

BUSINESS COMPLIANCE COSTS PERCEPTIONS SURVEY

Regulatory Compliance Costs – an important issue for government

Any decision about regulatory change or intervention requires careful consideration of the expected costs and benefits. Almost all regulation will have some costs. These costs need to be weighed up against the objectives and expected benefits of regulation – both over the short and the long-term. The benefits can be wide-ranging (e.g. economic or social) and may accrue to business, consumers, the New Zealand economy or society as a whole.

Compliance costs (the ‘red tape’ costs of meeting regulatory requirements) are one of the important costs factored into government decisions about whether to regulate or whether to alter regulation. In addition to the requirement to prepare Regulatory Impact Statements (RISs), government departments are now required to prepare Business Compliance Cost Statements (BCCs) where advice supporting regulatory change will have compliance cost implications for business. Furthermore, when regulation is seen as the best available option, the government still seeks to ensure compliance costs are minimised.

A number of international studies have confirmed that the burden of regulation and compliance costs on business in New Zealand is light relative to other developed countries. For instance, in its 2002 Economic Survey, the OECD commented that “the quality of government regulations and their administration in New Zealand is generally high by international standards.” The 2003 Index of Economic Freedom, published by the Heritage Foundation and the Wall St Journal, noted that “it is easy to establish a business in NZ”, and described the regulatory regime as “relatively light” and “transparent”.

Nevertheless, improvement of the regulatory framework for business remains a key focus for this government, as evidenced by its extensive programme of regulatory reform – which has included amendment of the Commerce Act and associated competition regulations, introduction of the Takeovers Code, a review of insider trading laws, and introduction of the Securities Markets and Institutions Bill – to name a few.

As part of this wider programme of regulatory improvement, the government has undertaken several initiatives focused specifically on reducing compliance costs for business. These include:

- *Ministerial Panel on Business Compliance Costs Review* – the government has implemented many of the wide-ranging 162 recommendations submitted by the Panel.
- *Tax Simplification Programme* – the government’s ongoing programme to make tax compliance easier for SMEs.
- *Increased resourcing of the Environment Court* – several million dollars of funding over the past two to three years has seen noticeable reductions in Environment Court delays and backlog.
- *Business Law Reform Bill* – an omnibus Bill that makes amendments to a wide range of commercial law statutes with a focus on compliance cost reduction.

- *Electronic Transactions Act* – which, by providing improved and clarified legal status for electronic information, will reduce compliance and transaction costs for business.

Business Compliance Costs Perceptions Survey

In addition to undertaking specific compliance cost-related initiatives and ensuring a robust process for ongoing regulatory decisions, it is also important for the government to ‘stay in tune’ with business concerns about compliance costs.

Consequently, in mid 2002, the Ministry of Economic Development (MED) and The Treasury commissioned the *Business Compliance Costs Perceptions Survey*. This followed a commitment made by the government in *Striking the Balance*, its response to the recommendations of the Ministerial Panel on Business Compliance Costs. MED commissioned Massey University’s New Zealand Centre for SME Research to carry out the survey.

Given the difficulties in accurately quantifying compliance costs, the survey was to focus on business ‘perceptions’ of compliance costs and provide an insight as to the relative concerns of business in relation to different regulatory requirements. More specifically, and in keeping with the government’s Growth and Innovation Framework (GIF) and its broader focus on the impact of regulation on business performance, it was intended that the survey provide an understanding of the extent to which regulatory compliance requirements affect firm growth, innovation, and performance.

➤ **Survey Methodology and Structure**

Following a series of focus group meetings that helped to frame the survey, the consultant carried out a telephone survey of approximately 500 firms. The survey focused on SMEs, with the firms surveyed employing 50 or fewer employees. However, the size of the firms varied within this bracket. Firms also varied in terms of firm stage (maturity), growth intentions, export involvement, and industry type.

The survey was comprised of several parts – individually concerned with:

- the balance of costs and benefits that firms perceive accrue to their firm or industry through compliance with different regulatory requirements;
- the particular regulatory compliance requirements that firms perceive inhibit firm productivity, growth and general performance;
- the types of problems and difficulties firms perceive as created by regulatory compliance requirements, and the particular regulations most responsible for those problems; and
- how firms perceive that regulatory requirements have changed over time.

