

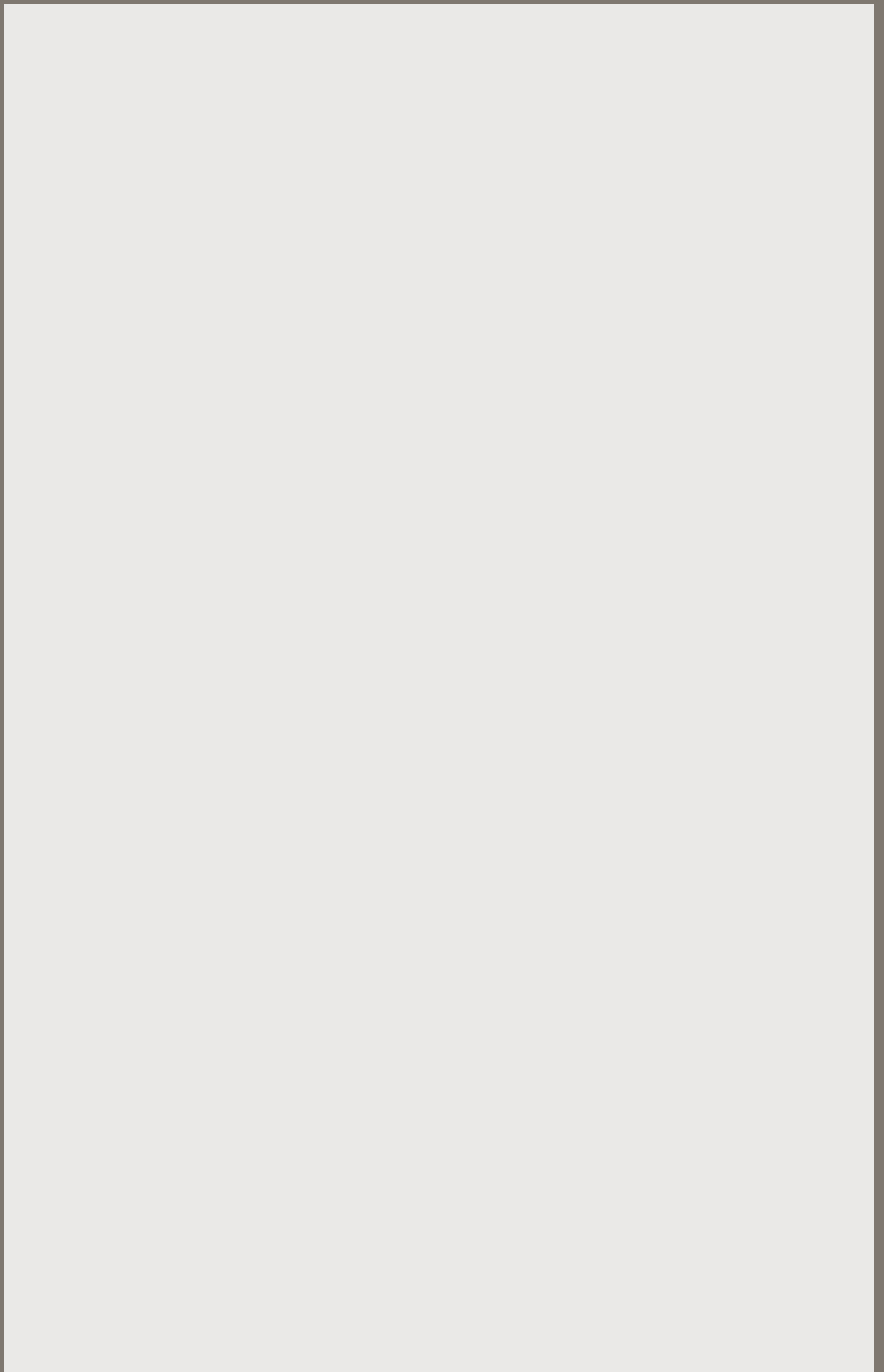


## Government Response

to the Small Business Advisory Group First Annual Report

December 05

# 2005



# Contents

Part One:	Foreword	2
Part Two:	The New Zealand Small Business Environment	3
Part Three:	The Government's Response to the Small Business Advisory Group's Recommendations	4

## Part One: Foreword



Hon Lianne Dalziel  
*Minister for  
Small Business*

The Small Business Advisory Group (SBAG) has brought about real change in the way government thinks about, and interacts with, small business by bringing a practical, hands-on perspective to the processes of government.

Since its establishment two years ago, SBAG has delivered, directly to Ministers and to officials, forthright, unambiguous and sound advice on government policies and programmes that affect small businesses.

