

The Chair
CABINET

QUALITY REGULATION REVIEW – FINAL REPORT

PROPOSAL

- 1 This paper provides the final report on the Quality Regulation Review (“the Review”), announced by the Government in May 2006. It also sets out the Government’s post-Review approach for ensuring that progress and lessons learnt will continue to shape the quality of New Zealand’s regulatory environment going forward.

EXECUTIVE SUMMARY

- 2 The Government’s Quality Regulation Review (“the Review”) is completed. Good progress has been made to address a number of the specific issues relating to the existing stock of regulation and the regulatory process disciplines that will ensure the quality of future regulation.
- 3 This paper summarises the key findings of the Review and provides an overview the outcomes of the work programme. Examples of specific initiatives put in place to address issues raised by business during the Review are provided in Annex One. A report on the findings of the four Sector Studies undertaken is attached as Annex Two.
- 4 The next step is to build on the progress made and the lessons from the Review to maintain the quality of New Zealand’s regulatory environment. It is proposed that the government’s post-Review approach to ensuring the quality of New Zealand’s regulatory environment focus on four objectives: ensuring the quality of new regulation; improving the quality of existing regulation; developing a culture of good regulatory practice; and building the capability of regulators and of business. The paper notes some key pieces of work that will contribute to the achievement of these objectives, and seeks Cabinet agreement to further work including: developing and undertaking a programme of sector studies and initiatives to progress sharing of government held information.

BACKGROUND

- 5 Regulation and regulatory frameworks play a critical role in shaping the business environment in which economic activity takes place. It is important that regulatory frameworks are able to address the changing needs of society

and the economy, without unnecessarily constraining business growth, productivity and innovation.

- 6 On 23 May 2006, Cabinet agreed to the scope and broad work programme for a review of regulatory frameworks (i.e. the Review) to ensure that the regulatory environment for business is supportive of the Government's economic transformation agenda [CAB Min (06) 18/3 refers]. Cabinet considered the First Milestone Report in October 2006 [POL Min (06) 23/4 refers]. The Cabinet Business Committee considered a further Progress Report in February 2007 and directed relevant departments to give further consideration to specific regulatory issues raised during the Review and report back as part of the Second Milestone Report [CBC Min (07) 3/7 refers].
- 7 The Second Milestone Report was considered by Cabinet in April 2007 [CAB Min (07) 14/6 refers]. It summarised the Review's key achievements to April 2007, and invited relevant Ministers to report to the Ministerial Group overseeing the Review on some additional specific regulatory issues by 28 May 2007. The Second Milestone Report was accompanied by a report entitled, "*Quality of Regulation Review – First Tranche of Legislative Amendments*", which set out the first set of proposed legislative amendments from the Review for inclusion in a possible Omnibus Bill. Cabinet noted that further proposals were expected to be developed prior to the final report in July 2007, as solutions to regulatory issues continued to be developed by departments [CBC Min (07) 8/23 refers].
- 8 On 31 May 2007, the Chair of the Cabinet Policy Committee agreed to extend the report date for the Quality Regulation Review - Final Report to 30 August 2007 [POL Memo (07) 11/3 refers]. This report provides the final report on the Review. It should be read in conjunction with the Cabinet paper entitled "*Quality of Regulation Review – Consolidated Legislative Amendments*".

COMMENT

- 9 The economic transformation agenda requires the government to focus not only on the removal of unnecessary regulatory constraints on economic growth, but also on continuous improvement in the quality of regulatory frameworks and processes. As such, the scope of the Review was necessarily broad. It sought to tackle regulatory issues at the design stage, and at the implementation and administration stages. The Review did not, however, consider the policy underlying existing regulatory frameworks.
- 10 The Review is now completed. Good progress was made to address a number of the specific issues relating to the existing stock of regulation that have been causing businesses unnecessary concern, cost, and delay. In addition, a number of changes have been made to regulatory process disciplines to ensure that future regulation is based on sound analysis, complies with the principles of good regulatory practice, and is fit for purpose.
- 11 Key outcomes from the Review's work programme are discussed further below. Examples of specific initiatives put in place to address issues raised by business during the Review are provided in Annex One. This list builds on

those contained in the Second Milestone Report. The next step is to build on the progress made and the lessons learned from the Review to maintain the quality of New Zealand's regulatory environment.

Summary of Key Findings

12. The feedback obtained from businesses during the Review suggested that the current regulatory environment for business is in fairly good shape, with no fundamental or widespread systemic problems having been identified. This is consistent with international surveys that show New Zealand's regulatory environment for business rates well. For example, New Zealand continues to rate well on the World Bank's Ease of Doing Business survey, where we rank second only to Singapore. This does not mean, however, that businesses did not raise concerns with specific aspects of regulation and its implementation, or that there is no scope for improvement. Issues raised by business during the Review covered a range of areas, including: the Employment Relations Act; the Holidays Act; the Resource Management Act; the Hazardous Substances and New Organisms Act; the Building Act; the Occupational Safety and Hazard Act; ACC; liquor licensing; local government practises; food safety legislation; gambling; tax (e.g. excise, income tax and fringe benefit tax) and statistical surveys/data collection.
13. The specific issues raised by business have highlighted some important areas where improvements can be made to the current regulatory environment. In many cases, initiatives have been put in place by the relevant government agencies to address these issues. However, further value can be added by looking across all of the individual issues to identify the underlying learnings or messages that can inform the post-Review approach to ensuring the quality of New Zealand's regulatory environment going forward. In this respect, the key findings of the Review are:
 - a **The need to consider the stock and flow of regulation, as well as all stages of the regulatory lifecycle** – the Review highlighted the importance of looking at both the stock of existing regulation and the flow of new regulation when thinking about the impact of regulation on economic growth. It also demonstrated that issues that determine the quality of regulatory frameworks and the overall regulatory environment can arise at all stages of the regulatory lifecycle¹. In addition, the Review showed that regulatory frameworks do not exist independently of one another, but can influence the effectiveness of other regulatory frameworks; there is a need to ensure that regulatory frameworks are consistent and compatible at the design stage as well as in implementation. In summary, this means that, when thinking about the link between quality regulation and economic growth, it is necessary to view the regulatory environment as a complex dynamic system, rather than a collection of independent and static regulations.