An additional section of the survey was specifically concerned with exporters’ perceptions as to the obstacles to growing their export business (with regulatory compliance requirements being only one of these potential obstacles).

➤ **Definition of ‘Compliance Costs’**

In order to properly interpret and understand the results of the *Perceptions Survey*, it is first of all important to clarify the definition of compliance costs.

In the government policy environment, compliance costs are understood to be the administrative or 'red tape' costs of regulatory compliance (e.g. the cost of completing forms or training staff about regulatory obligations). Compliance costs are incidental to the regulatory obligation itself, and do not, for instance, include direct costs of regulations such as the actual levels of taxation or ACC levies etc.

The Ministerial Panel on Business Compliance Costs, appointed by the government in 2000 to provide recommendations as how to reduce compliance costs, used the following definition of compliance costs:

“Compliance costs are the costs to affected parties of interacting with government in meeting an obligation or providing a service. Compliance costs are incidental to the obligation itself and are often related to the processing and providing of information. “

Some businesses, business groups, and at times the media tend to apply the term compliance cost in a much broader sense, incorporating many of the perceived direct and indirect costs of regulation. The wider costs of regulation are, of course, extremely important to the government's regulatory policy decisions. However, whenever attempting specifically to elicit business views on the 'red tape' costs of regulation, the tendency of businesses to think of compliance costs in a wider sense can be problematic. Certainly, some of the survey participants appeared to be thinking in terms of the wider costs of regulation, and the results of the perceptions survey need to be considered with this in mind.

Survey Results – Main Themes

The results of the survey reflect the perceptions of a small sample of the business community (and SME community) at a certain point in time – they are indicative only. Nevertheless, where there are consistent patterns or themes the results are a helpful indicator for both the government and policy-makers – particularly when added to other compliance cost research and existing knowledge of business compliance costs concerns.

The main themes of the survey's results are outlined below – both in terms of the main positive findings and the main perceived sources of compliance costs.

There will be a number of reasons why certain regulatory requirements are of particular concern to business, and the government takes these concerns seriously. MED will be working with other departments to gain a better understanding of the drivers behind the concerns identified in the survey. But in the meantime, departments have offered some preliminary comments. The purpose of the comments is not to dispute the perceptions, but rather to place them in context.

A series of tables containing the results of the different parts of the survey are contained in Appendix 1 (see below).

➤ **The ‘Positives’**

In terms of overall findings, it was encouraging that in relation to most of the different areas of regulation addressed in the survey, the majority of respondents indicated that they “deal readily” with the compliance requirements. Size and firm experience will always be important factors in terms of a firm’s ability to readily deal with its compliance requirements. However, the strategies and systems employed by firms are also very important. While the government will continue its efforts to reduce compliance costs, there is clearly also significant scope for businesses to learn from each other when it comes to compliance strategies.

Another very positive aspect of the survey results was the relatively low level of concern expressed in relation to regulatory requirements previously identified as areas of major concern to business.

In particular, the survey revealed that businesses tend to be less concerned with tax-related regulatory requirements (e.g. GST and PAYE requirements). This is a very positive result given a KPMG survey commissioned by the government in 1997, identified tax requirements as one of the most significant compliance cost concerns for business. In its report to the government in July 2001, the Ministerial Panel on Business Compliance Costs also noted that “businesses considered taxation their most significant business compliance cost.”

This result can be credited to the ongoing efforts of the government to reduce tax compliance costs through its tax simplification programme and the efforts of IRD to make information more accessible.

The government is aware that tax-related compliance costs remain an issue for business, and its ongoing tax simplification programme is aimed at reducing this compliance burden, particularly for SMEs. A government discussion document, to be released later this year, will outline further proposals for simplifying tax for small businesses.

Likewise, the requirement to provide statistical information to government agencies was also identified as one of the main concerns in KPMG’s 1997 survey. While some businesses still appear to consider the provision of statistics an unnecessary hassle (as mentioned above), it is encouraging that these concerns appear to have been reduced.

Other positives revealed by the survey include that many respondents recognised the benefits associated with fair trading legislation, the regulatory requirements relating to the hiring of new employees, and health and safety legislation.

➤ **Main Areas of Business Concern**

Across the survey as a whole, respondents tended to express most concern with employment and workplace-related regulation, specifically:

- regulation applying to the release of an employee;
- ACC regulation; and
- health and safety regulation.

