Australian standards
  - ▷ Overseas standards
  - ▷ Private standards
- ▶ Policymakers should recognise all existing standards that are suitable and appropriate to achieve the regulatory objective. Adopting multiple existing standards can reduce compliance burdens for businesses and improve product choice, quality and safety for consumers.
- ▶ A new Australian mandatory standard should only be developed after policymakers have identified there are no suitable existing standards to reference. Even after the new mandatory standard is developed, references to international and overseas standards should be considered.
- ▶ In this situation, consideration should be given to (a) developing an Australian Standard to serve as a foundation for future international standardisation or (b) exploring opportunities to lead development on an International Standard or amendments to the existing International Standard to be suitable for Australian conditions.

More

- ▶ Standards Australia's policy on International Standards[17]:
  - ▷ The policy of Standards Australia and its accredited Standards Development Organisations is to base Australian Standards on International Standards to the maximum extent feasible, with the WTO TBT principles as a benchmark. Local variations between Australian Standards and International Standards are permissible only when there is 'a demonstrable and unacceptable level of risk to human health and safety'.[18] Even then, the variation is justifiable only to the extent that it brings 'the level of risk down to an acceptable level'.
- ▶ Technical officers should liaise with standards and conformance bodies early in the policymaking process.
- ▶ For support with choosing standards, technical officers should liaise with Standards Australia or the Department of Industry, Science and Resources Standards & Conformance Strategy Section: StandardsConformance@industry.gov.au.
  - ▷ Standards Australia forms Technical Committees to consider proposals to develop, adopt or amend a standard. The Technical Committee will consider whether to adopt the relevant International Standard as the Australian standard, modify the International Standard to make the Australian standard, or make a new standard entirely (potentially informed by other pre-existing standards from other sources). Members of Technical Committees are technical experts in the relevant field, including industry representatives.
  - ▷ Regulators are encouraged to participate in the Technical Committees relevant to their work, especially where regulators may wish to reference the resultant standard in Australian regulation. At a minimum, regulators are encouraged to engage with consultation on the draft standard. Regulators may consider directly referencing the International Standard in regulation where there have been substantial modifications in the Australian Standard adopting that International Standard.

[17] Standards Australia, Standardisation Guide 007: Adoption of International Standards, 2023.
[18] Standards Australia, Standardisation Guide 007: Adoption of International Standards, 2023, p 5.

Tool 5: Consistent referencing to standards

What	Why
▶ When referencing standards in legislation, policymakers must use the correct nomenclature.	▶ Incorrect or inconsistent references create several problems. For example, this can interfere with optical character recognition, impeding document processing and complicating the ability to track standards in legislation. It also increases the complexity and costs for businesses to understand their compliance obligations.
How	
▶ Policymakers should ensure the enabling legislation for mandatory standards provides for international, regional or overseas standards to be referenced in regulations. ▶ The general nomenclature of a standard:  	▶ Refer to the relevant standards-issuing body like the ISO, IEC or Standards Australia for how they reference their own standard. ▶ Pay attention to the use of various symbols like full stops (.) colons (:) hyphens (-) en dashes (–) or em dashes (—) and the location of spacing. ▶ Australian New Zealand Standards use full stops (.) to reference a section within a standard (AS/NZS 1080.1) while a colon (:) is used to identify the date version of that standard (AS/NZS 1080.1:2012). However, some old standards use hyphens (-) instead of colons (:) to delineate dates (AS 2796.1-1999). ▶ When an International Standard (e.g. ISO 55001) is directly adopted by Standards Australia, the AS designator is simply added to the front (e.g. AS ISO 55001:2024).
More information	
▶ For more on how Standards Australia references standards in their documents, refer to Standardisation Guide 006 on the Rules for the Structure and Drafting of Australian Standards.[19]	▶ For support with referencing standards, technical officers should liaise with Standards Australia or the Department of Industry, Science and Resources Standards & Conformance Strategy Section: StandardsConformance@industry.gov.au. ▶ Policymakers should notify Standards Australia when mandatory standards are introduced or updated. This will support consistent referencing and enable Standards Australia to maintain an accurate and current register of mandatory standards.

[19] Standards Australia, Standardisation Guide 006: Rules for the Structure and Drafting of Australian Standards, 2023.

Tool 6: Sunsetting clause and regular review

What	Why
▶ Mandatory standards should be regularly scrutinised and reviewed to ensure they remain suitable for achieving regulatory objectives.	▶ Regular review is particularly important to ensure regulation continues to be the least trade-restrictive measure, while supporting technological innovation and advancement.[20]

How

- ▶ The intent of scrutiny and review should be carried through from the Legislation Act 2003 to mandatory standards.
- ▶ Subsection 50(1) of the Act provides that a legislative instrument is repealed on the first 1 April or 1 October falling on or after the 10th anniversary of registration of the instrument[21]. This is important to ensure legislative instruments are kept up to date and only remain in force as long as they are needed.[22] However, sunsetting provisions may not apply to mandatory standards if an exemption applies. Policymakers and regulators should review section 54 of the *Legislation Act 2003* and Part 5 of the *Legislation (Exemptions and Other Matters) Regulation 2015 to* determine if sunsetting provisions apply to a mandatory standard. The agency and the rule-maker[23] must determine whether an instrument falls within an existing exemption. It is strongly recommended agencies seek legal advice on the applicability of these provisions to an instrument.
- ▶ Regardless of sunsetting implications, regulators should self-impose a periodic review cycle that is shorter or more rigorous than 10 years for their standards. This is because updates to voluntary standards occur on average every 5 years and will be expected to accelerate in emerging and critical technology areas. Regulations may therefore increasingly reference outdated voluntary standards.
- ▶ Existing conformity assessment procedures for standards should also be periodically reviewed to ensure they continue to align with domestic and international best practice.
- ▶ More frequent review cycles may be resource intensive, particularly for smaller agencies and jurisdictions. Ambulatory referencing may ameliorate this (see tool 7).
- ▶ A review of a mandatory standard may also be triggered when:
  - ▷ There is a significant change to the referenced voluntary standard
  - ▷ A new safety hazard has been identified which was not addressed by the existing mandatory standard
  - ▷ There are indications of ambiguity or necessary compliance difficulties for users
  - ▷ There are technical developments or changes in the market.
- ▶ As noted in Standards Australia's guidance[24], mandatory standards should be regularly reviewed to ensure they are:
  - ▷ Up-to-date technically;
  - ▷ Reflective of current practice;
  - ▷ Suitable for new and existing applications (products, systems or processes); and
  - ▷ Compatible with current views and expectations regarding quality, safety and the environment.

More information

- ▶ Contact the AGD Admin Law team: adminlaw@ag.gov.au for more information.

[20] World Trade Organisation, Agreement on Technical Barriers to Trade – Article 2.3, 1995.
[21] See s50 of the Legislation Act 2003 on sunsetting.
[22] See s49 of the Legislation Act 2003 for the purpose of sunsetting.
[23] See s6 of the Legislation Act 2003 for definition of rule-maker.
[24] Standards Australia, Standardisation Guide 001: Preparing Standards, 2023.

Tool 7: Ambulatory referencing and transition periods

What	Why
▶ Policymakers need to consider whether their selected standard will be 'dated' or 'undated'. 'Dated' standards refers to one specific version of the standard. In general, 'undated' standards refers to the latest version of the standard.[25]	▶ Policymakers should ensure a referenced standard is reflective of current policy and effectively achieves the regulatory objective. Delays in updating references to dated standards could create inconsistencies with industry best practice and laws across different jurisdictions.

How

- Dated referencing may be appropriate when policy areas know exactly the technical solution or policy outcome required or if they need to reference specific clauses or tables within the standard (which may get changed if the standard is updated).
- Undated referencing allows the flexible use of subsequent revised versions of the same standard within regulation. This is appropriate in areas with continuous and rapid technical development, and subsequent frequent updates of the referenced standards. Undated referencing is often referred to as 'ambulatory referencing'.
- An ambulatory reference is a reference in regulation to an instrument as modified 'from time to time'. Sample wording:

  'Australian/New Zealand Standard 1 means the standard AS/NZS 2063 *Helmets for use on bicycles and wheeled recreational devices*, as in force or published on the day this instrument commences, or as updated from **time to time**'.

  As opposed to:

  'Australian/New Zealand Standard 1 means the standard AS/NZS 2063**:2020** *Helmets for use on bicycles and wheeled recreational devices*, as in force **when this instrument commences**'.
- Benefits of ambulatory referencing includes prompt adoption of the mandatory standard by regulators, simplification and clarity for compliance, improved safety for consumers, and greater international harmonisation, keeping up with technological improvements and best practice. This approach is especially critical for industries undergoing rapid technology advancement, such as those related to the net-zero transition, where standards can quickly become outdated.
- If ambulatory referencing is used, then policymakers should ensure that:
  - The referenced standard continues to be appropriate to achieve the policy objective after any amendments.
  - A suitable transition period is provided to allow businesses time to adapt to the updated requirements and remove redundant standards as they age. Businesses
- Risks of adopting ambulatory referencing include automatic adoption of revisions before the relevant review process can determine if the standard is still appropriate to achieve the policy objective. This is particularly important when overseas or private standards are referenced and there is no visibility of the revision process. Ambulatory referencing may not be appropriate where there are specific policy requirements to be addressed by the technical content, which may be amended in future iterations of a standard.[59]
- Policymakers need to ensure the relevant primary legislation enables the legislative instrument to reference standards in force from time to time, as per section 14 of the *Legislation Act 2003*. An example is section 35(1)(b) of the *New Vehicle Efficiency Standard Act 2024*.
- The primary legislation should enable an updated version of a referenced standard to be excluded or not recognised if found unsuitable.
- The regulator should establish monitoring channels to be notified when referenced standards are being reviewed, triage the proposed updated standard to ensure it remains suitable, and move to prevent the update applying if it is not suitable to adopt.
  - Regulators should consider establishing feedback avenues, such as a webpage, to allow the public, industry and experts to be notified of updates to referenced standards and provide feedback to the relevant consultation processes for standards development and adoption.
- Policymakers must address the issues outlined in the Scrutiny of Delegated Legislation Committee Guidelines[26], or the Senate Scrutiny Committee of Bills Committee Guidelines[27] regarding absence of parliamentary scrutiny and accessibility of the law. It is important for policymakers to consider the reasons for incorporating standards 'as existing from time to time' and justify this rationale in the explanatory material. This should include:
  - Why policymakers need to override s14(2) of the *Legislation Act 2003* (i.e. outlining the policy objective/s and economic rationale for adopting international, regional, Australian and/or overseas standards as modified from time to time).