¹ The lifecycle of regulation can be thought of as: problem identification; regulatory design; regulatory decisions; implementation; monitoring and enforcement; and regulatory review.

- b **Implementation is as important as design** – a number of the issues raised by business during the Review related to the way regulations are implemented, rather than the regulation’s purpose or design. Concerns related to implementation by both local government and central government agencies, and included: inconsistent interpretation and application across regions and districts (where inconsistencies were not justified by regional or local differences); capability and capacity issues for regulators; issues relating to the quality of information provided about regulations and how this is communicated; and costs caused by delays and uncertainty. This demonstrated that in terms of ensuring positive outcomes for economic growth, the government should be as concerned about the implementation of regulation as it is with the decision to regulate and regulatory design.
- c **More can be achieved by working together** – the resolution of a number of issues raised during the Review required multiple government agencies to work together. Regulatory issues relating to duplication, excessive information requests and inconsistency often require input from more than one agency to resolve. For example, two of the interface projects² specifically established processes to facilitate this, as did the consideration of issues relating to local authorities performance of their functions. Also, concerns about the cumulative impact of regulation on business can only be addressed effectively through a whole of government approach. As well as the importance of government agencies working together to achieve quality regulation, the review highlighted the need for central government to work with both local government and business to identify and implement workable solutions to regulatory issues at all stages of the lifecycle of regulation.
- d **Constant vigilance is critical** – good regulation is not only established at the design stage, but can be influenced throughout the entire lifecycle of regulation. For example, as the broader economic, social and regulatory environment changes, regulations can become obsolete, compliance information can become outdated, and duplication, overlap and inconsistencies can be created. It is important to ensure that the focus on quality regulation is not lost following decisions about the need for, and shape of, regulation. If a quality regulatory environment is to be maintained, government and business must be committed to a culture of constant vigilance and continuous improvement of regulatory frameworks.
- e **Fixes for poor regulatory outcomes are diverse, with no ‘one size fits all’** – the Review highlighted that there are a number of things that can be done to improve regulatory outcomes for business if government agencies are prepared to be innovative, and take an open-minded approach to working with business. Finding a solution doesn’t always require considering legislative amendment, and other solutions adopted

² The interface between the Health and Safety in Employment Act 1992 (HSE), the Injury Prevention, Rehabilitation and Compensation Act 2001 and the Hazardous Substances and New Organisms Act 1996, and between building and resource consents processes.

as part of the Review included changes to departmental administrative processes and procedures, communication and information dissemination initiatives and the inclusion of issues in existing departmental reviews or work programmes. It is also possible to avoid problems for business at the regulatory design stage by adopting best practice techniques, such as undertaking effective consultation and considering options around regulatory flexibility³.

Outcomes from the Review's Work Programmes

Interface Studies

- **The Health and Safety in Employment Act 1992 (HSE), the Injury Prevention, Rehabilitation and Compensation Act 2001 and the Hazardous Substances and New Organisms Act 1996** – A joint interagency document summarising the feedback received and identifying key compliance issues has been made publicly available⁴. The document sets out how the four agencies involved will improve the “fit” between different pieces of health and safety legislation and ease compliance for businesses. It also sets out some proposals for improving government responses to these issues in the short and medium term. Consultation with business and stakeholders is ongoing, and the list of possible solutions may be expanded. Short term initiatives completed or underway as part of this project are outlined in Annex One.
- **The interface between building and resource consents processes** - the results of the study were reported to Cabinet in February 2007 [CBC Min (07) 3/8 refers]. The main issues identified were delays and unpredictable times in processing resource consents, building consents and code compliance certificates; and inconsistencies in the interpretation of regulatory requirements by those administering them. In February 2007, Cabinet agreed to a detailed work programme to help resolve these issues, the findings of which will be reported back to Cabinet in August 2007.
- **The contractual and legislative requirements placed on suppliers of health related services** – A survey and mapping exercise has been completed, and feedback from service providers on possible ways to streamline the audit process obtained. Particular areas of duplication identified include: overlap between mandatory certification audits and contractual compliance audits; and the questionable value of interim surveillance audits for those achieving full compliance with certification. The Ministry of Health will work to reduce as much as possible the number of audits it is responsible for requiring. In addition, the Ministry of Health is reviewing the Health and Disability Services (Safety) Act 2001 (the Act),

³ Regulatory flexibility includes thinking about ways of reducing the costs of complying with regulation by varying the requirements for different parties, or putting in place alternative compliance options, while still achieving the same policy outcome. A project to develop guidelines on regulatory flexibility was undertaken as part of the Review, and is discussed further below.

⁴ A copy of the report is available at: www.dol.govt.nz/consultation/index.asp

and the four health and disability service standards that are deemed regulations under the Act.