Business frustration with regulation relating to the dismissal of an employee may be somewhat expected given the ERA is designed to balance the power of the employer with the right of a worker to challenge the fairness of the employer's action. Furthermore, when the ERA came into force in October 2000 it was accompanied by a significant amount of adverse publicity about the problems some groups believed the ERA would cause. While many of the envisaged problems have not in fact materialised, this perception of the ERA has tended to linger.

On a positive note, the survey indicated that the pre-employment procedures stipulated by the ERA were generally considered to be helpful.

Changes to regulatory requirements introduced by the Health and Safety in Employment Amendment Act in December 2002, and the extensive debate surrounding its introduction, may also have impacted on the survey results.

ACC was also identified as an area of concern. Some of the survey respondents are likely to have been expressing frustration with ACC reforms (return to a single insurer), ACC policy (e.g. the lack of no claims bonuses), the actual cost of ACC insurance, or the cost of workplace safety initiatives, rather than strictly compliance costs.

It is worth noting that concerns about compliance costs stemming from employment-related regulation is by no means a New Zealand phenomena only. For instance, a working paper released last month by the Australian Productivity Commissioner, *Mechanisms for Improving the Quality of Regulation: Australia in an International Context*, reported that employment regulations account for more than one-third of business compliance costs across the OECD. The complexities of workplace relationships and the need to balance employer and employee rights are challenging issues to address from a compliance cost perspective.

The survey also revealed a degree of frustration with:

- RMA-related legislation;
- food and animal labelling requirements; and to a lesser extent
- regulation requiring the provision of data to government agencies (e.g. Statistics Act).

Almost all businesses are regularly required to meet tax-related regulatory requirements, and to a lesser extent employment-related regulatory requirements. By comparison, a much smaller proportion of businesses regularly encounter the RMA or food and animal labelling regulation. However, for those businesses that do, the survey revealed a degree of frustration.

It is perhaps unsurprising some businesses have expressed frustration with RMA legislation. SMEs, in particular, do not tend to employ people with experience/responsibility for environmental matters. Their awareness of, and capacity to deal with, RMA obligations are often, therefore, low.

Some of the present frustrations with the RMA may be partially explained by the fact that most discharges were able to continue ten years past enactment of the Act in 1991. This resulted in a high volume of applications for discharge consents around 2000/01. The lengthy transitional period also meant that both transitional district

plans (those prepared prior to 1991) and proposed plans (those prepared under the RMA) carried weight and jointly generated requirements for consent. The overall volume of consents appears to be dropping year on year as RMA plans replace transitional documents.

On a positive note, the majority of respondents felt that the benefits of compliance with RMA-related legislation exceeded or balanced the costs. Where the RMA is concerned, compliance generally reduces the likelihood of complaints, prosecution and negative publicity.

Concerns about food labelling requirements could be due to the introduction, on 20 December 2002, of a new Food Standards Code for all food sold in NZ (imported or NZ produced) covering composition (additives etc) and labelling. For health and safety reasons, and to protect the consumer, the government made a decision to impose this new Code. The new Code is comprehensive and does impose additional compliance costs, (particularly in labelling products) on importers and manufacturers.

The requirement to provide statistics to government departments (e.g. under the Statistics Act) does not appear to be one of the most significant sources of compliance costs to business. For instance, only 2% of respondents identified this requirement as that which most significantly 'distracts and diverts' senior staff time. But at the same time, the survey revealed that a significant number of business still appear to see the requirement to provide these statistics as a diversion and an unnecessary hassle.

Businesses in the tourism and allied services industries (which were heavily represented in the survey sample) are likely to be frustrated with compliance costs imposed by the recent Accommodation Occupation Survey (although this was sponsored by the industry itself).

One of the other interesting findings was that respondents identified the tendency of regulatory compliance requirements to 'distract and divert senior management time' as the biggest problem resulting from regulation. This is an important finding from a firm growth and innovation perspective.

➤ **Obstacles to Exporting**

In addition to the specific focus on business perceptions of compliance costs, a sample of exporters was asked to consider the extent to which a variety of factors acted to restrict or slow their export growth (e.g. distance to markets, difficulty acquiring overseas representation). This provided an understanding as to how exporters perceive regulatory requirements as a constraint relative to other obstacles. Interestingly, the factor identified by the largest number of respondents (63%) as being a constraining factor was foreign regulation/conditions. 55% of exporters indicated that New Zealand's regulatory requirements were, at least to some extent, a factor inhibiting the growth of their export business.

