

The Regulatory Review

Triannual

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The Regulatory Policy Team

The Regulatory Policy team is part of the Regulatory and Competition Policy branch of the Ministry of Economic Development. The key role of the team is to improve the regulatory environment by promoting effective regulatory design that achieves its objectives. At the same time costs for business should be minimised where possible. The team aims to achieve this by sharing knowledge on best practice regulatory design across government to ensure effective design, implementation and ongoing maintenance of regulation.

The Regulatory Review is one way we hope to achieve this knowledge sharing. *The Review*, to be produced on a four-monthly basis, will provide you with information about the team, its work programme, and how we can help you. Over the next few issues we will give you an insight into regulatory impact analysis and the tools available to help you do this, update you on regulatory impact and Business Compliance Cost Statement requirements, and discuss our work programme for the coming year. First though, an introduction to who we are and what we do.

Who are we?



From left to right: In the back row: Margaret Bearsley, Stephanie Glover, Kirstie Hewlett, and Robyn Henderson. In the front row: Bronwyn Turley, Tracy Fraser, and Elizabeth McDonald.



Lisa Barrett returned on 23rd August as the Manager of the Regulatory Policy Team replacing Kirstie Hewlett who was Acting Manager in her absence.

What do we do?

The Regulatory Policy team is responsible for both Regulatory Impact Analysis (through the Regulatory Impact Analysis Unit - the RIAU) and Quality of Regulation issues. The RIAU both reviews and provides education and advice on Regulatory Impact Statements (RISs) and Business Compliance Cost Statements (BCCSs).

The team promotes Quality of Regulation by facilitating information sharing between departments on regulatory design issues; providing advice on good practice development of quality regulation; and responsibility for the occupational regulation framework. We want to help build capability

in departments by providing advice on regulatory policy issues and we are currently working on a number of projects to identify and facilitate best practice regulatory design. This work is based on your experiences in New Zealand, international best practice, the work of APEC and the OECD, and a review of relevant literature.

Cabinet requires us to assess regulatory proposals that have 'red-tape' compliance cost implications for business for adequacy. This means that every RIS that includes a BCCS has to be reviewed by us and written comments and assistance provided to departments. We focus on the adequacy of the analysis and the transparency of the disclosure in the RIS/BCCSs given the likely impacts of the proposal and provide an "adequacy statement" for departments to insert in their Cabinet paper once the adequacy criteria are met. We also are happy to provide guidance and advice on RISs that do not have BCCS. Undertaking regulatory impact analysis through the policy development process is a useful tool to help identify issues. Get in touch with us early and we can help you achieve a robust analysis.

What is an RIS/BCCS?

Regulatory Impact Analysis provides the benchmark for what the Government expects of the analysis of regulatory proposals. The Regulatory Impact Statement, which sets out this analysis, provides a transparent way for Ministers and stakeholders to assess whether this benchmark has been met.

Regulatory Impact Analysis requires:

- the problem to be addressed;
- the public policy objective(s) to be met;
- identification of the key features of all feasible options that could be implemented to address the problem;
- identification of the net benefit of the preferred option; and
- a consultation programme to be undertaken to inform the policy development considerations.

Newsflashes

➤ Members' Bills Regulatory Impact Statements

Did you know that on 19 April 2004 Cabinet decided to extend the RIS/BCCS requirements to Members' Bills the Government wants to support or adopt as a Government Bill?

This means that if a Minister asks Cabinet to support or adopt a Members' Bill, the department for which that Minister is responsible will be required to prepare the RIS, (and BCCS where required) to accompany the Cabinet paper making the recommendations on supporting or adopting that Bill.

The reason for this decision is that Members' Bills, like Government Bills, can have significant economic, social and business impacts. The purpose of the RIS will be to assist Ministers in their decision to support or adopt the Bill.

➤ Summary Business Compliance Cost Statement

In June 2003, Cabinet decided that in order to reduce the length of the Regulatory Impact Statement / Business Compliance Cost Statement, a summary of the key information only should be included in Business Compliance Cost Statements.

What is now required when proposals raise business compliance cost implications is a summary Business Compliance Cost Statement of approximately half a page, consisting of the following sections (without the use of subheadings and in the following order):

- Sources of compliance costs;
- Parties likely to be affected;
- Estimated compliance costs; and
- Steps taken to reduce compliance costs.

For more information, call Elizabeth McDonald on 470 2311 or Margaret Bearsley on 474 2932.

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The aim is that decision-makers should be left with a good understanding of the need for government action and the likely impacts of such action on the identified affected parties.

The level of analysis to be provided within an RIS must be commensurate with the likely impact of the proposal. For example, for a major regulatory proposal affecting a wide section of society, it may be expected that a formal cost-benefit analysis is provided within the net benefit discussion. On the other hand, for smaller proposals where there is likely to be a low impact, a lower level of analysis would be sufficient. The key purpose of the RIS is to disclose this information in a clear and transparent manner.

Guidelines on preparing RISs are available on the Ministry of Economic Development website [www.med.govt.nz]. It is important to note also that the requirements for RISs are detailed in the Cabinet Office Step by Step Guide (chapter 3). Government departments and agencies must follow these requirements when preparing RISs for policy proposals that are submitted to Cabinet and that will result in Government Bills or statutory regulations.

A Business Compliance Cost Statement (BCCS) must be included within an RIS where there are incremental 'red-tape' implications arising from the policy proposal. That is, the proposal will result in an increase (or decrease) in the level of compliance costs faced by the businesses affected by the new regulatory

requirements. The BCCS provides a summary of the sources of the compliance (or red-tape) costs (e.g. form filling and time taken to understand the new requirements), the types of business likely to be affected by these costs (including size and sector breakdown, where applicable), an assessment of the level of costs, and steps that have been taken to try and minimise the compliance cost burden. The requirement to prepare a BCCS stems from the identification of compliance costs as a priority area of concern across government and the importance of giving these costs due weight along with other regulatory costs and considerations. Guidelines for preparing BCCSs are also available on the MED website. Government departments and agencies should note that all RISs that contain a BCCS must be assessed by MED's Regulatory Impact Analysis Unit against specified adequacy criteria. A comment to reflect this assessment is inserted in the accompanying Cabinet paper.

Housekeeping

Contact us as early as possible both in the policy development process, and in the cabinet paper development process. This allows time for us to help you and to then assess your RIS/BCCS. At the very least, allow a minimum of two weeks for us to review your RIS/BCCS before the paper is to go to your Minister.

Soon the team will be approaching departments to discuss the work that the team is doing on quality of regulation and to ask departments to provide us with any information or interesting experiences that they have had in developing regulation that they think will usefully assist other departments with good regulatory design. Please also feel free to contact us now with this information or to come to us early in the policy development process to ask us for information on good regulatory design and whether we can put you in contact with others who may have undertaken regulatory reform which relates to similar areas or addresses similar issues. For example, we can provide assistance when you are thinking about whether to regulate occupations and discuss other occupational regulation regimes that have been implemented recently in the public sector.

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