Sector Studies

14. Studies of four sectors – wine, hospitality, horticulture and retail - were completed as part of the Review. A report summarising some of the issues raised by business during the interviews, and some of the solutions implemented by government in response to these issues, is attached as Annex Two. Approval is sought to make this report publicly available as soon as possible following the conclusion of the Review.
15. A key issue that came up as a result of the study of the wine sector is the requirement for winemakers to hold an off-licence under the Sale of Liquor Act 1989 in order to sell their wine, even though they do not sell wine for consumption on their premises. The requirement for an off-licence triggers compliance costs including the need for a general manager's certificate and advertisements for renewal of the licence in the public notices of the newspaper. These requirements are the same as those for an on-licence even though the sales environment at a winery differs from other liquor retailers especially if there is no on-site consumption. Prior to the amendments to the sale of Liquor Act in 1989, all wineries could sell gate sales as an extension to their Winemaker's Licence.
16. There are issues with the resulting extent of compliance costs for those winemakers who do not sell wine for consumption on their premises. It is possible that changes could be made that would make a difference for these winemakers as long as these did not weaken the overall controls on liquor licensing. I recommend that the Ministers of Justice, Food Safety and Commerce be invited to report to the Cabinet Policy Committee by 30 November 2007 on options to reduce the compliance costs to winemakers who do not sell wine for consumption on their premises, while ensuring the risks relating to the sale and supply of alcohol, especially to minors, are managed.
17. A further issue that was raised by the retail, wine and hospitality sectors was the need to ensure that training requirements for identifying problem gamblers and for the holding of liquor licences address the actual risks posed by different venue operators and different types of venue operator, and their prior learning and track-record. I consider that it would be worthwhile to investigate whether improvements can be made in this area to ensure that the appropriate training is provided and risks managed, but in a more cost effective way for business. Therefore, I recommend that the Ministers of Justice and Internal Affairs report to the Cabinet Policy Committee by 30 November 2007 on whether there are opportunities to improve the targeting of training requirements for identifying problem gamblers and for the holding of liquor licences in a way that addresses the actual risks posed by different venue operators and different types of venue operator, while taking into account their prior learning and track-record.

18. In addition, a number of issues relating to the interaction of the Shop Trading Hours Repeal Act 1990, Holidays Act 2003, and the Sale of Liquor Act 1989 were raised by businesses during the Quality Regulation Review. In particular, issues were raised with respect to the inconsistencies around trading on Easter Sunday. The Ministers of Labour and Justice will report to the Cabinet Business Committee seeking the release of a discussion document on options to address the inconsistencies around trading on restricted trading days by 30 August 2007.

Fast Track Vehicle

19. The companion Cabinet paper, entitled “*Quality of Regulation Review – Consolidated Legislative Amendments*”, sets out the final set of suggested amendments for the proposed Omnibus Bill, and should be read in conjunction with this paper.

Regulatory Process Disciplines

20. A number of changes have been made, or proposed, as part of the Review to strengthen existing disciplines on regulation making. These include:
- **Strengthening Regulatory Impact Assessment requirements** – changes to the requirements were agreed by Cabinet in May and October 2006 and came into effect on 1 April 2007 [POL Min (06) 9/13 and CAB Min (06) 40/4C refer];
 - **Implementing the business cost calculator** – Cabinet has agreed that the Australian standard costing tool (i.e. the ‘business cost calculator’) be implemented through a two year pilot programme within government departments [POL Min (06) 9/13 refers]. The Ministry of Economic Development (MED) is working with the Australian Office of Best Practice Regulation to adapt and implement the software for the calculator by March 2008;
 - **Ongoing review of the quality of regulations** – there are a number of options available for enhancing the ongoing scrutiny of the quality of existing regulations. One option is to establish a Standalone Group that could provide the government with an independent ‘business’ perspective on issues concerning the quality of regulation. Possible roles for such a Group include providing an ex-post external assessment of the functioning of the regulation-making processes of government and acting as an independent assessor of regulatory concerns raised by business, and the government’s response to these. I recommend that the Minister of Commerce be invited to report further to the Cabinet Policy Committee on options available for the ongoing review of the quality of regulations by 15 October 2007;
 - **Promoting the use of regulatory flexibility** – MED has prepared guidance material for government policy analysts on how regulatory flexibility can be considered and adopted at the regulatory design stage.

This material will be made available on the MED and Policy Development Toolkit websites;

- **Regulatory enforcement** - Studies and anecdotes from OECD countries suggest that inadequate attention to compliance often underlies regulatory failure⁵. MED, in consultation with a number of other government agencies, has developed guidelines on regulatory compliance, entitled “*Regulatory Compliance Guidelines*”. The guidelines are intended for use by policy analysts, Cabinet Ministers and regulators to ensure that compliance is given adequate consideration in the design and implementation of regulatory proposals. This material will be made available on the MED and Policy Development Toolkit websites.

Standards and Conformance

21. A report on the findings of a review of New Zealand’s standards and conformance infrastructure was provided to Cabinet in May 2007. The review found that while the infrastructure is fundamentally sound, it faces challenges in terms of the growing complexity of the issues it is confronting and the capacity of New Zealand’s relatively small institutions that deal with these issues. Cabinet agreed to a range of proposals that aim to improve the infrastructure and its relationship with regulators (summarised in Annex One). This included the establishment of a Regulatory Forum, the details of which will be reported back to Cabinet by 30 November 2007 [EDC Min (07) 9/3 refers].

Quality Regulation Going Forward

22. The need to focus on the quality of regulation will not end at the conclusion of the Review. The quality of New Zealand’s regulatory frameworks and the broader regulatory environment are critical for achieving the Government’s economic transformation agenda. Therefore, it is useful to set out a clear strategy that articulates the importance of focusing on quality regulation, and the objectives that this focus should aim to achieve.
23. The Review highlighted that the regulatory environment should be viewed as a complex, dynamic system that is influenced by ever-changing social, economic, cultural and environmental factors. It also highlighted that quality regulation is not determined at one point in time, but can be influenced at all stages in the lifecycle of regulations. The Review showed that the way central government, local government, business and other stakeholders think about and deal with regulation is important in determining whether the objectives of the regulation are achieved.
24. Regulation can have both a positive and a negative impact on economic growth, productivity and innovation. An optimal regulatory environment maximises the positive outcomes, while minimising any negative outcomes. The appropriate approach to quality regulation is not just about ‘reducing

⁵ OECD (2002), *Regulatory Policies in OECD Countries – from interventionism to regulatory governance*, ISBN 92-64-19893-8.

regulatory compliance costs for businesses or 'cutting red-tape'. It is about ensuring regulatory frameworks are based on sound analysis, adhere to the principles of good regulatory practice, and continue to be 'fit for purpose' over time.