➤ **Perceptions of Change over Time**

Survey participants were also asked to indicate how the time and effort required to comply with government regulations has changed over the last two years. 55% indicated that requirements have increased. 40% said they have stayed much the

same. Interestingly, respondents that felt there had been an increase were more likely to be from firms that were contracting, and from the food and primary sectors. These perceptions may at least be partially explained by the recent changes to accident insurance, employment relations, health & safety, and food safety legislation. These findings highlight the fact that compliance costs do remain an important issue for business.

Where to From Here?

The *Business Compliance Cost Perceptions Survey* adds to a knowledge base around compliance costs being developed through a variety of research and initiatives (e.g. the Ministerial Panel on Business Compliance Costs, the Business Practices and Performances Survey and the subsequent Firm Foundations report, and the SME “Good Regulation” Project).

This work needs to continue in order to refine understanding of the impact of regulation and compliance costs on business growth and innovation – key tenets of the government’s Growth and Innovation Framework (GIF). For instance, policy solutions to compliance cost concerns would be enhanced by a clearer distinction between compliance costs and the direct and other costs stemming from regulation. Reducing these costs and improving the regulatory environment for business is a key factor to economic growth and development.

MED will be integrating the findings of the perceptions survey with other available public sector, private, and international research in order to ‘pin down’ the most pressing compliance cost issues and identify where the most gains can be achieved.

In the meantime, the government’s focus on compliance cost reduction will carry on through a number of means.

First, the RIS/BCCS process will continue to be refined and its application by departments improved through training. This will enhance and make more transparent the consideration of compliance costs during the regulatory decision-making process.

Second, individual government agencies will concentrate on minimising the difficulties associated with regulatory change through the use of Test Panels (such as the Panel that provided advice during implementation of the Health and Safety in Employment Amendment Act 2002) education campaigns, and through the increased availability of information of regulatory requirements and regulatory change. Widespread departmental efforts to disseminate this information are already underway, particularly through increased use of the internet. Notably, the government’s recently launched one-stop business portal, which provides co-ordinated access to business services across government (e.g. IRD, Department of Labour, ACC, Companies Office), has already been well received by the business community. Its capacity capabilities will continue to be expanded.

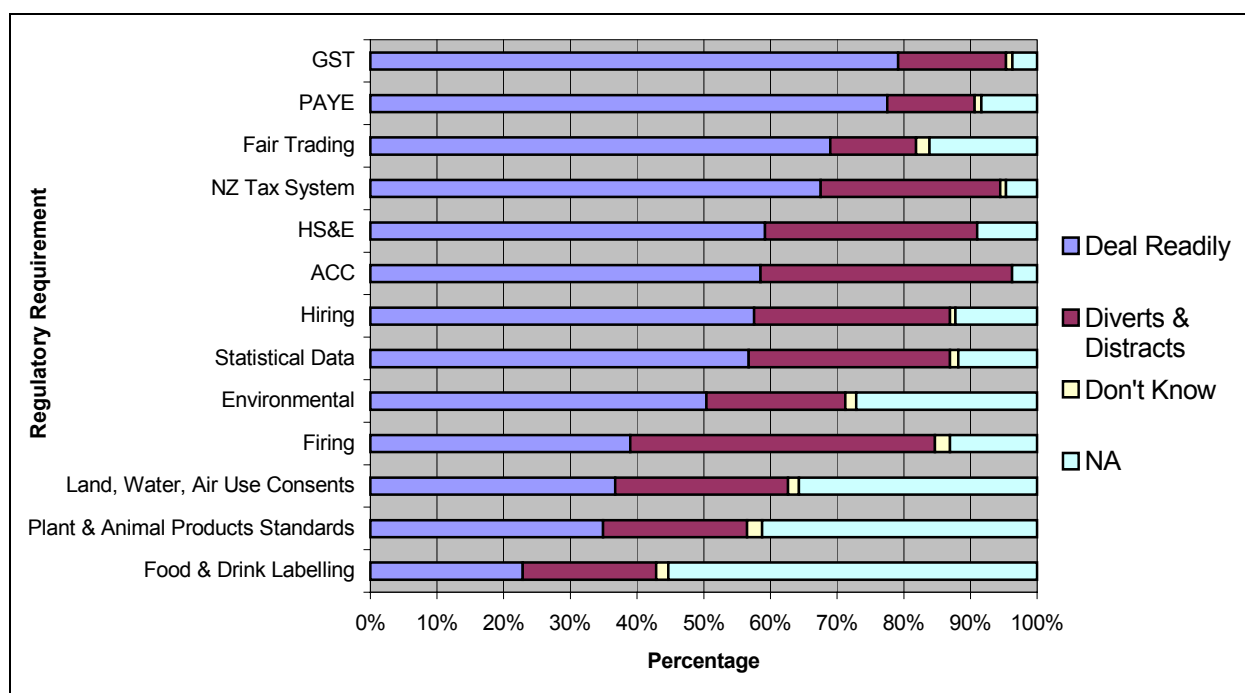
Third, there are a number of specific initiatives focused on the reduction of compliance costs already underway across government. For instance, the government’s ongoing tax simplification programme, and the Department of Labour’s SME “Good Regulation” Project and Small Business Assistance Active Pilot. Both of