[25] Depending on how the mandatory standard is drafted, 'undated' standards may refer to any version of said standard, including previous and outdated versions.
[26] The Senate, Standing Committee for the Scrutiny of Delegated Legislation – Guidelines (3rd Edition), 2024, p 5 and 19.
[27] The Senate, Standing Committee for the Scrutiny of Bills – Guidelines (2nd Edition), 2022, p 22.

should be allowed to choose whether to comply with the older or updated standard during the transition period.

- How to mitigate the risk that an entity may be unable to identify what their rights and obligations are if and when adopted/incorporated standards are updated
- Whether the referenced standard is publicly available for free or at minimal cost. Where the standard is not publicly available for free, other avenues for providing access would need to be considered (such as licensing arrangements, providing the text in the instrument's explanatory material, or providing copies on request). It must describe how the standard can be accessed.[28]

More information

- Case study[29]
  - The mandatory Australian standard for projectile toys (Consumer Goods (Projectile Toys) Safety Standard 2020) sets out mandatory requirements intended to reduce the risk of choking, eye injuries and flesh wounds during play.[30]
  - In June 2020, the mandatory standard was reviewed and amended after being made in 2010. The mandatory standard was updated to keep pace with changes in industry practice and to allow compliance with the latest voluntary Australian and overseas standards, including the 2019 edition of the voluntary Australian standard (AS/NZS ISO 8124.1:2019), or one of three comparable overseas standards: the ISO standard (ISO 8124 1:2018), the ASTM standard (ASTM F963 17) and the European standard (EN 71-1:2014 + A1:2018).
  - However, after the mandatory standard was updated in June 2020, the voluntary Australian standard was subsequently updated in December 2020, in line with updates to the ISO standard. The amendments included updates to the tension test applied to projectiles, and amendments to the requirements for rotors and propellers on projectile toys, including renaming the relevant section to 'Flying Toys'.
  - At the time, the Australian Consumer Law (ACL) did not allow these relatively minor updates to be automatically captured by the mandatory standard. This delayed the adoption of minor but important safety improvements to the mandatory standard. The legislative amendment to the mandatory standard was only made in July 2021.

[28] See s15J(2)(c) of the Legislation Act 2003 for the requirements on explanatory statements.
[29] The Treasury, Improving Mandatory Standards under the Australian Consumer Law – Decision Regulation Impact Statement, 2024.
[30] Australian Competition and Consumer Commission, Projectile Toys Mandatory Standard, 2025.

Tool 8: Performance-based criteria

What	Why
▶ Policymakers should preference the use of performance-based criteria unless prescriptive-based criteria are better placed to address the regulatory objective or mitigate the particular harm. Policymakers should also recognise all appropriate standards which meet the regulatory objective. This could include both performance- and prescriptive-based criteria.	▶ Prescriptive-based mandatory standards can unnecessarily limit how suppliers meet regulatory requirements (e.g. addressing a specific safety risk). This can potentially impede trade, competition and innovation, while reducing consumer choice and increasing costs.

How

- ▶ Prescriptive-based criteria define specific steps that must be taken to meet the required outcome. They narrow the discretion that businesses can exercise in meeting requirements. This is appropriate to achieve particular policy or regulatory objectives that cannot be achieved without the prescribed requirements, or when the risk is high and there are specific safety considerations.
  - ▷ However, overly prescriptive criteria can lock industries into specific technologies or practices. This rigidity may hinder competition and innovation, ultimately impeding long-term economic growth.
  - ▷ The economic literature indicates prescriptive-based criteria is most appropriate and effective when (a) consumer demand for product or service variety is minimal, (b) significant economies of scale and network effects can be achieved through widespread adoption, and (c) the impact on competition is negligible.[31]
  - ▷ An example is AS/NZS 3000:2018 Electrical installations (Australian/New Zealand Wiring Rules).
- ▶ Performance-based criteria establish desired characteristics of the final product, service or activity rather than requirements for the methodology to produce them. Performance-based criteria may identify a specific methodology but does not prevent the use of alternative methodologies if the same result, product or outcome is achieved. This option provides a flexible compliance framework that may reduce associated costs and increase choice for the Australian market. This is the preferred type of mandatory standard because it can be the least trade restrictive.
  - ▷ Performance-based criteria can better facilitate innovation and technology adoption by providing industry participants, especially small and medium enterprises, with greater flexibility to achieve the prescribed outcomes and meet the mandatory standard.
  - ▷ However, performance-based criteria can impose additional burden on regulators as they would require greater expertise and resourcing to assess new and alternative compliance pathways.
  - ▷ Where performance-based criteria are used, policymakers must ensure that the performance objectives are clearly defined. This will ensure duty holders can make informed choices and provide them with confidence that they are complying with the mandatory standard.
  - ▷ An example is National Offshore Petroleum Safety and Environmental Management Authority's (NOPSEMA) regulation of the offshore petroleum industry. The regulatory regime administered by NOPSEMA allows duty holders to use any Australian or International Standard, international industry practices or company-specific standards to achieve a safety outcome.
- ▶ A performance-based mandatory standard may also provide multiple compliance pathways by referencing a mix of Australian standards, international, regional, standards and/or overseas standards, which individually would be prescriptive but together are in practice performance-based. Where the regulation allows two or more alternatives for compliance, the enabling legislation should allow the regulator to require that a supplier nominate which standard has been, is or will be complied with.
  - ▷ Non-compliance with a nominated voluntary standard should receive a proportionate penalty as non-compliance with the overall mandatory standard. Further nominations should not be accepted to minimise time for an unsafe product to remain on the market.
  - ▷ An example of multiple compliance pathways is the *Consumer Goods (Bicycle Helmets) Safety Standard 2024*[32], which provides a list of Australian, overseas and industry standards suppliers can nominate to demonstrate their compliance.

[31] Professor F. Menezes, Best-Practice Regulatory Principles for the Adoption of Standards, 2025, p 71.
[32] See the Consumer Goods (Bicycle Helmets) Safety Standard 2024.

Tool 9: Accessibility and affordability of mandatory standards

What	Why
▶ Policymakers should consider options to make mandatory standards easily accessible and available at minimal or no cost to the public.	▶ Making mandatory standards easier to access and more affordable can benefit society by boosting competition, productivity, and innovation, while ensuring products and services remain high-quality, safe, and dependable for consumers.

How

- ▶ Domestic, overseas and international standard-setting bodies generally derive revenue through royalties from the sale of standards and other related documents.
- ▶ Industry have called for improved accessibility and affordability of mandatory standards – particularly given the large number of standards which are regularly amended and cross-referenced with other standards.
  - ▷ For example, multiple stakeholders noted there are more than 300 primary Australian Standards and thousands of secondary references to mandatory standards embedded in the National Construction Code. Stakeholders have noted paying for access to all relevant mandatory standards can be cost prohibitive, particularly for smaller businesses who have limited capital.
- ▶ As a general 'rule of law' and 'fairness' principle, laws should be clearly communicated and readily available to every citizen, especially where compliance is mandatory.
- ▶ Improving the accessibility and affordability of mandatory standards can increase competition, productivity and innovation. It can:
  - ▷ Reduce transaction costs by addressing information asymmetries between larger firms and smaller businesses, sole traders, and apprentices/trainees.
  - ▷ Lower barriers to entry for new firms and support them to develop economies of scale and scope over time.
  - ▷ Enable businesses to re-allocate capital away from regulatory compliance and towards labour and capital investment.
  - ▷ Promote technological diffusion and innovation by enabling information flow.
- ▶ Providing free or subsidised access to mandatory standards is likely to increase regulatory compliance by businesses, while improving quality, safety and reliability of goods and services for consumers.
  - ▷ For example, when the National Construction Code was made freely available in 2015, the number of registered users increased from 12,000 to 200,000.[33] Similarly, in the Netherlands, providing free access to mandatory standards generally increases usage rates by six to ten times.
- ▶ The Productivity Commission has recommended *"consistent with the fundamental principle of transparency and accessibility of legal requirements, government agencies should fund free or low cost access to [mandatory standards]."*[34]
  - ▷ By shifting the fiscal burden to the government, this creates a financial incentive on policymakers to undertake a detailed assessment of the benefits and costs to ensure mandatory standards are adopted only when clearly justified (i.e. "net public benefit" test is met in Question 2).
  - ▷ Policymakers will need to appropriately balance the adoption of multiple suitable standards with the cost of providing free or low cost access to said standards.
- ▶ Options to improve the affordability could include:
  - ▷ Providing free or subsidised access through direct funding or licensing arrangements (see case studies below).
  - ▷ Incorporating access to relevant mandatory standards in occupational licenses.
- ▶ Policymakers should only provide free or subsidised access to the minimum technical information required for compliance. Any valuable, non-essential, additional information should continue to be made available at a price determined by the standard-setting body.
- ▶ Accessibility could be increased by:
  - ▷ Providing digital (i.e. online and offline), physical (e.g. public reading rooms or libraries) and printable copies to give practical flexibility to meet end-user requirements (e.g. on-site usage).
  - ▷ Publishing the full library of current and historical mandatory standards to support compliance activities (e.g. inspections).
  - ▷ Developing machine-readable versions to encourage digital innovation (e.g. creating APIs to enable mandatory standards to be integrated in design tools, compliance checkers and other software services).
  - ▷ Incorporating user-friendly interactive functionality, searchability, and portability when mandatory standards are digitally published.
  - ▷ Ensuring screen reader compatibility to assist users with disabilities.