In the main, these messages have been delivered out of the public eye. However, in August 2004 SBAG published its first annual report. That report set out 19 recommendations for changes that would, in SBAG's view, improve the business environment for SMEs.

As the newly appointed Minister for Small Business, it falls to me to present now the government's response to those recommendations. I do so with pleasure, as our response shows that a number of the SBAG recommendations have been implemented already by the government and that most of the others are being worked on vigorously.

I look forward to continuing the dialogue between SBAG and Ministers in the year ahead.

A handwritten signature in black ink, appearing to read 'Lianne Dalziel'. The signature is written in a cursive style with a long horizontal line extending from the end.

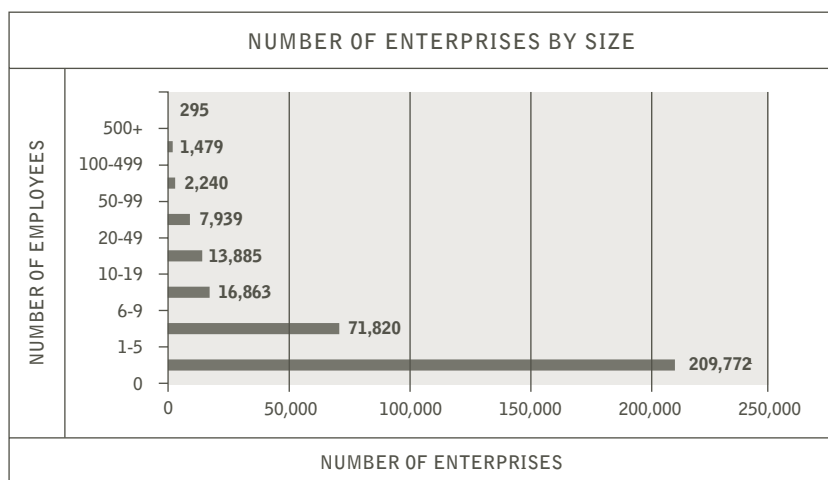
Hon Lianne Dalziel, Minister for Small Business

---

## Part Two: The New Zealand Small Business Environment

Since the publication of the SBAG report in August 2004, the Ministry of Economic Development (MED) has published its annual *SME Structure and Dynamics* report.

That report again confirms New Zealand as a country of predominantly small businesses. Just over 96% of all firms have 19 or fewer employees, and about 87% employ five or fewer people. This preponderance of smaller firms is consistent across most industry sectors.



1. Source: Statistics New Zealand 2004. Figure includes most working proprietor businesses.

New Zealand’s small and medium-sized enterprises (SMEs) make a significant contribution to the economy. They account for 37% of the country’s output and nearly one-third of total employment (which rises to 42% if the self-employed are added-in). Smaller businesses are also the most dynamic group in the business population. The numbers of SMEs entering and exiting the market is high, but at the same time these businesses accounted for 60% of the new jobs created in the economy over the last four years. Research shows that high business turnover, or business churn, is associated with higher labour productivity.

SMEs typically show strong financial performance. For example, businesses with 1–5 employees have the highest average profit per employee of any group of businesses in New Zealand. They tend also to outperform their larger counterparts in average real sales and other income.

SMEs are critically important to regional and rural areas of New Zealand. In areas such as Northland, Tasman and the West Coast, SMEs account for a large proportion of employment.

Therefore, the importance to New Zealand of its SMEs cannot be over-emphasised.

## Part Three: The Government's Response to the Small Business Advisory Group's Recommendations

As well as setting out, under the headings used by SBAG, government actions that relate specifically to the SBAG recommendations, this report covers additional, related initiatives and work undertaken by government in the period since the SBAG report was published.

### Building Capability and Lifting Performance

Improving firm performance is the key to sustained economic growth. Firm performance is driven by critical business activities such as product development, investment in equipment, market development and the productive use of resources (both human and physical).

Business mentoring can enhance management capability and, thus, firm performance. Mentors are people who advise business managers but who are usually not the enterprise's accountant, lawyer or bank manager (though these professionals can provide advice in the course of their client relationships). Mentors assist business owners to see what more they could do to improve the productivity of their enterprise.

Business assessment tools, business awards adjudications, and benchmarking against other firms allow businesses to make comparisons between their own and others' performance and thus see places to improve. Awards also signal community and peer acceptance of the significance of business in lifting the standard of living of all New Zealanders.

### Mentoring: Management Issues

#### SBAG Recommendation 1

That the government enhance funding to Business in the Community and/or similar providers of mentoring services to upskill their mentors and mentor co-ordinators in order to provide a superior service to clients and to market their services.