25. Taking these factors into consideration, it is proposed that the government's post-Review approach to ensuring the quality of New Zealand's regulatory environment focus on the following four objectives:
- a Ensuring the quality of new regulation;
 - b Improving the quality of existing regulation;
 - c Developing a culture of good regulatory practice; and
 - d Building the capability of regulators and of business.
26. Some of the key pieces of work that departments intend to undertake as part of their 2007/08 work programme, aimed at achieving the above objectives, are outlined below. It should be noted that government agencies are undertaking a lot of other work that will have positive outcomes for the quality of New Zealand's regulatory environment that is not discussed below. For example, reporting to Cabinet by 30 November 2007 on the establishment of a Regulatory Forum (as noted in paragraph 21 above).

Regulatory Process Disciplines

27. Regulatory process disciplines play a key role in ensuring the quality of new regulation. They can also help to develop a culture of good regulatory practice and build the capability of regulators and businesses. As noted above, the Review included several projects focused on regulatory process disciplines. The changes to the Regulatory Impact Assessment (RIA) requirements have been in place since 1 April 2007 and some insights from their application have emerged.
28. A number of the features of the strengthened RIA requirements will add significant value around ensuring the quality of new regulation. In particular, the greater focus on ensuring adequate consultation recognises the need for central government, local government and business to work together to identify regulatory problems and effective solutions. This is assisted by the Business Consultation website. Also, the greater focus on ensuring adequate identification and analysis of alternative options highlights that there are a range of potential solutions to regulatory issues that should be considered.
29. As the strengthened RIA requirements are embedded, additional enhancements are expected to be recommended. MED intends to consider possible enhancements to the RIA requirements as part of its 2007/08 work programme, and will report to the Minister of Commerce on the outcome of this work as appropriate. In light of the key findings of the Review, one area that MED will consider is how the RIA requirements apply to the analysis that supports proposals for the implementation, monitoring and review of regulation. For example, it might be appropriate to require more detailed

consideration of the existing capability and capacity of possible implementers when considering alternative options for implementation. It may also be useful to think about ways in which regular reviews of the information provided by departments about compliance could be incorporated at the regulatory design stage, to ensure the quality, relevance and reliability of the information over time.

Sector Studies

30. Undertaking detailed analysis of the regulatory frameworks for specific sectors of the economy provides opportunities for improving the quality of existing regulation and building the capability of regulators and business. I propose that MED draw on the lessons learnt from the sector studies undertaken as part of the Review, as well as overseas experience, to develop a programme of annual sector studies. The purpose of the studies will be to identify and address the key regulatory issues affecting the particular sector, including the effects on productivity, innovation and global connectedness of firms. The scope of the studies could extend to any relevant policy issues underlying regulatory concerns, a topic that was explicitly outside the scope of the Review. Studies of particular pieces of cross-sector legislation could also be undertaken as part of the programme (for example, the Hazardous Substances and New Organisms Act 1996).
31. The proactive programme of sector studies will enable more in-depth analysis of the regulatory issues and potential solutions. Strong buy-in and engagement with sector stakeholders and the relevant government agencies will be critical for the success of the studies. I envisage that the timetable for the programme will be confirmed and announced early enough to provide certainty for sector stakeholders and secure their buy-in and commitment. This will also enable relevant government agencies to plan for any resourcing requirements.
32. Possible criteria for selecting sectors or cross-sector legislation for review include:
 - the sector is generally considered to be critical for New Zealand's future economic performance;
 - the sector has (or has the potential for) a high level of global connectedness;
 - for reviews of cross-sector legislation, the legislation has the ability to have a significant influence on productivity and innovation across a number of sectors; and
 - there is strong support and demonstrable buy-in from the sector (or relevant sectors in the case of cross-sector legislation) for participating in a review.
33. I recommend that MED, in consultation with relevant stakeholders, report to the Cabinet Policy Committee by 31 March 2008 with detailed proposals for

undertaking the programme of in-depth sector studies. The report will include the proposed criteria for selecting sectors or cross-sector legislation to be studied, as well as recommending a draft programme of studies for 2008-2013.

Fast Track Vehicle

34. The proposed fast track legislative vehicle, or Omnibus Bill, which was progressed as a part of the Review and is discussed further in the companion paper (entitled “*Quality of Regulation Review – Consolidated Legislative Amendments*”) provides an opportunity for improving the quality of existing regulation. I consider that there is value in thinking about whether a fast track legislative vehicle could be used on a regular basis as a permanent mechanism for quickly remedying shortcomings in regulatory frameworks. To this end, it is proposed that the current Omnibus Bill be progressed as a pilot, with the outcome used to inform further thinking about whether to use this mechanism on a permanent basis. MED intends to consider these matters as part of its 2007/08 work programme, and will report to the Minister of Commerce on the outcome of this work as appropriate.

Sharing of Government Held Information

35. A number of the issues raised during the Review related to the way government interacts with business around the delivery of services and the collection of information. To empower globally-competitive firms, the government – both central and local – must operate in the same flexible, responsive and efficient manner as the best performing businesses. The government must take a client-centred approach to dealing with business that demonstrates a real commitment to doing the things that business wants in the way great businesses would deliver them.
36. The implementation of a form of Standard Business Reporting (such as eXtensible Business Reporting Language (XBRL)) is an area where there is potential for the government to make improvements in its interaction with business. It is currently being implemented by a number of other jurisdictions. Standard Business Reporting would, for example, enable businesses to electronically submit their financial data electronically to many government agencies in one transaction and thereby reduce the time and effort spent preparing and filing reports for government. This would make a significant contribution towards addressing a number of the issues raised by business during the Review. It could also contribute to the government’s objectives of: improving the quality of existing regulation; developing a culture of good regulatory practice; and building the capability of regulators and of business.
37. Another area where the government can improve its interactions with business is the sharing of non-financial data – for example, a company name change or a business address change. Alongside Standard Business Reporting, it has been proposed that the idea of a wider Centralised Information Repository be investigated. This repository would form a ‘one-stop-shop’ where business could submit a range of both financial and non-financial data to government

and from there those changes be relayed to the relevant government agencies.