[33] Australian Building Codes Board (ABCB), The Next Instalment in Building Regulatory Reform, 2021.
[34] Productivity Commission, Standard Setting and Laboratory Accreditation, 2006.

More information

Domestic Examples

- Between 2013 and 2025, DCCEEW funded free access to mandatory standards under the Water Efficiency Labelling and Standards (WELS) Scheme. Providing free access supported voluntary compliance with the regulatory requirements of the Scheme.
  - Stakeholders could freely access the current, updated and superseded versions of the WELS Standard electronically in Web Reader and Protected PDF formats. Downloads were provided at no cost to users with charges reconciled to the Department at a later date.
  - Currently, regulated entities can purchase the WELS standard through the Standards Australia website or freely view them in-person at the DCCEEW offices in Sydney, Melbourne, Brisbane, Perth and Canberra.
- Between 2010 to 2019, the Australian Digital Health Agency agreed with Standards Australia to provide free public access to more than 100 health informatics standards through a dedicated e-health portal managed by Standards Australia.

International Case Studies

- The NZ Government has funded free access to 134 current and superseded building standards referenced in regulation.[35] These particular standards were selected as they directly help demonstrate compliance with the NZ Building Code. The Building Levy is used to sponsor these standards and they are accessible through an online portal. Similarly, NZ provides all licensed electrical workers with free access to read and download electrical standards through their online Occupational Licensing Portal.[36]
- In France, all mandatory standards at the national level can be downloaded and printed at no cost.[37] Similarly, all default European harmonised standards and standards exclusively incorporated in Slovenian legislation are available free of charge.[38]
- The Canadian WorkSafeNB has partnered with the Canadian Standards Association (CSA) to provide users with free access to over 250 occupational health and safety standards referenced in federal, provincial and territorial regulations. Although these standards are available online as a PDF file, there is no ability to copy-and-paste text or print or download them.
- The Dutch Ministry of Economic Affairs provides their national standard-setting body with approximately €500,000 per year to enable free access to mandatory standards (about 262 standards).

[35] Standards New Zealand, Building-related standards, 2024.
[36] Electrical Workers Registration Board, New Zealand Standards, 2025.
[37] Eurogip, Free access to European harmonised technical standards, 2024; Solent Avocats, Standardisation in French law: an essential legal guide, 2025.
[38] European Commission, Free Access to European Harmonised Standards in Slovenia, 2025.

Tool 10: Legislating and declaring mandatory standards

What	Why
▶ Policymakers should use the most appropriate and flexible legislative instrument, such as subordinate legislation or delegated authority, when implementing mandatory standards.	▶ Policymakers should ensure sufficient flexibility to ensure mandatory standards remain current, relevant, and safe for Australian consumers.

How

- Reducing the lag between the development and implementation of new standards can streamline the standards adoption and development process in Australia, decrease compliance costs for businesses, and maintain regulatory consistency across jurisdictions.
  - This flexibility will be particularly beneficial during the net-zero transition. As Australia experiences rapid technological change, mandatory standards will need to adapt to reflect improvements in reliability, performance, and safety.
- When drafting legislation to make and update mandatory standards in Australia, policymakers should ensure the legislation is proportionate and risk-based – appropriately balancing timeliness and regulatory flexibility with potential risks to the community.
  - There may be circumstances where the benefits to the community outweigh risks. In these cases, relevant legislation could be updated to delegate authority to regulatory agencies or sufficiently senior public servants, such as a departmental secretary, to declare new standards. They would be allowed to declare new mandatory standards where they are equivalent or higher standards than existing ones.
  - This would allow International Standards to be recognised and updated more quickly, while reducing pressure on Parliament's legislative agenda. This would support competition, innovation, and consumer choice in the domestic market, without significantly reducing quality or safety for the Australian public.
- In considering whether to allow standards to be determined in subordinate legislation, policymakers should be mindful that significant matters should be included in primary legislation. As outlined in the Standing Committee for the Scrutiny of Bills Guidelines, significant matters that are generally not appropriate for inclusion in delegated legislation include:
  - the appropriation of money;
  - the imposition of taxes or levies;
  - key elements of new policies or fundamental changes to existing policies;
  - matters which may have a significant impact on personal rights and liabilities, including the exercise of coercive or intrusive powers or the imposition of significant penalties;
  - provisions which may impose obligations to undertake or desist from certain activities; and
  - procedural matters that go to the essence of a legislative scheme.[39]
- Where mandatory standards are determined in subordinate legislation, policymakers should include strong policy justification in the Explanatory Memorandum, including:
  - Why it is appropriate to include mandatory standards in delegated legislation; and
  - Whether there is sufficient guidance on the face of the primary legislation to appropriately limit the matters that are being left to delegated legislation.
- The Committee has generally not accepted a desire for administrative flexibility alone to be a sufficient justification for leaving significant matters to delegated legislation.
- There are multiple cases, however, where the Committee has allowed standards to be determined in subordinate legislation. Policymakers may wish to read the Explanatory Memorandum for the "Regulation of Safety Standards and Information Standards" or the "New Vehicle Efficiency Standard Bill 2024" as some examples.[40]

[39] The Senate, Standing Committee for the Scrutiny of Bills – Guidelines (2nd Edition), 2022, pp 18–19.
[40] Explanatory Memorandum for Treasury Laws Amendment (Fairer for Families and Farmers and Other Measures) Bill 2024, pp 15–30; Explanatory Memorandum for New Vehicle Efficiency Standard Bill 2024, pp 28–29.

More information

- Under Australian Consumer Law, the Commonwealth Minister can make safety standards for consumer goods and product related services
  - Section 104 of the Australian Consumer Law was recently amended by Parliament in November 2024 (Treasury Laws Amendment (Fairer for Families and Farmers and Other Measures) Bill 2024). This section allows the relevant Commonwealth Minister to make mandatory safety standards by written notice, which are given effect by legislative instrument.

    The Commonwealth Minister may, by written notice, for the purposes of preventing or reducing the risk of injury to any person, make a safety standard for one or both of the following:

    (a) consumer goods of a particular kind; [and]

    (b) product related services of a particular kind.
  - The legislation further allows safety standards to incorporate matters in instruments and other writings as they exist from time to time, including International Standards.
  - These changes aimed to increase the recognition of International Standards in Australia, while improving their flexibility and enforceability.
- Victoria's Road Safety Rules 2017 delegates responsibility for standards adoption and development to the Department of Transport
  - Victoria's Road Safety Rules 2017 legislation allows the Secretary of the Department of Transport to set and amend standards for products used on Victorian roads. Section 407 states:

    The Secretary, by notice published in the Government Gazette, may declare, for the purposes of these Rules

    (a) a booster seat to be an approved booster seat;

    (b) a child restraint to be an approved child restraint;

    (c) a child safety harness to be an approved child safety harness;

    (e) a horse riding helmet to be an approved horse riding helmet;

    (f) a bicycle helmet to be an approved bicycle helmet;

    (g) items to be approved as portable warning triangles; [and]

    (h) a seatbelt to be an approved seatbelt.
  - By delegating the responsibility for standards adoption and development to the Departmental Secretary, this ensure standards are flexible, adaptable, and contemporary – allowing policymakers to quickly respond to dynamic markets and community concerns.

Tool 11: Utilising the existing architecture for conformity assessments

What	Why
▶ When referencing voluntary standards and recognising conformity assessments, policymakers should not aim to replace but leverage the expertise and international relationships of each ATIA member.	▶ Conformity assessments provide consumers with confidence that a product, service, process, management system or person will perform as expected, provides manufacturers or service providers the assurance that market requirements will be met, and gives regulators confidence that the requirements in regulations have been met.

How

- When introducing mandatory standards, policymakers should consider if there is a suitable means of testing compliance, such as conformity assessments, and if there are existing accredited conformity assessment bodies (CABs) to conduct testing.
  - Conformity assessments by NATA or JASANZ-accredited CABs should be preferred, as they are authorised through MOU or other means to represent Australia's interests at various international forums and conduct accreditation locally.
- The ISO Conformity Assessment Committee (CASCO) toolbox (based on the ISO/IEC 17000 series standards) provides a harmonised and consistent approach to conformity assessment, including definitions and various actors within a conformity assessment system.[41] For guidance on developing conformity assessment schemes to help achieve the regulatory objective(s), see ISO/IEC 17067:2026.[42]
- Policymakers should consider the appropriate level of conformity assessments to achieve a policy objective, such as the consequences of product/service failure from non-conformity:
  - 1st party – Self declaration of conformity. For example, this could be made by the manufacturer or the service provider themselves.
  - 2nd party – Conformity assessment performed by the person or organization that requires the assurance of conformity. For the purposes of this guide, where the regulator themselves performs the assessment.
  - 3rd party – Conformity assessment performed by independent organisations – such as certification body, laboratory, or inspection body – that ideally has been accredited by an accreditation body. For efficiency, rather than naming individual CABs, regulations will usually specify which conformity assessment results can be accepted in Australia. These generally include results (a) produced by CABs accredited by specific accreditation bodies or (b) produced through specific accreditation pathways that can be accepted in Australia.
- When using 2nd or 3rd party conformity assessment, regulators should consider ways to recognise the results of conformity assessment procedures conducted overseas to reduce costs, lower trade barriers and expedite compliance processes. This may be achieved through government-to-government mutual recognition arrangements or recognising bodies party to the mutual recognition arrangements where NATA and JASANZ represent Australia.
  - For 2nd party conformity assessment, Australian regulators may recognise results from other regulators (e.g. TGA recognising Good Manufacturing Practice from US FDA or Health Canada etc.).
  - For 3rd party conformity assessment, Australian regulators may recognise the competence of foreign accreditation bodies to accredit their CABs as competent to assess to Australian requirements.
- Where mandatory standards are updated, policymakers should provide a transition period for the conformity assessment procedures to be updated, where there is no critical risk to be addressed.
- Policymakers should consider whether post-market surveillance is appropriate to maintain community safety and ongoing compliance with the mandatory standard. For example, this may include accepting off-the-shelf 'check testing' conducted by an accredited conformity assessment body (i.e. post-market testing from the point of sale or supply).
- For major regulations, policymakers may choose to work with Australia's accreditation bodies to establish a conformity assessment scheme. One example is the WaterMark certification scheme.
- The WTO TBT Committee has developed flexible, non-prescriptive guidelines to support policymakers in the choice and design of conformity assessment procedures.[43] It includes guidance on use of risk assessments.
- The Global Accreditation Cooperation maintains a list of 'endorsed schemes' that have been evaluated and found suitable for operation globally.[44]