### Government Response

In this year's Budget, the government allocated an additional \$3.07 million over the next five years through New Zealand Trade and Enterprise (NZTE) to provide:

- > additional quality training for business mentors
- > promotion to SMEs of the value of using mentors
- > improvements in, and advertising of, the New Zealand mentor accreditation scheme.

### Related Work in 2004 and 2005

- > NZTE provided \$400,000 support to Company Rebuilders and Business in the Community, to provide mentoring services for business and to better promote the availability and value of mentors/mentoring. Company Rebuilders and Business in the Community have now merged their operations to become Business Mentors New Zealand, in order to provide a more efficient delivery to clients.
- > The need to increase the supply of quality mentors has been addressed also through supporting the introduction into New Zealand of the Australasian Institute of Facilitators Mentor Accreditation Scheme.
- > In 2004/05, NZTE provided 339 grants to 326 firms to enable them to engage the services of a business mentor, undertake training, employ specialised advice and expertise for a specific project, or to undertake international market development activities. The total funds distributed under the capability building section of the Enterprise Development Fund were \$3.67M in 2004/05.
- > Te Puni Kōkiri's Māori business facilitation service provided free mentoring for 192 Māori interested in starting up a business or wanting to improve an existing business. The funding for this service totalled \$5.1M in 2004/05.

### Independent Advisory Boards: Governance Issues

#### SBAG Recommendation 2

That the government provide funding to SMEs with growth potential to engage an Advisory Board to assist them in the governance of their business. The Advisory Board would typically comprise 2-4 people capable of bringing to the business an impartial eye and expertise that the founder/owner does not possess.

#### Government Response

NZTE's Enterprise Development Fund (EDF) list of eligible activities has been amended to include funding of Advisory Boards as a new eligible activity for a period of up to three years.

Under this scheme, funding of up to \$3,000 (GST inc) per Advisory Board member per annum, for up to three members, will be provided on an up to 50:50 cost share basis for established businesses. Applications for funding under this scheme will be sought from 1 December 2005.

Funding of \$0.711M per annum has been made available to implement the Advisory Boards scheme. A review of the scheme, after 18 months operation, will determine whether or not it is continued.

## Business Awards and Benchmarking

### SBAG Recommendation 3

That the government support the use of existing and new local business awards programmes as a way of providing benchmarking information to firms. The expectation is that a common template would be devised that could be used by local business organisations and trade associations to establish and judge annual business awards. The template should be designed in such a way as to permit key comparisons with companies in already established benchmarking systems. The information from these templates could be fed into a central database that would provide benchmarking data for participating businesses across the country.

### Government Response

#### Benchmarking

The Business Capability Partnership, a private-public collaboration aimed at enhancing business and management capability in New Zealand, is managing a government-funded project to develop and promote a suite of business diagnostic tools. These tools will enable businesses, at any stage in their life-cycle, to compare their business and management practices with those recommended in a business improvement framework. The tools will be available for use by all suppliers of capability development services and firms.

When sufficient businesses have collected data using the tools, the information will be gathered in a publicly available database. Firms then will be able to benchmark their performance against that of comparable New Zealand (and perhaps international) firms.

This project is expected to be completed by mid 2006.

#### Awards

There are numerous national/industry business awards programmes currently operating in New Zealand. They are sponsored by a variety of public and private sector organisations and are run by local organisers (such as Chambers of Commerce). However there is little consistency between the judging criteria.

The Business Capability Partnership is consulting with current award sponsors and organisers to see if there is support for the development of common criteria that could be used in judging business awards. A key benefit of common judging criteria would be the opportunity created for enterprises to benchmark

themselves against a large pool of award winners. A report on the outcomes of the consultation process will be completed early in 2006.

#### Related Work in 2004 and 2005

- > The government established, in 2004, a contestable Management Development Fund. The Fund is administered by MED and is available to fund projects that contribute to better alignment between the supply and demand for management and business capability development services, and support innovative approaches to management capability development. Funding of \$5.95M is available within this Fund over the next four years from the 2005/06 year.

#### Practical Tools to Assist Managers

##### SBAG Recommendation 4

That there be readily and cheaply available to all SMEs a checklist of things they need to do, and the assistance that is available, when starting and growing a business. Any help-sheets that are produced must be in a consistent and user-friendly format and be kept up to date.

##### SBAG Recommendation 5

That a complete checklist of issues to be considered when hiring an employee, together with supporting advice and guidance, quickly and cheaply for businesses.

#### Government Response

The Department of Labour (DoL) published, in August 2005, a *How to Hire Guide for Employers*. That publication was developed with the assistance of SBAG and contains easy-to-use checklists that are consistent with the intent of recommendation 5. DoL has also released *An Employer's Guide to Employment Relationships*, designed to assist employers to deal with and prevent problems in employment relationships. Both guides are available electronically and in print from the Employment Relations Service.

