

In this issue:

- **Australian Government's response to the Taskforce report on reducing regulatory burdens (Banks report)**
- **Update on Quality Regulation Review**
- **Changes to the RIS regime**
Changes to the RIS regime that have been agreed to as part of the Quality Regulation Review.
- **Canada's Regulatory Impact Assessment regime**
Brief comparison of New Zealand's RIS regime with Canada's Regulatory Impact Assessment regime.
- **Regulatory Policy Team moving to Effective Markets Branch**
- **Changes to the Regulatory Policy Team**

Australian government's response to the Taskforce report on reducing regulatory burdens (Banks report)

Peter Costello, the Treasurer, announced the Australian Government's response to the Banks report on 15 August. The Government committed itself to implementing 158 of the 178 proposals and recommendations in the Report. Areas of activity include:

- strengthened regulatory impact assessment requirements and 'gate keeping' arrangements, and targeted 5 yearly reviews of regulation;
- work to harmonise State and Territory conveyancing laws;
- improved national consistency for occupational health and safety;
- a review of the thresholds for the definition of a large proprietary company;
- a simplified accounting method to be developed for small restaurants, cafes and caterers in respect to GST;
- alignment between definitions of small business, employer and associate in tax law;
- aligning training and licensing and mutual recognition with occupational licensing; and
- adjustments for Fringe Benefits Tax.

The government also endorsed the six principles of good regulatory process and is announcing measures to ensure adherence. The principles are:

- establishing a case for action;
- examining alternatives to regulation;
- adopting the option that generates the greatest net benefit to the community;
- providing effective guidance to relevant regulators and affected stakeholders;
- reviewing regularly to ensure that regulation remains relevant and effective; and
- consulting effectively with stakeholders at all stages of the regulatory cycle.

Early reaction by business and industry has generally been positive, with a proviso that the States must play their part in reducing red tape. However, there remains an attitude of wait and see, with additional reviews possibly necessary. The press release and report are available at <http://www.treasurer.gov.au/tsr/content/pressreleases/2006/088.asp>

Christine Jamieson

Update on the Quality Regulation Review

In the last issue of the Regulatory Review, we provided you with an introduction to the Quality Regulation Review. This article provides more detail on the projects that make up the Review.

Peter Mumford, a Director in MED's Regulatory and Competition Policy branch, is heading the interdepartmental Quality Regulation Taskforce, which oversees the Review's work programme. An interdepartmental Officials' Group has been convened which reports to the Taskforce. The Taskforce and Officials' Group have met several times and will continue to meet regularly to progress the review.

A number of initiatives are underway.

- Businesses can lodge regulatory issues (that impose unnecessary costs and hinder innovation and economic growth) and possible solutions into the Business Consultation website (www.businessconsultation.govt.nz). As at 26 September 2006, the website had received 114 submissions. Issues and solutions are forwarded to the relevant agency for a draft response. The Taskforce will consider these responses and respond to submitters.
- Studies have commenced at a sector level to gather information on the regulatory and compliance issues that could be constraining innovation and economic growth. The sectors are horticulture, hospitality, retailing and wine. Interviews with businesses within these sectors are being conducted in cooperation with the relevant industry associations. The interviews provide participants with the opportunity to raise issues and suggest solutions for the review. The issues and solutions that are identified will be fed into the Business Consultation website.
- A 'fast track' mechanism is being developed to progress certain legislative amendments in a timely manner. Options for this mechanism are still being assessed and are subject to

discussions with the Office of the Clerk. One option is an omnibus bill. MED has sent out a letter to Chief Executives of departments offering them the opportunity to identify issues with regulation and its implementation and to use the omnibus bill and consolidated Cabinet papers as the vehicles to progress these changes.

- The Department of Labour (DOL) and the Department of Building and Housing (DBH) are conducting separate studies that explore how particular regulatory frameworks are implemented and how they interact with other frameworks. DOL's project examines the interaction of the Health and Safety, Accident Compensation, and Hazardous Substances and New Organism regimes. DBH's project examines the resource management and building consent interface. These projects will consider whether there is scope to streamline the requirements for business.
- MED, with the Department of Prime Minister and Cabinet, the State Services Commission, and the Treasury, is considering how to strengthen the regulatory impact analysis (RIA) requirements to encourage quality regulation (see page 3). MED is working with the Australian Office of Regulation Review on remodelling and implementing on a pilot basis the business cost calculator (a tool that helps agencies to assess the costs of proposals to businesses).

Other areas of work include looking at options to implement regulatory flexibility, research into different enforcement strategies, and options for establishing a standalone group to assess on an ex post basis the implementation of regulation.

The Minister of Commerce and Small Business is currently engaged in a programme of events throughout New Zealand to engage the business community in focused dialogue and to encourage website submissions.

Morag McConville

Changes to the RIS regime

The regulatory impact statement (RIS) regime is being strengthened as part of the Quality Regulation Review. The Cabinet Policy Committee agreed on 17 May 2006 (POL Min (06) 9/13 refers) to a number of changes to strengthen the RIS regime. The Committee directed officials from the Ministry of Economic Development, the Treasury, the State Services Commission and the Department of Prime Minister and Cabinet (the RIA implementation agencies) to report back on the implementation details of these requirements as well as any other necessary refinements. This report back will go to Cabinet in October 2006. This article explains some of the changes that have been agreed to.

What do the changes mean for departments?

The implementation details are being finalised and will be discussed with departments shortly. The effective date of the changes is yet to be determined, but departments will be notified well in advance.

Requiring a draft RIS for consultation

Departments should be required to prepare a draft RIS for consultation. Preparing a draft RIS for consultation means that stakeholders can contribute at an early stage in the policy development process by commenting on the government's perceptions of what the problems are, which options should be considered to address the problems, and what the impacts of each of the options are likely to be.