38. The Ministers of ACC, Revenue, Statistics and I have asked relevant officials (led by MED) to commence work in this area, including establishing a project steering group and determining the level of funding that will need to be sought as part of Budget 2008 for delivering the project. A detailed budget bid to undertake key parts of this project will be submitted in December 2007. In conjunction with this, I recommend that officials report to the Cabinet Policy Committee by 30 April 2008 on progress, including details of:
- the business case, project plan and timetable for implementing Standard Business Reporting;
 - Ministerial sponsorship and Cabinet oversight arrangements;
 - governance arrangements, including the need for the Privacy Commissioner's involvement and other relevant parties;
 - the cross-departmental project team and the vote implications;
 - a high level project plan and timeframe from 2008/09 to 2009/10; and
 - detailed analysis as to the feasibility and/or requirements for the establishment of a Centralised Information Repository.

CONSULTATION

39. The following government agencies have been provided with a copy of this paper for comment: The Treasury, the Departments of Labour, Conservation, Internal Affairs, Building and Housing, the Ministries of Transport, the Environment, Education, Agriculture and Forestry, Fisheries, Justice, Health and Consumer Affairs, the Accident Compensation Corporation, Statistics New Zealand, the New Zealand Food Safety Authority, the New Zealand Customs Service, the Inland Revenue Department, the Environmental Risk Management Authority of New Zealand, and Local Government New Zealand. The Department of Prime Minister and Cabinet has been advised. All comments have been incorporated.
40. The Quality Regulation Review Ministerial Group has also been consulted on this paper and their comments have been incorporated.

FISCAL IMPLICATIONS

41. There are no fiscal implications associated with this paper. Any fiscal implications associated with further work outlined in this paper (i.e. sector studies, and the sharing and duplication of government information) will be addressed in the reports on those issues.

HUMAN RIGHTS

42. There are no human rights implications associated with this paper.

LEGISLATIVE IMPLICATIONS

43. There are no legislative implications associated with this paper.

REGULATORY IMPACT ANALYSIS

44. The Regulatory Impact Analysis requirements do not apply as there are no legislative implications associated with this paper.

PUBLICITY

45. Following Cabinet decisions, I intend to make a press statement as soon as practical, outlining the key messages in this paper. I will, as appropriate and in consultation with the relevant Ministers, coordinate these announcements with those on the outcome of the building and resource consent interface project also being considered by Cabinet in August 2007. I propose that this paper and the final Sector Studies report be placed on the Ministry of Economic Development website, subject to any appropriate withholdings that may be required in accordance with the Official Information Act 1982, including the removal of any legally privileged advice.

RECOMMENDATIONS

46. It is recommended that the Committee

- 1 **Note** that on 30 April 2007, Cabinet invited the Minister of Commerce to report to the Cabinet Policy Committee with the Quality Regulation Review – Final Report by 31 July 2007, which was subsequently extended to 30 August 2007 [CAB Min (07) 14/6 and POL Memo (07) 11/3 refer];
- 2 **Note** that progress to address issues raised by business as part of the Quality Regulation Review has occurred across a range of areas, and includes both legislative and non-legislative solutions, and that a summary of some of the key responses is provided in Annex One of this report;
- 3 **Note** that the key findings of the Review that will inform the post-Review approach to ensuring the quality of New Zealand's regulatory environment are:
 - 3.1 The need to consider the stock and flow of regulation, as well as all stages of the regulatory lifecycle;
 - 3.2 Implementation of regulation is as important as design;
 - 3.3 More can be achieved by government and business working together to identify and address regulatory concerns;
 - 3.4 Constant vigilance is critical for maintaining a quality regulatory environment; and
 - 3.5 Fixes to poor regulatory outcomes are diverse, with no 'one size fits all';
- 4 **Agree** that the government's post-Quality Regulation Review approach to ensuring the quality of New Zealand's regulatory environment focus on the following four objectives:
 - 4.1 Ensuring the quality of new regulation;
 - 4.2 Improving the quality of existing regulation;
 - 4.3 Developing a culture of good regulatory practice; and
 - 4.4 Building the capability of regulators and of business;
- 5 **Invite** the Minister of Commerce to report further to the Cabinet Policy Committee on options available for the ongoing review of the quality of regulations by 15 October 2007;
- 6 **Invite** the Ministers of Justice, Food Safety and Commerce to report to the Cabinet Policy Committee by 30 November 2007 on options to

reduce the compliance costs to winemakers who do not sell wine for consumption on their premises, while ensuring the risks relating to the sale and supply of alcohol, especially to minors, are managed;

- 7 **Invite** the Ministers of Justice and Internal Affairs to report to the Cabinet Policy Committee by 30 November 2007 on whether there are opportunities to improve the targeting of training requirements for identifying problem gamblers and the holding of liquor licences in a way that addresses the actual risks posed by different venue operators and different types of venue operator, while taking into account their prior learning and track-record;
- 8 **Note** that a number of issues relating to the interaction of the Shop Trading Hours Repeal Act 1990, Holidays Act 2003, and the Sale of Liquor Act 1989 were raised by businesses during the Quality Regulation Review, and that the Ministers of Labour and Justice will report to the Cabinet Business Committee seeking the release of a discussion document on options to address the inconsistencies around trading on restricted trading days by 30 August 2007;
- 9 **Note** that the Ministry of Economic Development will report to the Minister of Commerce as appropriate on projects aimed at achieving the objectives set out in recommendation 4, as part of its 2007/08 work programme, including:
 - 9.1 opportunities for further enhancing existing regulatory process disciplines; and
 - 9.2 whether a fast track legislative vehicle (i.e. Omnibus Bill) could be used on a regular basis to remedy failures in regulatory frameworks;
- 10 **Direct** the Ministry of Economic Development, in consultation with relevant stakeholders, to report to the Cabinet Policy Committee by 31 March 2008 with detailed proposals for undertaking a programme of in-depth sector studies, including proposed criteria for selecting sectors or cross-sector legislation to be studied, and a draft programme of studies for 2008-2013;
- 11 **Direct** the Ministry of Economic Development (lead), Inland Revenue, Department of Statistics and the Accident Compensation Corporation to report to the Cabinet Policy Committee by 30 April 2008 on initiatives to progress sharing of government held information, including details of:
 - 11.1 the business case, governance arrangements, project plan and timetable for implementing Standard Business Reporting;
 - 11.2 Ministerial sponsor and Cabinet oversight arrangements;
 - 11.3 governance arrangements, including the need for the Privacy Commissioner's involvement and other relevant parties;