[41] International Organisation for Standardisation, CASCO Educational Toolbox – 9 Modules on Conformity Assessment, 2020.
[42] International Organisation for Standardisation, ISO/IEC DIS 17067 Conformity assessment – Fundamentals of and guidelines for conformity assessment schemes, 2025.
[43] World Trade Organisation, Guidelines on Conformity Assessment Procedures, 2024.
[44] Global Accreditation Cooperation, Endorsed Scheme Register, 2025.

More information

- The Australian Senate Economics References Committee into Non-Conforming Building Products published a report in 2018 recommending that where an organisation intends to import goods that have been deemed high-risk, the Australian Government require the importer to conduct sampling and testing by an accredited authority (or an equivalent testing authority in another country that is a signatory to the ILAC Mutual Recognition Arrangement).[45] This recommendation reflects the importance of accreditation as a quality assurance tool. More examples where accreditation has contributed to a more robust regulatory regime can be found on the Public Sector Assurance website (https://publicsectorassurance.org/).
- Contact the Department of Industry, Science and Resources for Memoranda of Understanding that exist between the Commonwealth and ATIA members, such as Standards Australia and NATA, to understand what each party has committed to undertake. Technical officers can contact the Standards & Conformance Strategy Section: StandardsConformance@industry.gov.au.

[45] The Senate Economics References Committee, Non-Conforming Building Products: The Need for a Coherent and Robust Regulatory Regime, 2018.

Tool 12: Recognising overseas conformity assessment procedures

What	Why
▶ Where appropriate, policymakers and regulators should review and recognise overseas conformity assessment procedures that provide sufficient confidence in the resulting tests, inspections, or certifications.	▶ Recognising overseas conformity assessment procedures can reduce time to market for products and lower costs to businesses and consumers by removing the need for duplicative testing requirements.

How

- ▶ Policymakers should use the least trade restrictive approach to recognise and accept overseas conformity assessment procedures.
- ▶ Article 6 of the WTO TBT encourages members to mutually recognise each other's conformity assessment results in relation to goods, assuming confidence in their reliability can be established and regulators appointing their own conformity assessment bodies.[46] Recognising conformity assessments conducted overseas may lower non-tariff barriers for business by reducing the need to bear the costs of conformity assessment in exporting and importing markets.
- ▶ Recognition of overseas conformity assessments results can occur through government-to-government arrangements or utilising the Mutual Recognition Agreement (MRA) established under the multilateral accreditation cooperation bodies in which NATA and JASANZ represent Australia.
  - ▷ For example, an overseas conformity assessment procedures or results could be recognised through the Global Accreditation Cooperation MRA (formerly IAF or ILAC MRA) (NATA and JASANZ are both members) by writing into regulations that 'assessments must be conducted by a facility accredited by JASANZ or a JASANZ MRA partner'.[47] This means conformity results can be accepted from (a) JASANZ accredited facilities or (b) facilities accredited by accreditation bodies party to the same MRA.
  - ▷ Negotiated government-to-government mutual recognition arrangements may facilitate recognition of conformity assessment results conducted overseas – either by regulators or through recognition of competent accreditation bodies.
- ▶ Before mutual recognition can occur, regulators need to have developed their own conformity assessment or compliance requirements to compare against the overseas assessment (see Tool 11).

More information

- ▶ The TGA recognises and uses conformity assessments for medical devices and prescription medicines from comparable overseas regulators, where appropriate, including those from Europe, Canada, Japan, Singapore and the UK.[48] This reduces duplication and regulatory burden, while ensuring the TGA's regulatory practices remain globally aligned and responsive to emerging technologies.
- ▶ The National Measurement Institute (NMI) is a trade measurement regulator and provides services to other regulators to ensure confidence in measurement activities for compliance purposes.
- ▶ The National Association of Testing Authorities (NATA) is an accreditation body that can provide confidence that testing, measurement and inspection data is competently produced. Its voluntary technical committee network can provide recommendations on measurement, testing and inspection requirements.
- ▶ The Joint Accreditation System of Australia and New Zealand (JASANZ) is an accreditation body for management systems, product certification, personnel certification, and the validation and verification of claims, including for greenhouse gases.

[46] World Trade Organisation, Agreement on Technical Barriers to Trade – Article 6, 1995.
[47] Finance notes the ILAC and IAF merged to form the Global Accreditation Cooperation Incorporated (GLOBAC). This created "a single international organisation for accreditation" to streamline the global accreditation framework and foster greater international cooperation. GLOBAC is operational from 1 January 2026.
[48] Therapeutic Goods Administration, Use of Market Authorisation Evidence from Comparable Overseas Regulators and Assessment Bodies for Medical Devices (including IVDs), 2025; Therapeutic Goods Administration, Using Assessments from Comparable Overseas Regulators for Prescription Medicines, 2024.

Tool 13: Notifying the WTO of certain regulations

What	Why
▶ To fulfil Australia's international obligations, policymakers may be required to notify the WTO of certain regulations. Notifications may be required under a range of WTO provisions. In particular, notification of technical regulations or conformity assessment procedures pertaining to goods and sanitary and phytosanitary measures not based on International Standards may require notification at a draft stage.	▶ Under the WTO Agreements, Australia has transparency obligations which include notifying the relevant WTO forums of certain types of regulations. For certain types of measures, the choice of standard referenced in regulation may trigger notification obligations under the WTO TBT Agreement and WTO Agreement on Sanitary and Phytosanitary (SPS) Measures.
How	
▶ In relation to the WTO TBT Agreement, Australia is required to notify the WTO of proposed new or amended technical regulations (e.g. technical requirements or mandatory standards) and/or conformity assessment procedures pertaining to goods that are *not in accordance* with International Standards and will have a *significant effect* on trade. ▷ Not in accordance – this includes where an International Standard does not exist to reference, where a measure is partly (even majority) aligned with an International Standard but includes modifications, or where a wholly different standard has been used. ▷ Significant effect – this includes both facilitative and restrictive effects on trade. There is no exact way to determine what is a 'significant effect' and Australia errs on the side of notify if in doubt.	▶ Notifications under the WTO TBT Agreement must be made when the technical regulation and/or conformity assessment procedure is at a draft stage, and early enough that comments from other WTO Members may be considered in the finalisation of the regulation. The WTO TBT Committee recommends offering a minimum 60 day comment period. Where this is not possible, the Australian WTO TBT Enquiry Point, which manages the notification process, asks regulators to provide as much time as possible which is, at minimum, consistent with domestic consultation. ▶ In relation to the WTO SPS Agreement, notification must be made when either an International Standard does not exist to the basis of a technical regulation or when a proposed SPS regulation is *not substantially the same as* the content of a relevant International Standard and will have a *significant effect* on trade. ▶ Notifications are simple documents which outline the key features and objectives of the measure and provide access to the full text via a link or upload. They are published and distributed online through ePing, a free and publicly accessible database of TBT and SPS notifications (https://epingalert.org/). DFAT guides and assists regulators through the TBT notification process and DAFF is responsible for SPS.
More information	
▶ For more information on notifying the WTO of measures relevant to the WTO TBT Agreement, contact the Australian WTO TBT Enquiry Point at DFAT: tbt.enquiry@dfat.gov.au.	▶ For more information on notifying the WTO of measures relevant to the WTO SPS Agreement, contact the Australian WTO SPS Enquiry Point at DAFF: sps.contact@aff.gov.au.

Appendix A: Glossary

Accreditation – the independent third-party evaluation of conformity assessment bodies against recognised standards to formally determine that they are sufficiently competent, impartial, and consistent to perform conformity assessment activities. In Australia, this is conducted by NATA and JASANZ.

Adoption – (of an International Standard or overseas standard) publication of a technical regulation referencing a relevant International Standard, or endorsement of the International Standard as having the same status as a national normative document, with any deviations from the International Standard identified.

Australian Standard – a standard developed by Standards Australia, Australia's national standards body, developed through industry-led consensus.

Conformity assessment body – an entity that conducts conformity assessments procedures. This includes both accreditation bodies and the conformity assessment bodies they accredit, including certification, verification, testing, inspection and laboratory bodies.

Conformity assessment procedure - Any procedure used, directly or indirectly, to determine that relevant requirements in technical regulations or standards are fulfilled.