Focusing the Regulatory Impact Analysis Unit (RIAU) on those proposals with significant potential impact on economic growth

In terms of its review role, at present the RIAU reviews proposals that have business compliance cost implications. To align its role more with MED's focus, the RIAU will only review proposals that have a significant impact on economic growth. The RIAU is working with the three central agencies to determine criteria to help the RIAU and departments determine which proposals it will review.

Enhanced adequacy criteria

The adequacy criteria for RISs that have a significant impact on economic growth are being strengthened. In addition to the existing adequacy criteria, a RIS will be inadequate if it:

- fails to explain why the existing framework would not suffice to deal with the problem being addressed;
- fails to include an appropriate cost-benefit analysis, risk assessment and statement of compliance costs (given the significance of the proposal); or
- has been subject to manifestly inadequate consultation.

This means that the RIAU will require a higher standard of analysis for proposals that have a significant impact on economic growth. At present, a RIS is inadequate if it does not adequately disclose the key aspects of the policy development process, but under the enhanced criteria, the RIS will be inadequate if an appropriate level of analysis has not been done or the analysis is unsound.

Confirmation of compliance with Code of Good Regulatory Practice principles and RIA requirements

It was agreed that all government agencies with the power to create and/or enforce regulatory frameworks or any aspects thereof should confirm in the RIS that the principles of the Code of Good Regulatory Practice (namely, efficiency, effectiveness, transparency, clarity and equity) have been complied with and that the RIA has been undertaken in accordance with the new requirements.

Introducing an implementation and review section into the RIS

Implementation and review are important parts of the policy process. This new RIS section will require departments to describe how the proposal will be implemented and what plans there are for monitoring and reviewing the policy after it has been implemented.

Willie Lewis

Canada's Regulatory Impact Assessment Regime

Canada's Privy Council Office supports the Treasury Board – a committee of Ministers – in areas including the approval of regulations. In 1986, the government introduced some key innovations to the regulatory process.

- A Regulatory Impact Analysis Statement (RIAS) now accompanies each proposed regulation.
- A Citizens' Code of Regulatory Fairness was adopted.
- Draft regulations are published, together with the RIAS, in the *Canada Gazette*, to provide

an additional opportunity for public comment on upcoming regulations.

These regulatory processes have been fully operational since 1987. The RIAS describes the regulatory proposal, how Canadians have been consulted, the benefits and costs of the proposal, and what other alternatives were considered.

	New Zealand	Canada
Which proposals require a RIS?	All policy proposals that are submitted to Cabinet and will result in government Bills or statutory regulations.	A regulatory impact analysis statement (RIAS) must accompany every proposed regulation.
What is the RIS review body?	The RIAU, in the Ministry of Economic Development.	The Regulatory Affairs Division (RAD) within the Privy Council Office.
When must a RIS be prepared?	At the time 'in principle' or final decisions are required from Cabinet.	A RIAS is prepared after the initial policy analysis. The draft regulation and RIAS are sent to the Regulatory Section of the Department of Justice which conducts a legal examination. The RAD should also provide preliminary feedback to the author at this point. The responsible Minister then signs off the regulation. The RAD formally reviews the RIAS and provides a briefing note to Ministers. The regulation and RIAS is then published for 30 days to allow public feedback before final sign-off.
Are implementation and review covered in the RIS?	No – but the introduction of an implementation and review section has been agreed to by the Cabinet Policy Committee.	No.
What are the consequences of non-compliance with the regime?	A statement is included in the Cabinet paper and the RIAU briefs the Minister of Commerce.	If there are questions relating to the RIAS, the RAD may request additional information of analyses from the sponsoring department and ensures that all questions are answered prior to the regulation going before Ministers.

Sam Warburton

Regulatory Policy team moving to new branch

Currently the Regulatory Policy team is part of the Regulatory and Competition Policy branch (RCP). RCP is being renamed the Competition, Trade and Investment Branch. From 1 October the Regulatory Policy team will be part of the new Effective Markets Branch.

The new branch includes consumer policy and operations, the SME Directorate, and some environmental functions from the Resources and Networks Branch. The new branch will strengthen the Ministry's focus on the quality of the regulatory environment for business and consumers. Liz MacPherson is the Deputy Secretary who will lead the branch.

Changes to the Regulatory Policy team

As mentioned above, from 1 October the Regulatory Policy Team will be part of the Effective Markets Branch of the Ministry of Economic Development.

A description of our role is contained in the first issue of [The Regulatory Review](#).

Welcomes

Since the last issue of the Regulatory Review, the Regulatory Policy team is pleased to welcome:

- Sam Warburton, in June;
- Tariq Ashraf, in August;
- Morag McConville, in August; and

Subscribing to and unsubscribing from the mailing list

To be removed from the mailing list, email TheRegulatoryReview@med.govt.nz with "unsubscribe" in the subject line. To subscribe to

Housekeeping

Many RIS/BCCSs are not meeting the publication requirements.

The Cabinet Step By Step Guide requires that all RISs that contain a BCCS be:

- attached to the press statement announcing the new policy;
- lodged on the websites of the responsible department and MED; and
- included in the Explanatory Note to Bills that are introduced into the House of Representatives.

- Richard Hawke, Manager, also in August;

Farewells

The team is sad to say goodbye to:

- Ashley Tomlinson, who left us in May to work in the Corporate and Competition Policy Team in RCP; and
- Martin Garcia, who now manages the Trade Facilitation and Tariffs Team in RCP.

Contact us

Email TheRegulatoryReview@med.govt.nz

Information on writing RISs and BCCSs

Visit <http://www.med.govt.nz/buslit/compliance/risbccs/index.html>

The Regulatory Review, send an email with "subscribe" in the subject line.