- 11.4 the cross-departmental project team and the vote implications;
- 11.5 a high level project plan and timeframe from 2008/09 to 2009/10;
and
- 11.6 detailed analysis as to the feasibility and/or requirements for the establishment of a Centralised Information Repository;
- 12 **Agree** that the Sector Studies report, attached as Annex Two, be made publicly available as soon as possible, subject to any minor editorial changes agreed by the Minister of Commerce;
- 13 **Note** that, following Cabinet decisions, the Minister of Commerce intends to make a press statement as soon as practical, outlining the key messages in this paper;
- 14 **Note** that the Minister of Commerce will, as appropriate and in consultation with the relevant Ministers, coordinate announcements on the key messages in this paper with those on the outcome of the building and resource consent interface project, also being considered by Cabinet in August 2007;
- 15 **Note** that this paper will be published on the website of the Ministry of Economic Development as the Review's Final Report, along with the Sector Studies Report, subject to any appropriate withholdings that may be required in accordance with the Official Information Act 1982, including the removal of any legally privileged advice.

Hon Lianne Dalziel
Minister of Commerce

Dated: _____

ANNEX ONE: QUALITY REGULATION REVIEW - SOME KEY ACHIEVEMENTS

Biosecurity

- The Ministry of Agriculture and Forestry (MAF) has structurally integrated Biosecurity New Zealand and MAF Quarantine Service to better connect policy development, risk analysis, standard setting and implementation functions.
- Biosecurity New Zealand released updated standards for plant exports, which are being phased in by 1 September 2007. The New Zealand Food Safety Authority's (NZFSA) requirements will be similar to Biosecurity New Zealand's new standards, giving businesses flexibility to decide how to manage risks.
- MAF, the Ministry for the Environment (MfE) and the Environmental Risk Management Authority of New Zealand (ERMA) have developed proposals to address current problems with the Biosecurity Act/Hazardous Substances and New Organisms (HSNO) Act interface covering the importation of new organisms. MAF is working with ERMA to address the concerns raised in the Industry Plant Import Group report and will be liaising with the Industry Plant Import Action Group as solutions are developed and implemented.
- The Plant Biosecurity Index has been established to help industry quickly identify organisms that do not need HSNO approval.
- Biosecurity New Zealand's updated export standards provide consistency with the NZFSA on the requirements of the Independent Verification Agencies (IVA) accreditation.
- Officials are working with the Plant Imports Action Group to address perception and operational issues with plant importers.

Building

- Cabinet agreed to a detailed work programme to be undertaken during 2007/08 by the Department of Building and Housing (DBH), Department of Internal Affairs (DIA), MfE and Local Government New Zealand (LGNZ) to help resolve issues around the interface of the Resource Management Act (RMA) and the Building Act; and will consider a report on the findings in August 2007.

Business Information

- The Companies Office is refreshing its core IT applications to enable it to more quickly and easily pass information on to other government agencies.
- Electronic notifications of all companies pending removal from Companies Register will be provide to the Inland Revenue Department (IRD).
- Implementation of Australia and New Zealand Standard Industry Classification has commenced within Statistics New Zealand (Statistics NZ). Statistics NZ has been liaising with other departments, in particular IRD and the Accident Compensation Corporation (ACC), to schedule and plan the implementation.

Employment

- An on-line tool to assist businesses with entitlement calculations under the Holidays Act was released in March 2007. The Minister of Labour will report to Cabinet on the implementation and effectiveness of this tool by June 2008.
- The Department of Labour (DOL) has developed an online Individual Employment Agreement Builder on its website which provides assistance with draft employment agreements.

- DOL undertook a number of initiatives in the first half of 2007 to improve the information and guidance provided to business on a range of issues, including use of probationary periods, how to manage the parental leave process and returning to work, managing the health and safety of contractors, and a review of current publications on managing employment relationship problems.
- DOL has undertaken research into the costs and benefits of settling/resolving employment disputes under the Employment Relations Act and will report to Cabinet in August 2007 on the findings and options for addressing key issues.
- Cabinet has agreed that the Immigration Bill will allow employers to seek information on the immigration status of prospective or current employees without their explicit consent, addressing concerns about risks to business from employing people working illegally.
- Cabinet has agreed, as part of the Immigration Bill, to provide for 'interim' visas for applicants who would otherwise become unlawful while a further application is considered.
- DOL is reviewing the temporary work policy for low/unskilled labour occupations, as well as the Working Holiday scheme, to address perceived inflexibility, and will report to Cabinet by August 2007 and December 2007 respectively.
- DOL is implementing a Recognised Seasonal Employer Scheme (RSE) policy for the horticulture and wine sectors, to facilitate the employment of seasonal workers. Cabinet agreement included additional funding for compliance officers and labour inspectors. This will allow for a greater emphasis on education, ensuring employers fully understand their obligations and are well supported.

Excise

- The Customs and Excise Amendment Bill was passed in February 2007, aligning the dates for changes to excise levies and Alcohol Advisory Council (ALAC) levies paid by the wine industry.