Conformity assessment scheme – a set of rules and procedures that describes the objects of conformity assessment, identifies the specified requirements and provides the methodology for performing a conformity assessment procedure.[49] A conformity assessment scheme will set out the conditions for recognising a conformity assessment body as competent to perform the conformity assessment procedure.

Harmonisation – the process of aligning and integrating various regulations and practices across different jurisdictions to eliminate or minimise barriers to trade.

International Standard – voluntary standards which are developed by international, multilateral and consensus-based standards organisations that follow the WTO TBT Principles for the Development of International Standards, Guides and Recommendations. Australia participates as a member in these organisations. Each country has a single vote and the opportunity to contribute throughout the development process. These standards are designed to support free and fair global trade and promote access to markets. Examples include standards published by the International Organization for Standardization (ISO), International Electrotechnical Commission (IEC) and International Telecommunication Union (ITU).

Mandatory standard – a document that specifies the design characteristics and requirements for a product, service or system supplied within a jurisdiction. This is made legally binding by State, Territory or Commonwealth legislation or regulation and requires compliance. Mandatory standards may fully or partially reference standards developed by regulatory bodies (public standard) or non-government entities (voluntary standard).

[49] International Organisation for Standardisation, ISO/IEC 17000:2020 – Conformity Assessment, 2020.

Overseas standard – standards developed by sovereign nations or national standards bodies that do not necessarily include Australian participation or contribution to the development process, such as standards made by the British Standards Institution.

Performance-based criteria – criteria that sets minimum results, products or outcomes that need to be achieved, without prescribing specific processes and methods to achieve them.

Prescriptive-based criteria – criteria which prescribes both outcomes and processes to achieve the outcomes.

Private standard – a standard made by private actors like an individual company or an industry association which is usually voluntary and opt-in, but in practice become de facto mandatory where compliance with the standard increases competitiveness, such as when the majority of the market uses it, or because of consumer expectation.

Regional standard – standards that have been developed by a regional standards organisation to promote common policies and facilitate trade in a region. Examples include standards developed by the Pacific Islands Standards Committee (PISC), European CEN-CENELEC standards or ASEAN Harmonised Standards.

Risk assessments – a tool that policymakers use to assess whether regulatory action is required. They involve a systematic process of analysis to determine the extent and likelihood of occurrence of undesirable events or situations as compared against benchmarks or standards.

Standards – rules, guidelines or characteristics for products, processes, services and product methods, developed by a recognised body to demonstrate a specific function and quality and ensure products, services, and systems are safe, consistent, and reliable. Their compliance can be voluntary, mandatory, or de facto mandatory. Their appropriate use can facilitate trade, improve competitiveness, and promote innovation.

Standards and conformance infrastructure/national quality infrastructure – The system comprising the organisations (public and private) together with the policies, relevant legal and regulatory framework, and practices needed to support and enhance the quality, safety and environmental soundness of goods, services and processes. This infrastructure is required for the effective operation of domestic markets and to enable access to foreign markets.[50] In Australia, this is represented by the Australian Technical Infrastructure Alliance, along with accredited conformity assessment bodies.

Technical deviation – (from an International Standard in a regional or national standard) any difference between the technical content of the International Standard and that of the regional or national standard. The degrees of correspondence are identical, modified and not equivalent.[51]

Technical regulation – a document which dictates product characteristics, related processes, production methods or administrative provisions, terminology, symbols, packaging, marking or labelling requirements as they apply to a product, process or production method. Compliance is mandatory.[52] This includes mandatory standards,

[50] International Network on Quality Infrastructure, Quality Infrastructure – Definition, 2025.
[51] International Organisation for Standardisation, ISO/IEC Guide 21-1:2005 – Regional or National Adoption of International Standards and Other International Deliverables, 2005, pp 3–5.
[52] World Trade Organisation, Agreement on Technical Barriers to Trade – Annex 1, 1995.

and any technical requirements or specifications on any part of the lifecycle of a product, service or system.

Trade restrictiveness – the degree to which a measure (such as a technical regulation) acts as a barrier to market access or discriminates against certain products and reduces its competitiveness.[53] A measure may be more obviously trade restrictive if there is a less trade restrictive option.

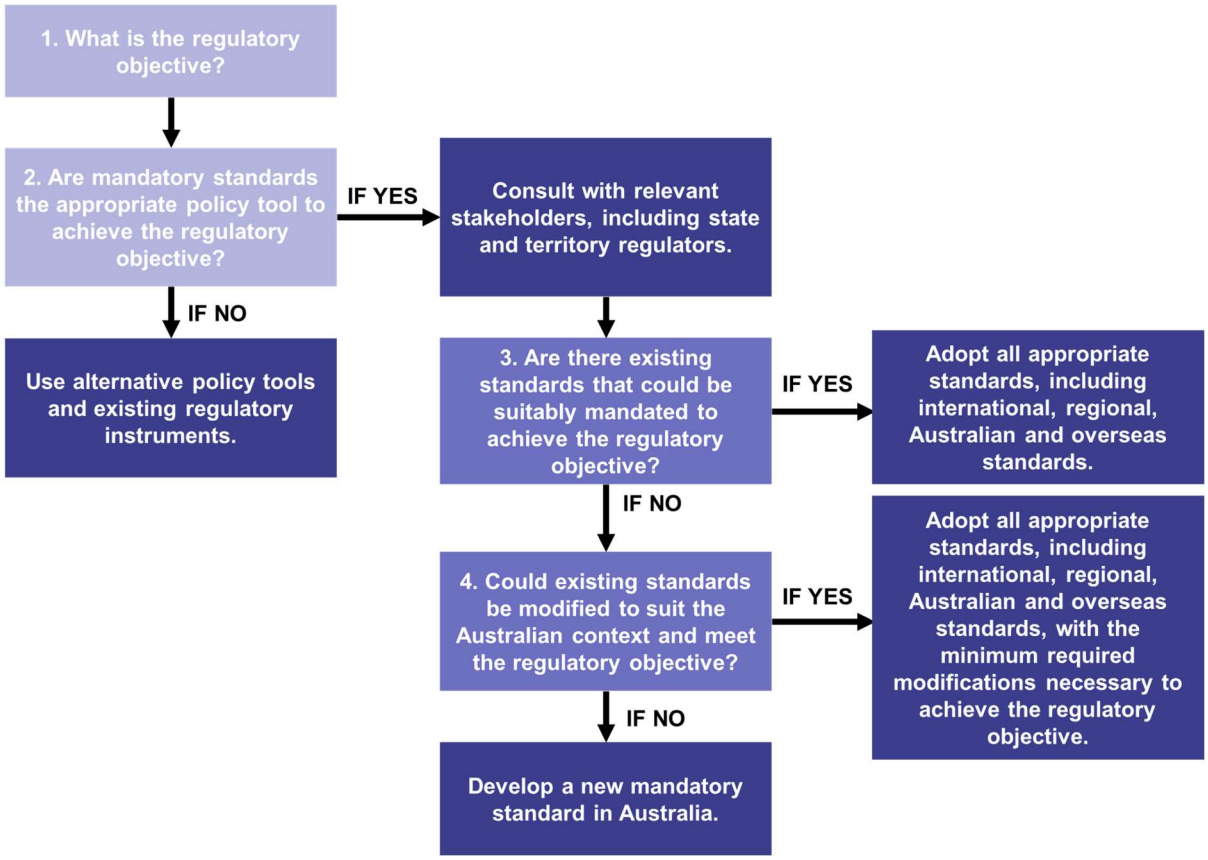
Voluntary standard – These are technical standards that do not require compliance but still shape business and consumer behaviour. They include industry standards and private standards and may be codified by a standards developing body such as Standards Australia.

[53] Voon, Exploring the Meaning of Trade-Restrictiveness in the WTO, 2015.

Appendix B: Detailed guidance on the regulatory design decision tree

This Guide outlines regulatory design principles and questions that policymakers should consider throughout the policymaking process. These principles should support policymakers to determine whether mandatory standards should be used, and if so, how they should be implemented.[54]

Decision tree for policymakers on standards adoption and development



Question 1. What is the regulatory objective?

Principle: Policymakers should state their regulatory objective/s and explain how this contributes to the government's desired outcomes for the community.

Policymakers should clearly state their regulatory objective/s before identifying and developing policy options.[55] Policymakers should clearly identify the market failure and/or unacceptable hazard or risk that they are trying to address through government intervention and link this issue to their regulatory objective. By defining the policy problem and regulatory

[54] These principles aligns with the Government's broader regulatory reform agenda, including the Regulatory Policy, Practice and Performance Framework, which sets out six principles to ensure regulation is fit-for-purpose. The principles are: (1) targeted and risk-based; (2) integrated in existing systems; (3) user-centred; (4) evidence-based and data-driven; (5) reflective of the digital era; and (6) continuously improved and outcomes-focused.

[55] Department of the Prime Minister and Cabinet, Australian Government Guide to Policy Impact Analysis, 2023.

objective/s, policymakers can better target their regulatory intervention to improve community outcomes and support the government's policy priorities. The regulatory objective/s should be specific, measurable, accountable, realistic, and timely. This principle aligns with Clause 1.a. in the Competition Reform Guidelines, which has been developed by the Commonwealth in collaboration with State and Territory Governments and agreed under the NCP governance framework.

To achieve the government's policy objectives for the community, policymakers may have to appropriately balance multiple regulatory objectives during the policymaking process, including public health and safety; competition and innovation; and broader socio-economic and environmental impacts.[56] Policymakers should further consider the government's existing risk appetite alongside the community expectations of both safety and standards of living.

Question 2. Are mandatory standards the appropriate policy tool to achieve the regulatory objective?

Principle: Policymakers should be empowered to use policy tools that most appropriately target the regulatory objective/s, while minimising the regulatory burden on individuals, businesses and community organisations.