The biz.org.nz website was upgraded in October 2004, with additional links provided to several sites (including DoL) that have business planning tools and checklists available. There are links to over 20 checklists, including workplace information, exporting and starting a business.

The government in Budget 2005 provided over \$9.9M to transform the biz.org.nz website into a world-class business portal. That portal will enable New Zealand businesses to access the best business-relevant material available to assist them to grow. This will include links to the best available checklists and planning tools from public and private sources.

The biz portal project recognises that there is no “one size fits all” solution to the provision of business advice and planning tools. Therefore it will allow users to access information and advice not only through the internet, but also by telephone, email and fax.

### Access to Finance and Grant Assistance

A financial system that provides credit-worthy firms with adequate access to finance on acceptable terms is crucial to a country's economic development. A sound financial system improves the allocation of resources within the economy, the quality of corporate governance, the rate of innovation and productivity, and the long-term rate of economic growth.

### Easier Access to Finance for SMEs

#### SBAG Recommendation 6

That the government undertake policy development work aimed at making access to funds easier for SMEs with growth potential (e.g. encouraging banks to lend on cashflow/character in addition to assets, loan guarantees).

#### Government Response

In May 2005, the government reviewed the options for assisting with access to finance issues for SMEs in both debt and equity markets. After considering the options, the government decided to implement the Seed Co-investment Fund to help develop the capability and participation of equity investors in early-stage equity markets. Under the scheme, the government will co-invest up to 50% in an equity investment, with a limit of \$250,000 investment in any proposal. The Seed Co-investment Fund (maximum of \$40M over the next five years) was announced on 18 July 2005 and is expected to make initial investments by July 2006.

### Related Work in 2004 and 2005

- > A number of other initiatives are in place to address financing issues, including:
  - under the Escalator programme, where firms are assisted to approach potential investors, NZTE assisted 59 firms to broker deals potentially worth \$51.6M. They have succeeded in raising \$18.8M over the last 12 months.
  - the Venture Investment Fund, a venture capital “Fund of Funds”, which committed \$55M in conjunction with private sector co-investors and invested in 12 companies last year
  - agreement to regulatory and tax changes, aimed at removing barriers to capital raising and investment, including creation of limited partnerships (the preferred vehicle for venture capitalists) and tax flow-through treatment for limited partnerships
  - equity investment in SMEs being encouraged by changes to rules governing access to tax deductions for R&D expenditure, where companies bring in new equity investors after their initial development stage
  - detailed analysis of the 2004 Business Finance Survey, a study into the demand for finance. The research, due for completion in early 2006, will help determine whether particular categories of businesses experience difficulties accessing finance.

### Accelerated Depreciation

#### SBAG Recommendation 7

That the government urgently undertake a revision of rates of tax deduction for depreciation with the view of reducing taxation in the first three years of plant installation, and offsetting that with lower allowable tax deductions for depreciation in the following years.

#### Government Response

The government has introduced legislation amending the tax depreciation rules. These changes will result in new depreciation rates that better reflect how assets decline in value and will put in place changes to reduce compliance costs for businesses. The changes were announced in Budget 2005.

Under the changes, short-lived plant and equipment will generally be able to be depreciated using the “double declining balance” method. Under this method, for example, an asset with a ten year economic

life will be written off at a diminishing value rate of 20%. For equipment such as laptops, the total allowable diminishing value depreciation rate rises from 48% to 60%.

The diminishing value depreciation rate for most buildings will reduce from 4% to 3% and will apply to buildings purchased or under contract as at 19 May 2005.

The goal of these changes is to reduce the effects that the tax depreciation rules can have on investment decisions.

#### Related Work in 2004 and 2005

- > To reduce some of the compliance costs to business from having to maintain fixed asset registers, the low value asset threshold will rise from \$200 to \$500. This will reduce the number of assets that businesses must annually account for on their fixed asset registers and the number of tax adjustments required when disposing of assets.
- > The Ministers of Finance and Revenue are jointly leading a review of the current business taxation regimes. Their aim is to ensure that the system gives better incentives for productivity gains and improved competitiveness with Australia.

### Sales and Marketing Support

#### SBAG Recommendation 8

That the government develop a strategy for providing assistance to SMEs to implement sales and marketing strategies and plans.

#### Government Response

The Enterprise Development Assistance Grant Market Development component was launched in January 2005 and provides up to 50% of the costs (up to \$100,000 per annum) of offshore marketing and promotional activities, allocated on a first-in, first-served basis. To be eligible for this assistance, a firm must have an annual turnover of no more than \$20 million and contribute a minimum of \$20,000 towards the costs.