Food

- Food Hygiene Regulation requirements are being replaced by Food Handler Guidance (a non-regulatory approach) for Bed and Breakfast operators.
- The new programme of wine regulations and notices requires wine makers to operate under a wine standards management plan (WSMP). Once winemakers obtain a WSMP, they will be exempt from the Food Hygiene Regulations. WSMPs are expected to be fully implemented in December 2008.
- NZFSA is working on proposals for new food legislation as part of an extensive Domestic Food Review (DFR). The DFR is intended to produce a new regulatory system to replace the Food Act 1981 and the Food Hygiene Regulations 1974 which is expected to provide greater consistency across the country. Implementation is expected to begin in late 2007.

Gambling

- DIA undertook a targeted information provision campaign to the gambling industry on how to deal with problem gamblers in March 2007.

Health and Safety Issues

- The Ministry of Health (MoH) has completed a review, including a mapping exercise, of the contractual and legislative requirements for audits of health and disability service providers. The Ministry of Health is working to reduce as much as possible the number of audits it is responsible for requiring while continuing to ensure public safety. Options for working with the District Health Boards to agree common compliance requirements will be progressed in the future.

- MoH is undertaking a review of the way that the ALAC levy is calculated. The Associate Minister of Health is considering a number of options to improve the current regime and it is expected that government will introduce an amendment Bill this year.
- Preliminary consultation has been undertaken with business on the interaction of Health and Safety in Employment, HSNO, and ACC legislation. A feedback document testing solutions with business has been released. Short term initiatives completed or underway as part of the project include:
 - a review of auditing methods used for the ACC Partnership Programme will be completed by January 2008;
 - ERMA and DOL have developed information and tools to assist HSNO compliance in the farming and horticulture industries;
 - ERMA has produced HSNO compliance information for the embalming, paint industry and service stations;
 - options are being investigated for delivering co-ordinated health and safety advice and information through business mentoring and coaching programmes; and
 - an online hazard self assessment tool for small and medium enterprises (SMEs) with content that will assist businesses to manage health and safety matters and meet the ACC Workplace Safety Discount programme where they are eligible is being developed.
- DOL has developed a strategic approach to health and safety enforcement. Implementing the new approach has started and will continue over the next 18 months.
- ACC is providing more understandable and accessible information to businesses about its services and how it sets levies, and will ensure that new levy invoices will provide clearer information, by June 2007.
- The Growsafe certification renewal period has been aligned with the renewal period for HSNO approved handlers.
- ERMA has a programme to develop user-friendly guidance on HSNO requirements, particularly aimed at SMEs, and operates a dedicated toll free service to support industry compliance.
- The Hazardous Substances Compliance and Enforcement Strategy is being implemented. The first stage of the Strategy has involved providing targeted information to key industry sectors.
- ERMA New Zealand has revised requirements for handling and using petrol on farms – removing the approved handler control for farms of four hectares or larger where less than 2000 litres of petrol is stored. This means that a farmer will no longer require an approved handler certificate for petrol, nor will an approved handler have to be available.
- ERMA New Zealand has been working with the New Zealand Agrichemical Education Trust to better integrate HSNO requirements (particularly those relating to approved handlers) with the Growsafe introductory course. This is only but one mechanism for becoming an approved handler for agrichemicals. The objective of this work is to eliminate the need for persons that complete relevant training, such as the Growsafe introductory course, to also be required to undertake separate and duplicative requirements to achieve HSNO compliance.
- Officials are in the process of reviewing the HSNO test certification regime so determine where improvements can be made across the system. This review may include implications for the approved handler licensing system.

Liquor Licensing

- The Office of the Auditor General is undertaking an audit of District Licensing Authorities, including how local authorities are conducting their liquor licensing responsibilities and how these might be improved.

Regulatory Process Disciplines

- An enhanced framework for strengthening Regulatory Impact Analysis requirements has been agreed by Cabinet and came into force on 1 April 2007.
- The Society of Local Government Managers has initiated a Recruitment and Retention Programme, an over-arching initiative to encourage recruitment across the whole local government sector, as one way to address capacity and capability issues.
- A Business Cost Calculator, that determines the compliance cost of proposed regulation on business, will be ready for application within government departments in the first half of 2008 for a two year trial.

Resource Management Act

- Amendments to the RMA to deal with vexatious and anti-competitive submitters will come into force in August 2007.
- MfE has addressed consistency in the decision-making process through changes to the RMA by requiring decision makers to be accredited. Training focuses on interpreting the legislation, understanding and running hearings appropriately.

Standards and Conformance

- The Government completed a review of New Zealand's standards and conformance infrastructure in May 2007. The key outcomes of the review are:
 - a Regulatory Forum, comprising regulatory agencies, will be established with a view to making better use of the standards and conformance infrastructure in terms of achieving sound regulatory outcomes and supporting the development of quality regulations;
 - Sector Advisory Boards will be established and will be responsible for the development of a strategic plan for standardisation within the sectors for which they are responsible, and ensuring a standards catalogue is maintained and kept up to date;
 - a sub-group of the Regulatory Forum will be created to provide advice to the Ministers of Commerce, Consumer Affairs, and Research Science and Technology on New Zealand's future needs and priorities in both legal and physical metrology;
 - the Business Capability Partnership (a partnership between the government and Business New Zealand) will consider actions to improve the use of voluntary management standards by New Zealand firms;
 - a web-based information clearing house, with an accompanying physical point of contact, will be established to improve business access to all relevant information on standards and conformance and regulatory requirements; and
 - the Standards and Testing Laboratories Registration Councils will be restructured to address the potential for the blurring of the boards' governance and advisory functions, and to provide a more efficient appointment process.