Mandatory standards should be used when (a) the benefits to the community outweigh the costs and (b) other policy tools are less effective or inappropriate to achieve the regulatory objective/s.

Regulation, including mandatory standards, should not be the default solution for policymakers. In the first instance, policymakers should be empowered to consider the complete range of policy levers available, including both regulatory and non-regulatory approaches, to achieve their stated regulatory objective/s. The net benefits of different policy options should be explored by policymakers before commencing the standards adoption or development process.[57] Public health and safety, social and community impact, environmental impact, competition and economic impact, geopolitical dynamics, and national security should be analysed in the assessment of the net benefit.

Consideration should also be given to incentives, interactions with the broader regulatory environment and related markets, and secondary effects, including price and international competitiveness. Furthermore, the financial impost on businesses to access and comply with mandatory standard should be assessed as part of the net cost (see Tool 9).

After accounting for the range of costs and benefits associated with each policy option, policymakers should recommend the policy instrument offering the greatest net benefit to the community that can be implemented. Policymakers should support the policy approach that maximises the public benefit, while minimising the regulatory burden for individuals,

[56] Policymakers may wish to reference Question 1 ("What is the problem you are trying to solve and what data is available?") and Question 2 ("What are the objectives, why is government intervention needed to achieve them, and how will success be measured?) in the Guide to Policy Impact Analysis for further guidance on identifying and balancing regulatory objectives.

[57] This net benefit analysis may be required as part of any detailed IA process (see Appendix C and The Australian Government Guide to Policy Impact Analysis for more information). Regardless of whether a detailed IA is required, policymakers should develop an evidence base commensurate to the impacts of the decision.

businesses, and community organisations.[58] This ensures regulation is appropriate, justified, properly targeted and proportionate. In some cases, this evaluation may recommend the removal of existing standards if they are no longer appropriate.

Resources on policy development and impact assessment

There are a range of guidance materials for policymakers to use to evaluate the net impact of different interventions and select the most appropriate policy tool. This includes several resources from the Australian Government Office of Impact Analysis, Australian Centre for Evaluation, and Organisation for Economic Co-operation and Development (OECD) on:

- Cost-benefit analysis[59]
- Distributional analysis[60]
- Stakeholder consultation[61]
- Policy evaluation and post implementation review[62]
- Competition assessment[63]
- Regulatory burden measurement[64]
- Impact on small businesses[65]
- Impact on community organisations[66]
- Impact on people[67]
- Impact on the environment[68]

This principle aligns with Clause 1.b. in the Competition Reform Guidelines:

> *1.b. Determine if an alternative policy tool to the mandatory standard can achieve the same regulatory objective at a lower net cost. Comparison of the cost of regulatory options should consider relevant factors including:*
>
> *(i) incentives;*
>
> *(ii) interactions with other broader regulatory environment relevant to that product/service;*
>
> *(iii) potential competition impacts, impacts in related markets and unintended consequences; and*
>
> *(iv) flow-on impacts, including price and impacts on international competitiveness.*

Non-regulatory policy approaches are generally less costly to implement compared to traditional regulations, such as mandatory standards, and they can provide greater flexibility

[58] This aligns with Principle 1 of the Regulatory Policy, Practice and Performance Framework, which states "regulation must be targeted, risk-based and proportionate", p 7. Regulation should "provide pragmatic solutions to minimise regulatory burden, while ensuring the regulatory intent is being met and essential safeguards are in place" and "enable regulatory intervention proportionate to the identified level of risk for an issue, drive compliance, and act as an effective deterrent", p 7.
[59] The Office of Impact Analysis, Cost benefit analysis, 2023; Department of Industry, Science and Resources, Best Practice Guide to Using Standards and Risk Assessments in Policy and Regulation, 2016, p 16–17.
[60] The Office of Impact Analysis, Distributional analysis, 2023.
[61] The Office of Impact Analysis, Best practice consultation, 2023; Department of Industry, Science and Resources, APS framework for engagement and participation, 2021; Australian Public Service Commission, Getting stakeholder engagement right, 2024.
[62] The Treasury, Commonwealth Evaluation Toolkit, 2025.
[63] The Office of Impact Analysis, Impacts on competition, 2023; Organisation for Economic Co-operation and Development (OECD), Competition Assessment Toolkit, 2019.
[64] The Office of Impact Analysis, Regulatory Burden Measurement Framework, 2024.
[65] The Office of Impact Analysis, Impacts on small businesses, 2024.
[66] The Office of Impact Analysis, Impacts on community organisations, 2023.
[67] The Office of Impact Analysis, People, 2024.
[68] The Office of Impact Analysis, Environmental valuation, 2023.

and adaptability to policymakers and industry. This could include educational campaigns to raise public awareness and shift attitudes/behaviour or post-market surveillance to ensure products remain safe and fit-for-purpose for the Australian consumer.

Other approaches can involve existing self-regulation or co-regulation with industry via voluntary or private standards through:

- Preferences and processes of business associations and large corporations, requiring their suppliers to conform to standards and non-compliance reducing the supplier's competitiveness. There is a strong culture of voluntary adherence to international, national or private standards being used for quality assurance by industry.
- Referencing of standards in non-binding documents, such as the Work, Health and Safety (WHS) Codes of Practices and Building Code of Australia (BCA), used by inspectors. Compliance may reduce liabilities when it is reasonably practicable for the duty holder to adhere to the voluntary standard, and the court considers performance according to the standard in determining compliance with the law.
- Referencing in contracts which can be enforced if the party fails to meet them.

Alongside non-regulatory approaches, *ex post* regulation – such as tort liability or fines and penalties for non-compliance – should be considered by policymakers as an alternative policy tool to achieve the regulatory objective. *Ex post* regulation relies on the threat of liability – financial, legal, or criminal – to incentivise businesses to internalise the social costs of harm and adopt precautionary measures. In some cases, *ex post* approaches may be more efficient and effective than other mechanisms to achieve the regulatory objective.

Policymakers should note that regulation does not eliminate risk but shifts the burden of risk between parties. Policymakers, therefore, must provide advice to government about acceptable levels of risk. This involves balancing the likelihood and consequences of allowing the risk to continue with the costs incurred by the community in reducing or eliminating said risk. In some circumstances, this may mean the costs incurred by introducing mandatory standards outweigh the community benefits – and other policy tools should be considered to achieve the regulatory objective/s.

An evidence-based approach to determining if and how mandatory standards should be implemented is critical.[69] There may be situations where regulatory intervention is not appropriate. Where appropriate, policymakers should incorporate international, regional and overseas risk assessments to help inform their decision-making (see Tool 2 for more information).

If mandatory standards are appropriate, policymakers should consult with relevant stakeholders, including state and territory regulators, to inform the standards development and adoption process.

If mandatory standards are not warranted, policymakers should consider alternative policy tools and existing regulatory instruments.

[69] See Principle 4 ("evidence-based and data-driven") of the Regulatory Policy, Practice and Performance Framework, pp 10–11.

If mandatory standards are identified as the most appropriate policy tool, then policymakers should consult with relevant stakeholders to help inform the standards development and adoption process. Early and transparent consultation can improve policy design, support domestic harmonisation, and ensure standards referenced in regulation are suitable for Australian conditions and fit-for-purpose to meet the regulatory objective.

State and territory coordination

Regulatory siloing and fragmentation can undermine national productivity, increase compliance burden, and impede businesses operating across state borders. Nationally consistent standards will require cross-jurisdictional coordination. Establishing a single national market for goods can improve competition, increase efficiency, and boost innovation. A harmonised regulatory framework would further enable consumers to access a wider range of products at a lower cost, higher quality, and increased safety.

Policymakers should notify relevant state and territory regulators when new mandatory standards are implemented at the Commonwealth level which interact with subnational legislation. Where policy responsibility may be shared across jurisdictions, policymakers may wish to establish an intergovernmental or interjurisdictional group to share information about potential reforms. This approach can help improve regulatory alignment and promote a single national market – increasing competition, driving economies of scale and scope, reducing regulatory burden for businesses, and potentially lowering costs for consumers.

Affected Stakeholders

Where new mandatory standards are proposed for introduction or revision, Commonwealth policymakers should consult with affected stakeholders to ensure regulation is fit-for-purpose. This includes industry associations, standard and conformance bodies (such as ATIA members) and consumer advocacy groups.

Policymakers may wish to leverage Standards Australia's existing committee infrastructure and processes to help determine whether existing standards should be mandated in legislation.[70] Technical committees are specialised expert groups comprising of industry professionals, academics, government representatives, consumer advocates, and subject matter experts in Australia and internationally. They can provide subject-specific technical expertise to help inform the adoption and development of mandatory standards. This can include:

- Identifying which voluntary standards, if any, are currently used by industry;
- Providing advice on the suitability of existing standards for Australian conditions;
- Identifying potential regulatory gaps or contradictions between local laws and proposed mandatory standards;
- Assessing possible risks associated with mandating existing standards; and
- Recommending modifications to existing standards to ensure they are compatible with the local context and meet the regulatory objective.

Furthermore, policymakers should notify Standards Australia when mandatory standards are introduced or updated. This will enable Standards Australia to maintain an accurate and

[70] More information on Standards Australia's technical committees is available on their website.

current register of mandatory standards – supporting consistent referencing, improving data collection, analysis and research, and better informing policy development.

This collaborative approach can embed technical expertise in the policy design process and ensure mandatory standards are practically implementable, tailored to the Australian context, and appropriately designed to support safety, efficiency, and innovation.

Therapeutic Goods Administration (TGA) consultation process

Medicines and biologicals are regulated by the TGA to ensure quality, safety and efficacy. Before adopting any standard, the TGA undertakes a comprehensive consultation process with internal and external stakeholders. This ensures the standard is appropriate for Australian consumers, consistent with Australian regulatory requirements, and aligned with scientific advances, public health priorities and international best practice. For example, the TGA recognises unique sunscreen standards developed by Standards Australia due to Australia's exceptionally high levels of ultraviolet (UV) radiation and disproportionately high rates of melanoma.