The scheme provides \$5.91M in 2004/05, \$6.10M in 2005/06-06/07, \$10.55M in 2007/08 and \$12.78M in 2008/09 and beyond.

The first round of funding received a strong response. Within the first month, applications totalling over \$11 million had been received: 84 applications were successful.

#### Related Work in 2004 and 2005

- > The government allocated \$516,000 towards the pilot Central Online Management and Export Trade (COMET) Accelerator project. The objective of the Accelerator project is to develop a “blueprint” for SMEs to use e-commerce to access global markets.

### Opening the Way for Business

Effective and competitive product, input, labour and capital markets support innovation and business activity. This involves a variety of factors, such as maintaining the competitive pressures that generate incentives for innovation and for suppliers to understand customer needs and to seek better ways of meeting them.

Businesses need also an environment that encourages entrepreneurship. As SBAG noted, New Zealand's culture is often blamed for undermining our entrepreneurial performance and hence our economic development. Government recognises this, and is working to improve our understanding of the links between New Zealand's cultural norms and its economic performance.

### Enterprise Education and Support for Business Careers in Schools

#### SBAG Recommendation 9

That the government ensure basic enterprise education is part of the core curriculum at year 10 (4th form) and that provision is made for better support for enterprise education providers and for promoting careers in business to school pupils.

#### Government Response

Education for Enterprise is “*learning directed towards developing in young people those skills, competencies, understandings and attributes which equip them to be innovative, and to identify, create, initiate and successfully manage personal, community, business and work opportunities, including working for themselves*”.

The Curriculum Stocktake Report (2002) identified a critical role for Education for Enterprise and fostering entrepreneurial “give it a go” attitudes across the curriculum. The New Zealand Curriculum Project is revising the curriculum in line with the recommendations of the report. The revised

curriculum will feature five key competencies, based on the work by the OECD that identified the competencies people need for a successful life in a well-functioning society. This project, in conjunction with current enterprise initiatives, is strengthening Education for Enterprise across the curriculum.

A review of the first working draft of the revised curriculum is underway to ensure Education for Enterprise has a strong focus across levels 4-6 (year 10) of the curriculum. In addition, there has been a financial literacy audit on this working draft, and the office of the Retirement Commission has overseen the development of a personal financial management curriculum. Recommendations from these reviews will inform the official draft curriculum, which will be released for extensive consultation in 2006. The Ministry of Education will consult SBAG in this process and will consider the current and any other recommendations they have at that point. The final curriculum is expected to be published and mandated in 2007/08.

The Ministry of Education has appointed a new staff member with responsibility to lead and develop Education for Enterprise on a national and local basis. An Education for Enterprise web portal went live at the end of November 2005. Initial material includes a best practice case study and mentor Stephen Tindall outlining the importance of school/community and business partnerships. Additional best practice case studies will be added to the site as schools' capability and community partnerships flourish.

The Ministry of Education is currently funding professional development for teachers in Education for Enterprise (\$500,000 per year). This aims to shift teacher practice and build teacher capability in raising students' enterprising skills and attributes across the curriculum. In addition to this, the Ministry is working closely with a number of independent organisations, such as the Enterprise New Zealand Trust, to strengthen and enhance Education for Enterprise in primary schools.

Additional teacher professional learning opportunities to support and stimulate interest in Education for Enterprise in the revised curriculum will be available in 2006/07. The Ministry is currently seeking tenders to develop case studies of diverse schools successfully implementing Education for Enterprise in the wider curriculum.

The Ministry of Education is taking the lead in convening a national forum of interested key stakeholders, to design a national framework to support the development of Education for Enterprise across other government and non-government agencies, and business organisations. The first meeting took place on 7 December 2005.

### Related Work in 2004 and 2005

- > In 2005/06, Designing Careers Pilots in 75 schools throughout New Zealand are supporting students to develop a career plan and explore options including business careers. STAR funding is also being used by schools to provide student access to qualifications in business and ICT.
- > The Enterprise Culture, Skills and Activities Fund administered by NZTE provided, in 2004/05, 16 grants (\$1.7M) to organisations promoting the development of a culture that supports business success, entrepreneurship, and/or growth in business skills and aspirations.
- > The government's Growth and Innovation Advisory Board facilitated a workshop in April 2004 involving parties interested in enterprise education from business and the education sector.

### Government Procurement Practices

#### SBAG Recommendation 10

That the barriers to government agencies purchasing from New Zealand suppliers be identified and remedied to ensure that the government makes greater use of its procurement powers as a tool to encourage innovation and growth in New Zealand's SMEs.