Statistics

- Additional funding was announced in Budget 2007 to enable Statistics NZ to make around 250 million pieces of information free to business - \$6 million over next four years plus \$2.7 million in capital funding for 2007/08.
- Statistics NZ is implementing a Respondent Load Strategy that provides a framework for other initiatives that will reduce respondent load over the next year, such as reduction of load for individual SMEs where the load is demonstrated to be unreasonable and out of step with industry typical load levels.
- Statistics NZ is undertaking a project to enable business respondents to plan and manage their commitments to Statistics NZ, including:

- the ability for respondents to receive via email customised survey calendars for their businesses, detailing the full extent of their current survey obligations;
 - a generic calendar outlining the relevant dates associated with the full range of business surveys; and
 - improved *Frequently Asked Questions* information placed on the Statistics NZ website and used by the contact centre when helping business respondents.
- Statistics NZ is undertaking a range of initiatives to improve communications with business and respondents, including:
 - sponsoring the Business Information Zone at all Small Business Expos;
 - increasing the emphasis on building relationships with organisations that represent New Zealand businesses. This includes an initiative to have regular engagement with business associations such as: Business New Zealand, Employers and Manufacturers Association, Auckland Chamber of Commerce, Biz New Zealand and Business Mentors New Zealand;
 - piloting a “visits to business” initiative to give Statistics NZ staff practical experience of how businesses operate and what their needs are; and
 - enhancing communications in survey questionnaires that thank respondents for their contributions.
 - Statistics NZ is continuing to replace survey data with administrative data, including:
 - halving the load associated with the monthly Accommodation Occupancy Survey by June 2008. The survey accounts for 25 percent of all burden hours imposed on businesses by Statistics NZ; and
 - continuing the programme of sample reduction for the Annual Frame Update Survey (from 73,000 to 70,000), which accounts for 7 percent of all burden hours imposed on businesses by Statistics NZ.

Tax

- The Inland Revenue Department (IRD) has redesigned the certificate of tax exemption which will in future be issued with a holographic foil surface. This surface will give a distorted image if photocopied or scanned, which will make it easier for companies to ensure that the certificate they are sighting is the original.
- IRD implemented new pay as you earn (PAYE) subsidy rules to allow small employers to outsource their PAYE compliance obligations and focus their efforts on their business and reduce late or shortfall penalties on small businesses.
- IRD is seeking to increase support for new businesses in the future through proactive communication at the outset by telephoning those businesses that are employing their first employee and has contacted over 6,000 employers since March 2007.
- The Companies Office and IRD's Online Application Project is being enhanced. From July 2007:
 - applicants will be able to apply for GST numbers at the same time as their IRD numbers; and
 - the IRD and GST numbers will be allocated simultaneously.

Vehicles

- Regulations have been amended to address problems arising from a legal technicality that removed the eligibility of certain vehicle dealers (primarily boat and trailer dealers) to hold trade plates.
- The definition of what constitutes a ‘goods service’ vehicle, and therefore requires a goods service licence, has been reviewed to remove the requirement for all vehicles with a gross laden weight of less than 6000kg to have a goods service licence, regardless of whether they are being used for ‘hire and reward’ or not.

- Cabinet has agreed to strengthen the offensive provision for non-notification of vehicle ownership change and create an offence for this, enforceable by Police, local authorities and Land Transport New Zealand (LTNZ).
- LTNZ has produced a fact sheet that explains operating conditions for normal over-dimension loads.

PROPOSED LEGISLATIVE AMENDMENTS FOR INCLUSION IN OMNIBUS BILL

The amendments proposed to date for the Omnibus Bill relate to:

- the process for renewing design registrations under the Designs Act 1953;
- the ability to update material incorporated by reference within the Hazardous Substances and New Organisms Act 1996 (HSNO);
- combining inspections under the HSNO Act and the Health and Safety in Employment Act 1992;
- the revocation of outdated health and safety regulations;
- the co-regulatory arrangements under the Gas Act 1992 as applied to gas used for feedstock;
- the treatment of liquid petroleum gas (LPG) under both the Weights and Measures Act 1987 and Gas Act 1992;
- the audit requirements for certain classes of New Zealand subsidiaries of overseas-incorporated companies and companies that have 25% or more overseas ownership under the Companies Act 1993;
- resolving administrative errors for commercial fishers under the Fisheries Act 1996;
- removing duplicated penalty regimes for commercial fishers under the MAF Restructuring Act 1995 and the Fisheries Act 1996;
- amending current concessions provisions and clarifying contestable processes under the Conservation Act 1987;
- clarifying requirements for the renewal of permits under the Marine Mammals Protection Regulations 1992;
- amendments to the Health and Safety in Employment (Pressure Equipment, Cranes and Passenger Ropeways) Regulations 1999 to resolve coverage issues with respect to compressed gas cylinders, and low hazard aerosols and cartridges;
- amendments to the HSNO Act 1996 to allow:
 - flexibility in delegating decision-making powers for relevant matters;
 - rapid assessment and delegation of non-GMO new organism containment applications and conditional release applications;
 - discretion to notify hazardous substance release applications;
 - flexibility to enable text certifiers to issue a provisional location test certificate, subject to specified conditions;
 - greater official access to the test certificate register for emergency response planning purposes;
 - linking reassessment and group standard amendments including provision of a mechanisms for minor or technical amendments to group standards;
 - empower Biosecurity New Zealand to recover costs of conditional release compliance and enforcement under the Biosecurity Act;
 - remove additional reporting requirements;
 - extend the Environmental Risk Management Authority (ERMA) to revoke test certificates;
 - enable ERMA to prescribe what organisms are “not new” and/or “risk species”; and
 - rationalise and align the lengths of time to lay information for offences under the HSNO and related Acts;
- revocation of the following outdated health regulations:

- Chiropractors Orders 2002 and 2003;
- Medicines (Deferral of Expiry of part 7A) Order 2003;
- Toxic Substances Act Commencement Orders 1979 and 1983
- Medical Practitioners Amendment Act Commencement Order 1996 (SR 1996/115;
- Practising Opticians Notice 1955;
- The Noxious Substances Notices 1958 (SR 1958/83) and 1959 (SR 1959/84);
- Mental Hospitals Road Traffic bylaws 1960; and
- Porirua Hospital Traffic Bylaws 1969.