Question 3. Are there existing standards that could be suitably mandated to achieve the regulatory objective?

Principle: Policymakers should be empowered to recognise multiple standards – including international, regional, Australian or overseas standards – where they are suitable and aligned with the desired outcomes for the community.

The adoption of International Standards is critically important for small, open economies like Australia. The economic literature indicates that bespoke national standards can hinder trade, while harmonised International Standards can facilitate trade expansion and economic integration, enhance market accessibility, lower barriers to entry, and reduce country-specific adaptation costs.

The starting presumption should be International Standards are safe and effective as they generally reflect the best experiences of policymakers and industry worldwide. Standards Australia actively participates in the development of International Standards, representing Australia on the two major international standardising bodies, the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC). Standards Australia ensures Australia's interests are voiced in the development of International Standards and supports the establishment of National Mirror Committees to facilitate Australian stakeholder's participation in International Standard development.

The Australian Government has committed to supporting the adoption of International Standards in multiple policy documents, including the Department of Finance's Regulatory

Policy, Practice and Performance Framework[71] and Commonwealth Procurement Rules[72]. This principle further aligns with Clause 1.d. in the Competition Reform Guidelines:

> *1.d. Where new or updated mandatory standards are deemed necessary to achieve the regulatory objective, identify, assess and recognise all appropriate international, regional, Australian, and overseas standards that could be fully adopted to meet the regulatory objective.*

This commitment is further consistent with Australia's obligations under the WTO TBT Agreement and various free trade agreements. In relation to goods, the WTO TBT Agreement obliges that WTO Members should use International Standards as a base, except where they are ineffective or inappropriate. Other trade instruments, like the TTMRA, obliges Australia to recognise goods produced or imported into New Zealand and allow them to be legally sold in Australia, and vice versa.[73] The legislation implementing the TTMRA overrides any domestic laws that regulate the manufacture or the sale of goods, such as product standards, packaging and labelling regulations, and conformance assessment requirements. There are some exemptions to the TTMRA, including but not limited to, laws relating to agricultural and veterinary chemicals; road vehicles; and therapeutical goods.[74]

World Trade Organization Technical Barriers to Trade (WTO TBT) Agreement

The WTO TBT Agreement aims to ensure that technical regulations, standards, and conformity assessment procedures applied to goods are non-discriminatory and do not create unnecessary obstacles to trade. At the same time, the Agreement recognises WTO Members' right to implement measures to achieve legitimate policy objectives, such as the protection of human health and safety, or protection of the environment. The Agreement obliges members to base their measures on International Standards to facilitate trade. In particular, Annex 3 of the Agreement provides guidance and "code of good practice" on the preparation, adoption, and application of voluntary standards. While the Agreement applies to goods only, the principles are relevant more widely and have been incorporated into this Handbook.

As such, in line with the government's existing commitments and policy agenda, policymakers should maximise the adoption of existing international, regional, Australian and overseas standards over developing new standards. Where appropriate and aligned with the regulatory objective, policymakers should consider implementing a new mandatory standard that recognises multiple existing standards. Providing several pathways aligned with widely used standards may reduce barriers to trade, improve market access for businesses, and expand consumer choice (see the Bicycle Helmets case study below).

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[71] See Principle 2 ("integrated in existing systems") of the Regulatory Policy, Practice and Performance Framework, pp. 8–9.
[72] "In prescribing specifications for goods and services, a relevant entity must, where appropriate:… b. base specifications on International Standards, when they exist and apply to the relevant procurement, except when the use of International Standards would fail to meet the relevant entity's requirements", Commonwealth Procurement Rules, Clause 10.10.b., 2024.
[73] New Zealand Ministry of Business, Innovation and Employment, A Users Guide to the Mutual Recognition Agreement (MRA) and the Trans-Tasman Mutual Recognition Agreement (TTMRA), 2014.
[74] See Section 3.2, 3.3, and 5.3 of A Users Guide to the Mutual Recognition Agreement (MRA) and the Trans-Tasman Mutual Recognition Agreement (TTMRA) for more information.

International Standards should be prioritised for adoption by Australian policymakers unless there is clear evidence that the standard is not suitable for the Australian context and/or does not align with the regulatory objective. Where standards are proposed to be adopted or revised in legislation, policymakers should undertake appropriate stakeholder consultation and provide sufficient time for businesses to transition to the new or updated standard.[75] The length of the transition period would vary depending on the context and subject matter and businesses would be allowed to comply with the older or updated standard during this time. For goods-related measures, the WTO TBT Agreement obliges WTO Members to provide a transition period that offers 'a reasonable interval' between publication and entry into force to allow time to prepare for compliance. The WTO TBT Committee has recommended that the 'reasonable interval' is at least six months. More information about determining suitability for the Australian context is available at Tool 1.

Adoption of International Standards will enhance market efficiency, increase competition, reduce transaction costs for businesses and improve standards of living. The complexity of adopting International Standards, however, will vary significantly across domains. For example, adopting International Standards for bicycle helmets may be relatively more straightforward than recognising road vehicle design standards, which involves more complex trade-offs between balancing vehicle weight, safety during accidents, emissions, and Australian environmental conditions.

Alongside the adoption of International Standards, Australian standards should be mandated as a pathway to compliance where appropriate. Policymakers should check whether voluntary Australian standards have already been developed by Standards Australia and mandate them if appropriate to meet the regulatory objective. Standards Australia is required to base Australian standards on International Standards to the maximum extent feasible and align with the Code of Good Practice contained in the WTO TBT Agreement.

Regional and overseas standards should also be considered provided they are suitable for Australian conditions. Policymakers may wish to consult with ATIA members, who can help undertake cross-country comparisons and determine whether the adoption of overseas standards is appropriate. Similar to the adoption of International Standards, policymakers will need to undertake appropriate stakeholder consultation and set a suitable transition period whenever regional, Australian and/or overseas standards are mandated.

The ACCC has adopted multiple Australian and overseas standards for bicycle helmets

The *Consumer Goods (Bicycle Helmets) Safety Standard 2024* prescribes the design, construction, performance, testing and safety markings for bicycle helmets sold in the Australian market.[76] Approved bicycle helmets must comply with one of the following Australian or overseas standards:

1. Australian New Zealand standard AS/NZS 2063:2020 – Helmets for use on bicycles and wheeled recreational devices;

2. Australian New Zealand standard AS/NZS 2063:2008 – Bicycle Helmets;

[75] See Principle 3 ("user-centred") of the Regulatory Policy, Practice and Performance Framework, pp 9–10.
[76] State and territory road use laws specify the type of bicycle helmet allowed on public roads.

3. European standard EN 1078:2012+A1:2012 Helmets for pedal cyclists and for users of skateboards and roller skates;

4. US Consumer Product Safety Commission standard US CPSC 16 C.F.R. Part 1203 Safety Standard for Bicycle Helmets;

5. American Society for Testing and Materials (ASTM) International standard F1447-18 Standard Specification for Helmets Used in Recreational Bicycling or Roller Skating; or

6. Snell standard B-95 1995 Bicycle Helmet Standard, 1998 revision, Standard for Protective Headgear for Use in Bicycling.

Allowing multiple domestic and international standards for bicycle helmets helps to reduce barriers to international trade – increasing product availability and quality for Australian consumers without reducing consumer safety.

Singapore and New Zealand recognise multiple standards for fire safety and building construction products

Singapore's Product Listing Scheme establishes a list of 'recognised standards' for regulated fire safety products.[77] Adopting multiple standards for compliance, where they are deemed suitable for local conditions, will help lower non-tariff trade barriers – creating a streamlined pathway for product acceptance, while ensuring regulated fire safety products are safe and reliable for consumers.

Similarly, New Zealand's Building Product Specifications list over 130 standards – including US, European, other International Standards, and NZ equivalents – to support businesses to demonstrate compliance with the Building Code.[78] This list contains specifications and standards for building products[79] relating to their manufacture, fabrication, testing, quality control, physical properties, performance, installation, and/or maintenance.

When mandating new standards, Commonwealth policymakers should collaborate with other regulators, including with international standard bodies and state and territory agencies. By improving coordination and supporting greater harmonisation across jurisdictions, policymakers can lower international and domestic barriers to trade, improve regulatory efficiency and effectiveness, and reduce administrative burden on industry.

Similarly, policymakers should consult with industry associations, standard and conformance bodies, and consumer advocacy groups to understand the socio-economic impact of introducing or updating mandatory standards. This can support innovation and improve public trust by ensuring mandatory standards are robust, fit-for-purpose, and suitable for Australian conditions.

[77] Singapore Civil Defence Force, Regulated Fire Safety Products, 2025.
[78] Building Performance, Building Product Specifications, 2025.
[79] These products include concrete, steel, timber, cladding, windows, insulation, plasterboard, heating, ventilation and air conditioning (HVAC) systems, and fire safety.

The National Greenhouse and Energy Reporting Scheme establishes consistent mandatory reporting requirements for Australian companies

Legislated in 2007, the National Greenhouse and Energy Reporting (NGER) Act introduces a single national reporting framework for company information on greenhouse gas emissions, and energy consumption and production. These mandatory reporting standards are guided by the Intergovernmental Panel on Climate Change (IPCC) and United Nations Framework Convention on Climate Change (UNFCCC) rules for estimation and measurement.

By establishing nationally consistent standards for reporting on greenhouse gas emissions, this Act has enabled the Commonwealth to meet Australia's international reporting obligations, supported international and interstate harmonisation, informed policy development on climate change, and avoided duplicative reporting from the states and territories.