#### Government Response

MED, in conjunction with other government agencies, is currently reviewing the implementation of government procurement policy. As a result of the SBAG recommendation, the brief has expanded to include a focus on identifying and remedying any barriers to participation by suppliers, SMEs in particular. The review is also addressing ways of promoting innovation through procurement. A report on the review is likely to be presented to Ministers in February 2006. SBAG has been invited to comment on the draft of the report prior to its being finalised.

Costs of tendering are a major issue for low-resourced SMEs, and one of the conclusions of the review to date is that government agencies can do more to streamline the process and minimise red tape through simplified, standardised and proportionate documentation requirements and prequalification arrangements. SMEs can also be disadvantaged by the "strategic procurement" approaches of agencies seeking to make their procurement more manageable and cost-effective overall, by aggregating their purchasing requirements and reducing the number of suppliers from whom they purchase directly.

Achieving better outcomes in this situation for both government and industry requires improving the ability of purchasers to implement best practice and to make the best value-for-money judgements, balancing short-term efficiency with the long-term benefits of fostering a competitive supplier base, including competitive and innovative SMEs. This will require greater attention, from CEO/senior management down, to upgrading professional skills in government procurement as an important enabler of innovation and growth.

Currently the government does not have a suitable data collection mechanism to report on SME participation in the procurement process. Therefore, it will be difficult to measure the current level of participation by SMEs or the impact of any changes that might result from the review of the implementation of government procurement policy. Appropriate monitoring and reporting arrangements are considered in the review.

#### **Related Work in 2004 and 2005**

- > An industry-led group of largely Wellington-based ICT companies (ICTX) and the MED sought to establish the ICT procurement issues of specific concern to the ICT industry. As a result, it was concluded that the best means of improving the implementation of government ICT procurement policy would be through improved education initiatives for both ICT vendors and government purchasers. Therefore the government is sponsoring a series of workshops supported by the Information Technology Association of NZ for ICT suppliers and for government buyers to improve understanding of government procurement policy and practice. The workshops, held in Auckland, Wellington, Christchurch and Dunedin during July and August, were well attended (a total of 355 delegates from 245 firms) and well received by ICT vendors. The workshops provided MED with further first-hand insight into vendor concerns, which are being addressed in the procurement policy implementation review.
- > A review of the Industry Capability Network (ICN), located in NZTE, was completed in December 2004. It recommended that ICN actively promote itself to existing and potential clients in order to increase awareness of its role, provide seminars/workshops for SMEs on how to engage with the government procurement processes via NZTE's Enterprise Training programme, and use more of its resources to identify actively, for purchasers, New Zealand suppliers and their capabilities.

## Single Market with Australia

### SBAG Recommendation 11

That the government make greater efforts to harmonise borders with Australia and make trading with our neighbour easier.

### Government Response

The governments of both New Zealand and Australia are committed to progressing the Single Economic Market (SEM) agenda and currently are working on a number of SEM-related initiatives. These include reviewing competition policy and consumer protection, banking regulation, securities offerings, rules of origin, and the Trans-Tasman Mutual Recognition Arrangement – all of which are designed to reduce compliance for businesses. A recent successfully completed project is the agreement on the mutual recognition of security offerings, which will reduce the costs of capital-raising for businesses in both countries.

The government is also exploring ways to help New Zealand companies increase mass and scale by looking, with Australia, at industry policies designed to improve innovation in the trans-Tasman economy. The areas of interest include research, science and technology, as well as policies that are directed towards business innovation. This work is at a preliminary stage. It is hoped that it will lead to co-ordination and possibly even to collaboration.

However, the diversity and complexity of SEM issues means some of these initiatives are more developed than others and that the achievement of a SEM is a long-term goal.

### Establishing an Enabling Regulatory Environment for Business

Overall, New Zealand ranks very well in terms of “growth-friendly” regulation. A recent World Bank study listed New Zealand top of its list of economies with the best business conditions.

However, because of the importance of the regulatory environment to the potential productivity of business, and because of government's influence over it, the government will focus on continually improving our regime to maintain our existing international standing and the competitive advantages that gives our businesses.

## Think Small First

### SBAG Recommendation 12

That each government department identify a small business advocate who would be responsible for presenting the SME perspective on any proposals being developed by the department that might impact SMEs.

#### Government Response

The main agencies in portfolios that most directly impact businesses have adopted this recommendation.

The Accident Compensation Corporation (ACC), DoL and MED now all have small business advocates within their organisations. The Inland Revenue Department (IRD) has recently appointed a SME Champion to act as a co-ordinating point and focus for assessing the impacts of IRD proposals on, and communication with, SMEs.

Many other departments support the intent of this recommendation, which is to ensure that the interests of small business are considered (along with other perspectives) from the beginning of the policy development process. For example, MAF believes that many SMEs in the rural sector would be assisted if government agencies generally adopt this proposal.