the latter will involve SMEs working closely with government departmental and agency staff to find new and innovative ways for interacting.

Finally, the government is well aware of the very important role that small businesses play in the New Zealand economy, and that they must be given every opportunity to innovate and grow their businesses. Consequently, an SME Directorate has been recently established within MED and charged with interacting with business and reflecting and advocating those views and concerns of SMEs in relation to government regulatory proposals. The SME Directorate is also responsible for servicing a Small Business Advisory Group (SBAG) made up of business individuals and responsible for providing the SME perspective to government on regulatory proposals. The government also recognises that compliance costs fall disproportionately on small businesses, and consequently, both the SME Directorate and the SBAG will play an important role both advising and supporting the government's compliance cost reduction programme.

APPENDIX 1 - Business Compliance Cost Perceptions Survey: Results

Figure 1 - Business' Perception of Constraint on Productivity & Growth



Survey respondents were asked to indicate whether or not various regulatory compliance requirements tended to 'divert and distract' firm managers from improving productivity and concentrating on growth.

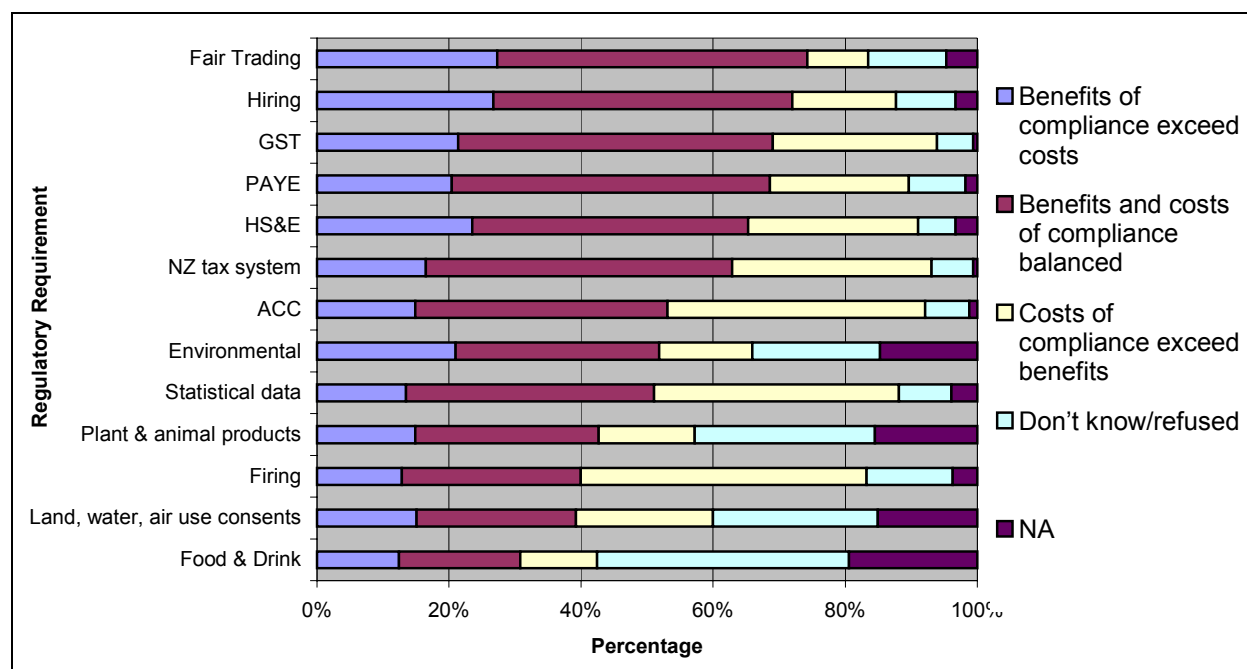
In relation to most (9/13) of the regulatory categories addressed in the survey, the majority of survey respondents indicated that they "deal readily" with the compliance requirements - notably GST (79%), PAYE (76%), and fair trading requirements (69%).