Whenever standards are mandated, policymakers should consider whether the legislation should recognise future updates to the standard (see Tool 7). Safeguards in the legislation could be introduced to ensure that the standard remains fit-for-purpose for the Australian market. For example, if the relevant standard is updated without Australia's active participation in the relevant standard-setting body, then policymakers will need assess the standard to ensure suitability for the Australian context.

Policymakers should adopt the International Standard, unless they can demonstrate that the standard is unsuitable for the Australian context and/or does not align with the regulatory objective. Similarly, regional, Australian or overseas standards should be adopted alongside the International Standard, where appropriate, to provide multiple pathways to compliance.

Question 4. Could existing standards be modified to suit the Australian context and meet the regulatory objective?

Principle: Policymakers should be able to deviate from existing standards, including International Standards, where they do not meet local community needs. However, policymakers should only deviate if the benefit to the community outweighs the cost of deviating from existing standards (i.e. net public benefit).[80] The deviation should ensure suitability for the Australian context and align with the government's regulatory objective.

Existing standards should be adopted by policymakers, unless there is clear evidence the applicable standard is not suitable for the Australian context. Policymakers should consider whether and how the Australian experience diverges from other countries and the International Standard. Factors could include differences in the environment, climate or geography, issues related to national security, and potential economic benefits to competition, productivity and innovation.

Differences between Australian and international experiences alone do not warrant deviating from existing standards or developing new Australian standards. Policymakers should consider the likelihood of risk and severity of consequences associated with adopting the international, regional, Australian or overseas standards as compared to the transaction costs and administrative burdens related to developing new Australian standards. There may be circumstances where there is some divergence in the Australian experience, but the net costs to Australian consumers and businesses are outweighed by the net benefits of fully adopting international, regional, Australian or overseas standards. In these situations, policymakers should fully adopt existing standards where appropriate to meet the regulatory objective.

If policymakers need to adjust existing standards for Australian conditions, any deviation from existing standards, including the development of new mandatory standards, should involve the minimum amount of modification required to meet the regulatory objective and ensure suitability. Policymakers should retain the International Standard to the largest extent possible without significantly impacting community outcomes.

Australian Standards for sunglasses differ from the International Standard due to climatic factors

In 2016, the ACCC sought to update the mandatory standard for sunglasses by adopting the voluntary standard, AS/NZS 1067:2016 Sunglasses & fashion spectacles. The voluntary standard was divided into two parts to more closely align with content and structure of the International Standard, ISO 12312-1:2013.

Although the voluntary standard largely adopted the International Standard, there were several key differences relating to the ultraviolet radiation (UVR) protection, filtration of blue light, and labelling. Experts noted that "Australians are exposed to more UVR than northern hemisphere residents" and therefore warrant greater protection. Similarly, the

[80] For further guidance on assessing net benefit, including the impacts of fully adopting versus deviating from the International Standard, please refer to Appendix C and The Australian Government Guide to Policy Impact Analysis.

International Standard for blue light filtration and labelling were assessed to be inadequate for Australian conditions.

After stakeholder consultation, the voluntary standard was adopted as mandatory in 2017. This minimised the differences between the Australian and International Standard, while maintaining appropriate safety levels for Australian consumers.

There are scenarios, however, where fully using or adopting existing risk assessments, standards, or conformity assessment procedures may be inappropriate to use in Australia. For example, there may be differences in existing risk appetites and community expectations of safety between countries. Some specific examples for each policy tool are provided below:

- **Risk assessments:** There may be inadequate arrangements with international, regional, or overseas regulators to provide confidence in their risk assessments.
- **Standards:** The international, regional, or overseas standard may be incompatible with other domestic legislation or standards.
- **Conformity assessment procedures:** There may be no 'accepted' or generally agreed means to determine conformity or compliance with the international, regional, or overseas standard (i.e. inconsistencies in conformity assessment procedures).

Furthermore, there may be situations where there is no existing international, regional, Australian, or overseas standard (e.g. standards for emerging and critical technologies).

Policymakers may deem a new mandatory standard is necessary when existing standards are unsuitable and cannot be appropriately modified to meet the policy objectives. If appropriate, policymakers should consider working with Standards Australia to develop a new Australian Standard to serve as a foundation for future international standardisation. However, referencing existing voluntary standards in regulation should be prioritised over developing new mandatory standards, where appropriate.

Incompatibility with Australian conditions can prevent the adoption of international and overseas standards

There are two mandatory standards for portable fire extinguishers and these reference the Australian/New Zealand Standards AS/NZS 4353:1995 Portable fire extinguishers — Aerosol type and AS/NZS 1841:2007 Portable fire extinguishers. A range of overseas standards were assessed for suitability to reference alongside the Australian/New Zealand Standards in the mandatory standards. It was found that the BSI standard did not align with labelling requirements in Australia or require exposed non-metallic elements to be UV stabilised. The ISO, CEN and NFPA standards also had inconsistent labelling, fire classification and rating requirements needed in Australia. In other words, these International Standards were not compatible with other legislation and mandatory standards. The challenge for policymakers is appropriately balancing barriers to trade with improving community outcomes and harmonising with International Standards.

Policymakers should note there are direct and indirect costs with developing new mandatory standards, such as duplicating existing work by international, regional, Australian and

overseas standards-setting bodies, which is lengthy, costly and resource intensive. Fragmented standards across jurisdictions could lead to higher compliance costs, regulatory uncertainty, and reduced consumer choice. The benefit of diverging from existing standards should be explored and quantified by policymakers to help inform government decision-making.[81] Where the cost of deviating from existing standards outweighs the benefit to the community, policymakers should fully adopt the International Standard without deviation.

If yes, policymakers should mandate the standard with the minimum required modifications necessary to achieve their regulatory objective.

If no, policymakers should develop a new mandatory standard in Australia. Policymakers should note that new mandatory standards should only be developed when existing standards are unsuitable for the Australian context and/or does not align with the regulatory objective.

When deviating from international, regional, Australian and overseas standards or creating new Australian standards, policymakers should ensure these standards do not create unnecessary obstacles to international trade. Policymakers should ensure that new mandatory standards do not hinder competition, innovation, productivity or business dynamism by creating barriers to market entry and exit.

In line with Policy Tool 6, these new standards should be sunsetted and regularly reviewed to ensure they are fit-for-purpose, compatible with current views and expectations regarding quality, safety and the environment, and the least trade-restrictive policy measure. Similarly, policymakers should use ambulatory referencing and performance-based criteria, where appropriate (see Policy Tools 7 and 8 respectively).

Australian consumers and businesses should be able to easily understand the standards enforced by policymakers. When deviating from international, regional, Australian or overseas standards, policymakers should clearly communicate their policy rationale and explain why differences are needed to improve community outcomes and better target the regulatory objective/s. Policymakers should also outline the potential risks and future opportunities related to deviating from the International Standard.

[81] Policymakers may wish to reference the Guide to Policy Impact Analysis for further guidance on identifying and balancing regulatory objectives, particularly Question 3 (“What policy options are you considering?”) and Question 4 (“What is the likely net benefit of each option?").

Appendix C: The role of the Impact Analysis during the standards adoption and development process

Policymakers are required to notify the Office of Impact Analysis (OIA) when mandatory standards are being considered for introduction or revision. The OIA will provide advice on whether the threshold for completing a detailed Impact Analysis (IA) is met. If an IA is required, many of the tools described in the Policy Toolkit can contribute to the IA process.

The first step for policymakers is completing a Preliminary Assessment.[82] This is a high-level analysis which provides enough information for the OIA to determine and provide advice if the proposed change is "more than minor". In some cases, the Preliminary Assessment is the only documentation required of APS officers under the Government's Policy Impact Analysis framework, if the OIA determines that a detailed IA is not required for introduction or revision of the mandatory standard/s.

Where the proposed change is deemed to have "more than a minor change in behaviour or impact for people, businesses, or community organisations", the OIA will advise the policymaker to draft a detailed IA.[83] For example, an IA may be required when policymakers are introducing a new mandatory standard and/or deviating from existing international, regional, Australian or overseas standards.

When drafting an IA for new mandatory standard/s, policymakers need to evaluate the benefits and costs of introducing the standard against the existing status quo. A range of viable options should be examined, such as adopting the International Standard (where one exists), deviating from fully adopting the International Standard, and/or recognising other standards as appropriate. Factors to be considered may include the impacts on safety, health and the environment, competition, consumer protection, trade, regulatory burden and compliance, product availability, and/or national security. In examining the options, the IA should evaluate and compare the net benefits of different approaches, such as prescriptive-based versus performance-based standards, and "dated" versus "undated" standards.

The IA should also explicitly analyse the incentives, potential unintended consequences, and secondary effects associated with new mandatory standards. Although well-intentioned, mandatory standards can create unintended consequences or secondary effects, potentially undermining their intended objectives and adversely affecting other public policy goals. This is especially prevalent in rapidly evolving sectors. For example, cryptocurrency regulations aimed at ensuring market stability often impose high compliance costs that small startups cannot afford, inadvertently favouring large, established players and reducing competition and innovation. Policymakers should also evaluate the incentives embedded within the compliance framework to ensure they align with the regulatory objective.

For more information on Policy Impact Analysis Frameworks, refer to the:

- Australian Government Guide to Policy Impact Analysis
- Regulatory Impact Analysis Guide for Ministers' Meetings and National Standard Setting Bodies

Please contact the Office of Impact Analysis at helpdesk-OIA@pmc.gov.au

[82] Department of the Prime Minister and Cabinet, Australian Government Impact Analysis Preliminary Assessment Form, 2025.
[83] Department of the Prime Minister and Cabinet, Australian Government Guide to Policy Impact Analysis, 2023, p 8.