### SBAG Recommendation 13

That a senior manager in each government department be charged with scrutinising all the regulations designed by the department, to assess the need for them, their quality and the impact they will have on business (and SMEs).

#### Government Response

DoL has a senior manager who has responsibility for ensuring effective policy development processes are followed and that these include an impact assessment. MED has given the Director SMEs the responsibility of monitoring, questioning and reporting on all business-related regulation proposed and developed by the MED.

Other departments consider that existing managers in policy agencies should be accountable for producing good quality regulations. They are concerned that having a single person responsible may not improve the quality of regulation and could confuse accountabilities for achieving it.

### Related Work

- > It is a Cabinet requirement that departments prepare Regulatory Impact Statements and Business Compliance Cost Statements (RIS/BCCS) for proposals that are recommending legislative change. Most departments have appointed a senior official to act as a key contact point for quality of regulation issues.

#### SBAG Recommendation 14

That the government measure and publish the cumulative effects of the costs of compliance with regulations passed in the previous six months.

### Government Response

The Government has asked MED to prepare a report, before 30 June 2006, on how to more effectively measure and reduce the effects of compliance costs on business. The Ministry will report on:

- > a study to determine how the Dutch Standard Cost Model, a method for identifying and measuring the costs to business of information reporting requirements imposed by regulation, and the Australian on-line Costing Tool that elaborates the Dutch Standard Cost Model, could be used for measuring business compliance costs in New Zealand
- > the establishment of a tripartite group (government, business and unions) to be responsible for measuring cumulative compliance costs every six months
- > a review, undertaken in collaboration with SBAG, of a sample of BCCSs to compare the estimated costs of compliance outlined in those statements with the actual compliance costs reported by businesses.

### Related Work in 2004 and 2005

- > In July 2005, the government released a report showing that it had implemented 139 (or 90%) of the recommendations it agreed to implement from the 2001 Ministerial Panel on Compliance Costs. All the remaining 16 agreed recommendations have been superseded by other developments that addressed the same issues.
- > New Zealand is participating in the OECD's Red Tape Scoreboard project. This will compare the administrative burdens of two common events in a specific industry, across most OECD countries. This study will be published in mid 2006.

## Process for Regulations

### SBAG Recommendation 15

That all business-related legislation and regulations come into effect on only one or two pre-determined days per annum. Common commencement dates, especially when coupled with advance notice and guidance, would offer a greater degree of certainty, and would help SMEs to plan and budget, and reduce their costs. In addition, businesses would know that they have to deal with regulatory changes only at fixed, predictable points in the year.

### Government Response

The principle that businesses need certainty in order to plan for regulatory change is accepted by the government. However, there will be times when the national interest makes it impossible to pre-determine an implementation date.

The Ministers responsible for MED portfolios, which include Communications, Tourism, Consumer Affairs, Commerce, Small Business, Industry and Regional Development, and Energy, have agreed to the implementation of this recommendation for their portfolios. It is hoped that implementing common commencement dates at the MED will provide an example of best practice to other relevant agencies.

The Minister of Labour has agreed that her department will ensure that each specific piece of workplace-related legislation or regulation comes into effect on dates during the year chosen after consultation with business (including SBAG). The objective is to ensure that the businesses or business sectors affected by the legislation or the regulations are able to most effectively implement any required changes in their business practices.

The IRD already has only a limited number of days each year on which its new or amended regulations come into force. The New Zealand Food Safety Authority (NZFSA) has a standard 1 July date for cost recovery changes. Legislation administered by MAF is often timed to coincide with the start of primary production seasons, for example, the dairy season begins 1 June and the meat season begins 1 October.

### SBAG Recommendation 16

Those proposals for changes to regulations that affect business are put out for a minimum three months' consultation period and do not come into force until three months after the government or Parliament agrees to the changes. This provides adequate time for SMEs to contribute to the design of the regulations and to prepare for their commencement. Listening to businesses has a number of specific benefits. It allows government to tap the widest source of information possible and thus improve the quality of decisions reached, it alerts policy makers to any concerns and issues not picked up through existing evidence, and it helps to monitor existing policy and to determine whether changes are needed.

#### Government Response

The Ministers responsible for MED portfolios, which include Communications, Tourism, Consumer Affairs, Commerce, Small Business, Industry and Regional Development, and Energy, have agreed to the implementation of this recommendation for their portfolios.

The Minister of Labour's response to this recommendation is as outlined in the response to recommendation 15.

This recommendation is met largely already by IRD as part of its Generic Tax Policy Process and by the NZFSA. The Domestic Food Review currently underway expects regulatory change to occur over at least a five-year transition period. The NZFSA intends to maximise the lead-in time to any regulation of domestic food producers.