However, the regulations that the highest proportion of managers felt 'divert or distract' them included:

- regulations that apply to releasing a person who no longer suits the business ('firing') – 46% (compared with 39% who deal readily with them)
- ACC insurance regulations – 37% (compared with 59% who deal readily with them)
- health and safety regulations – 32% (compared with 59% who deal readily with them)
- regulations (e.g. Statistics Act) requiring the provision of data to government agencies – 30% (compared with 57% who deal readily with them)

Notably, if the 'Not Applicable' and 'Don't Know' responses are removed from the survey results, the regulations relating to land/water/air use consents (42%), plant and animal standards (38%), and food labelling standards (47%), also feature as regulations that a large proportion of respondents consider 'divert and distract' them.

Figure 2 – Business' Perceived Cost/Benefit of Regulatory Compliance



Survey respondents were asked to indicate whether the costs of complying with different regulatory requirements outweighed the benefits.

In relation to most (9/13) of the regulatory categories addressed in the survey, the majority of survey respondents felt the benefits of compliance either exceeded or balanced the costs. This was particularly so for fair trading (74%), hiring (72%), GST (69%), PAYE (69%), and health & safety (65%) requirements.

These percentages all increase if the 'Not Applicable' and 'Don't Know' responses are removed from the survey results. Furthermore, with these two categories removed, it is notable that a significant majority of the remaining respondents also considered the benefits stemming from compliance with the requirements for food and drink labelling (73%), plant and animal product standards (75%), as well as environmental requirements (79%), exceeded or balanced the costs.

On the other hand, those regulatory requirements that a significant proportion of respondents felt the costs of compliance exceeded the benefits included:

- regulations that apply to releasing a person who no longer suits the business ('firing') – 43% (compared with 40% who considered the benefits exceeded or were balanced with the costs)
- ACC insurance regulations – 39% (compared with 53% who considered the benefits exceeded or were balanced with the costs)
- regulations (e.g. Statistics Act) requiring the provision of data to government agencies – 37% (compared with 51% who considered the benefits exceeded or were balanced with the costs)