#### Related Work

- > Cabinet currently imposes a "28 day rule" which states that, unless especially exempted (usually on the grounds that they will convey a benefit), regulations must not come into force until at least 28 days after they have been notified in the New Zealand Gazette.
- > The business consultation website [www.businessconsultation.govt.nz](http://www.businessconsultation.govt.nz) was launched in July 2005. The website allows business owners, operators and people interested in business to register their interest in being contacted by government agencies seeking business input on proposed or existing regulations. Also, business people wanting to comment on government regulations will find it easier to do so as they can be alerted to new public consultation documents from the website.

## Advice from Government Agencies

### SBAG Recommendation 17

That government agencies (particularly ACC, OSH and ERMA) run regular (e.g. every third Wednesday of the month) local information nights. There, businesses could learn what is required of them by way of compliance, hear what is new since last month, and have one-on-one advisory sessions (information from which is not passed on to the enforcement arm of the organisation).

### Government Response

DoL's Small Business Support Unit, in collaboration with other agencies, ran four evening pilots of this proposal in the Auckland area. Attendance from SMEs was low. Attendee feedback and further enquiry showed that SMEs preferred these opportunities to be targeted at them in their specific interest sectors, rather than as generic information evenings. In response, DoL has developed more responsive ways to meet SME needs. For example, DoL, ACC and Sitesafe are running six-weekly breakfast workshops for the difficult-to-reach residential building industry. The event operates as a 7am breakfast workshop at an inexpensive restaurant where the agenda is set by the attendees according to the information they need. Participants are able to attend in their work clothes and have breakfast, and attendance has subsequently climbed from five to thirty attendees each time. DoL will ensure that these events, and others like them, continue to evolve according to SME needs.

In addition, the Minister for Small Business has instructed MED officials to report on ways to provide opportunities for SMEs to engage government agencies in regional events that profile and demonstrate government services that are available to SMEs and that also facilitate SMEs direct dialogue with the Minister and senior government officials. The report will be completed early in 2006

## Fringe Benefit Tax (FBT)

### SBAG Recommendation 18

That FBT on business vehicles be simplified by moving it from the FBT return to an adjustment on depreciation in the employer's income tax return and base this adjustment on the depreciated value of the vehicle.

### Government Response

Budget 2005 announced a number of changes to the FBT regulations relating to motor vehicles including allowing vehicle owners an alternative option of calculating the benefit at 36% of the vehicle's depreciated tax book value (this is subject to a minimum value).

#### Related Work in 2004 and 2005

- > The Budget also announced:
  - a 4% valuation rate reduction to 20% of the cost of the vehicle
  - alignment of the treatment of leased vehicles with that of owned vehicles, so that the fringe benefit from a leased vehicle will be based on its cost or tax value, rather than, as at present, its market value
  - employers can now elect the start time for an FBT day. Currently an FBT day is a calendar day.
- > Amongst other changes is an exemption from FBT of private use of employer-owned or leased business tools when the tools are provided primarily for business purposes, and as long as the cost price of each tool does not exceed \$5,000. This exemption is intended to reduce compliance costs, as it is difficult and costly for employers to monitor and value the private use of small items such as laptops and cellphones when they are provided primarily as business tools.

### Employment Law: Probation Periods

#### SBAG Recommendation 19

That the legal procedures for dismissing non-performing staff be re-balanced and qualifying periods for personal grievances for probationary staff be provided. We believe that these are the single most important changes that could be made to the employment legislation and that they would lead directly and immediately to employment and business growth.

### Government Response

The Employment Relations Act 2000 (ERA) already allows employers to set probationary periods for staff. However, it provides the same employment protection to probationers as is available to other staff. The test for justifiability of dismissal and the issue of qualifying periods for personal grievances were substantially considered during the process that led to the 2004 amendments of the ERA.

The ERA reflects Cabinet's recommendation that the test of justification related to personal grievances be redrafted to reinforce the concept of "what a fair and reasonable employer would have done". The provisions recognise the need for fairness and justifiability in such situations. The recent changes to the ERA aim to balance issues of fairness to both employers and employees in personal grievance situations, by specifying an objective test for justifiability.

However, the Department of Labour is undertaking two additional pieces of work in this area. The first is an update of all existing guidance material to reflect the recent amendments to the ERA. The DoL publication, *An Employer's Guide to Employment Relations* referred to in recommendation 5 above is a part of this work. The second piece of work, which has been requested by the Minister of Labour, is a substantive review of existing guidance on disciplinary and dismissal procedures. This review will identify problems with content or communication of existing guidance on disciplinary and dismissal procedures and address any issues raised.