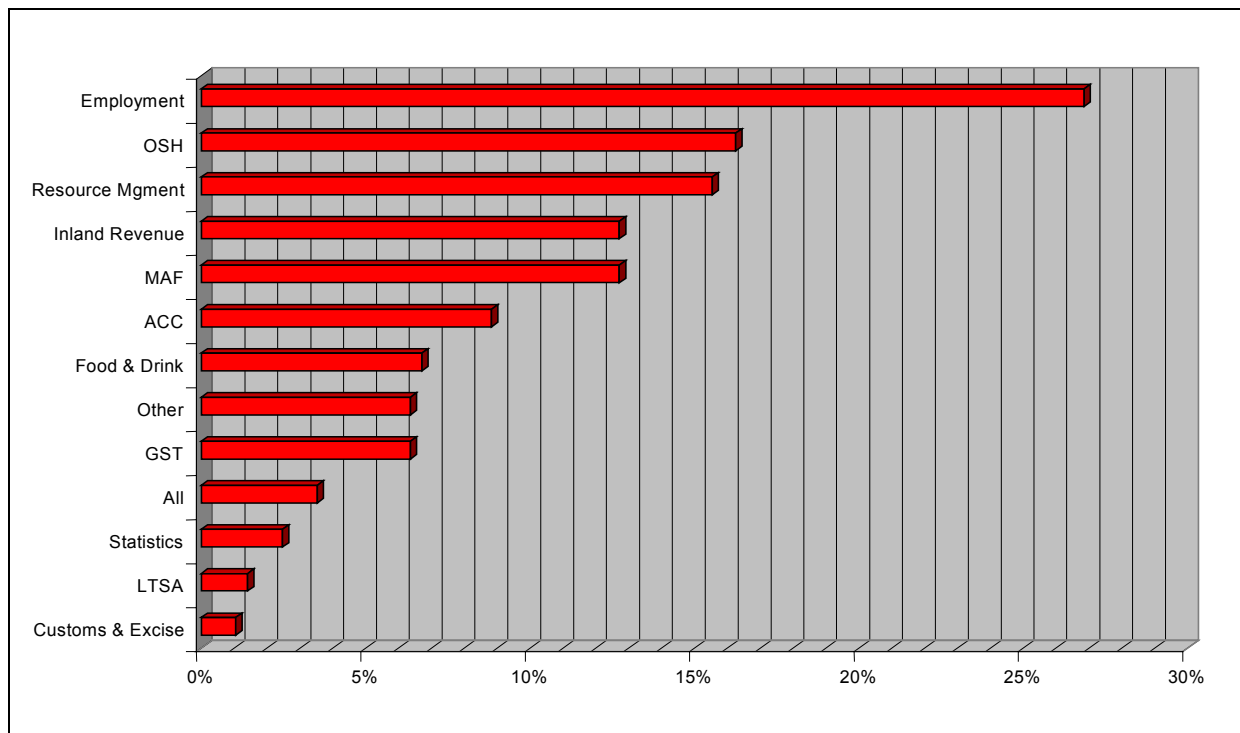
Figure 3 – Types of Business Concerns with Regulatory Requirements

Business Concerns	No. of Respondents	Percentage
Especially distracts and diverts senior staff time	283	57.8
Leaves your firm with a sense of unfairness	189	38.6
Obliges you to engage outside consultants	189	38.6
Draws you into legal expenses	179	36.5
Ambiguous to interpret or apply	178	36.3
Dampens manager's enthusiasm for innovation	177	36.1
Generates conflict and disagreement with regulatory agency staff	121	24.7
Impacts upon the value of, or speed with which your industry can increase, export earnings	118	24.1

Survey respondents were asked to indicate how regulatory requirements create problems for their firm. Respondents were given a list of possible problems (compiled on the basis of previous international and New Zealand research), and asked to indicate whether these problems were an issue for their firm.

'Especially Distract and Divert Senior Staff Time' was clearly the business concern with which the largest number of respondents could identify (57.8%), although significant numbers (35-40%) of respondents also identified with several other business concerns related to complying with regulations.

As a subsequent step, managers that had responded 'Yes' to any of the problems listed above, were asked to specify the particular regulatory requirement(s) that created these problems.

Figure 4 – Legislation Identified as Responsible for Business Concerns

Employment legislation was identified by more than 25% of survey respondents as the particular compliance requirement that was of concern to them, with OSH and resource management legislation also identified by more than 15% of respondents as the particular compliance requirement of concern.

Figure 5 – Factors that Slow or Restrict Export Growth



The Treasury was specifically interested in eliciting the perceptions of exporters about the constraints and difficulties they face in growing their export business. Consequently, as an addition to the survey's general focus on compliance costs, a sample of exporters was asked to consider a range of factors and indicate whether those factors acted to restrict or slow their export growth.

This part of the survey was not concerned specifically with regulatory compliance costs. However, it did provide an understanding as to how exporters perceive regulatory requirements as a constraint relative to other obstacles. For instance, 55% of exporters indicated that New Zealand's general regulatory requirements were, at least to some extent, a factor inhibiting the growth of their export business. More specifically, 38% indicated NZ workplace safety

requirements were, at least to some extent, a constraining factor, and 30% indicated that hassles at NZ borders were a constraint.

Interestingly, the factor identified by the largest number of respondents (62%) as being a constraining factor was foreign regulation/conditions.

Figure 6 – Changes in Compliance Requirements Over Time

How Have Compliance Requirements Changes Over the Past Two Years?	No. of Respondents	Percentage
Have Fallen	10	2.0
Have Stayed Much the Same	197	40.2
Have Increased	273	55.7
Don't Know	10	2.0

Survey participants were asked to indicate how, for firms such as theirs, the time and effort required to comply with government regulations has changed over the last two years.