

# STREAMLINING THE SYSTEM

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ENHANCING NEW ZEALAND'S REGULATORY ENVIRONMENT

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# FOREWORD

## Introduction

The Quality Regulation Review focused on how regulation is implemented and administered by government agencies. It sought to identify solutions to problems that are unnecessarily inhibiting business growth and economic development.

While the overwhelming message from the Review is that New Zealand's regulatory environment is in good shape, there is room for improvement. In particular, improvements are needed in:

- how requirements are implemented;
- how people and businesses are made aware of regulatory requirements; and
- how regulation is enforced.

The initiatives outlined in this sector studies report and all those who participated make a significant contribution towards meeting these needs.

## Sector studies

Early on in the Review I couched the phrase "why can't the many arms of government extend a single hand to business" when seeking information. The point is, and this was reinforced in the sector interviews, that government may see each department separately, but from the business perspective, the government is the government, whether it is called the Inland Revenue Department, the Department of Statistics, the Department of Labour, OSH, the Accident Compensation Corporation (ACC), the New Zealand Food Safety Authority, and even when it is the local authority that is undertaking the enforcement.

Sector study interviewees felt that: coordination between government departments could be improved; information should be made more user-friendly; regulatory frameworks should operate as 'level playing fields' where those who are seriously non-compliant are punished and treated as representing the real risk, while on the other the majority are seen as genuinely trying to be compliant and are treated accordingly.

This report does not mention all the problems and potential solutions raised during the sector studies however each interviewee will receive a letter responding to the issues that they raised.

A large number of issues raised related to the provisions of the Employment Relations, Holidays, Gambling, Customs and Excise, and Tax Acts. However, these issues related to underlying policy and so were outside the scope of the Review.

## Next steps

As part of the Quality of Regulation Review, steps have been taken to improve government agencies' own review processes. Since April 2007, all proposed regulatory interventions have been subject to an enhanced Regulatory Impact Analysis (RIA) regime before going to Ministers for decisions. In order to test analysis early in the process, each government agency is required to include in discussion documents a Regulatory Impact Statement, (RIS), or at least pose the questions that would enable a RIS to be developed. This strengthens the incentives on government agencies to consider the impacts of regulations before they are considered by the government. Businesses are encouraged to participate in this stage of the policy development.

Also, the Ministry of Economic Development is to implement an ongoing program of sector studies as part of the Labour-led government's commitment to ensuring continuous improvement of the regulatory environment.

I want to thank the businesses and their Industry Associations who were involved with the sector studies. And I want to acknowledge the Departments that contributed by responding to the issues that were raised.

Finally I wish to acknowledge the officials who conducted the interviews. I know they were pleased to receive such a positive and enthusiastic response from busy people who made the time to participate in this important review.

Lianne Dalziel  
Minister of Commerce  
Minister for Small Business

# KEY GOVERNMENT RESPONSES TO ISSUES RAISED

## Duplication

### ***To minimise the need for businesses to repeat processes or provide similar information for different agencies:***

ACC, the Inland Revenue Department, the Companies Office and Statistics New Zealand are leading a whole-of-government programme to institute a central repository for business information to improve collection of data and reduce duplication and reporting burdens for business. This will be part of a larger piece of work referred to as Standard Business Reporting.

The Inland Revenue Department and the Companies Office now enable companies to register for GST at the time of incorporation.

The Ministry of Health recently led a project to identify where contractual and legislative requirements could be enhanced and streamlined to ensure audits are more effective and efficient and less duplicative for health and disability service providers. This may provide the model for addressing multiple audits and certification requirements in the sectors we reviewed.

## Inconsistency

### ***To provide consistency in the application of regulation and clarity over justifiable variations:***

The Ministry for the Environment:

- is behind the Quality Planning Website [www.qualityplanning.org.nz](http://www.qualityplanning.org.nz) that is aimed specifically at those administering the Resource Management Act (RMA); and
- has also addressed consistency in the decision-making process through changes to the RMA requiring RMA decision makers to be accredited. Training focuses on interpreting the legislation, understanding and running hearings appropriately, and associated matters such as recognising and dealing with conflicts of interest.

Biosecurity New Zealand's updated export standards provide consistency with the New Zealand Food Safety Authority on the requirements for the Independent Verification Agencies (IVA) accreditation.

The New Zealand Food Safety Authority 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.

## Insufficient information

### ***To provide clear, accessible and user-friendly information:***

The Department of Labour:

- 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: probationary periods; the parental leave process and returning to work; and the health and safety of contractors; and
- is developing an online Hazard Manager for small and medium sized enterprises, which aligns with ACC requirements for the new Workplace Safety Discount, for release in 2007.

ERMA New Zealand has a programme to develop user-friendly guidance on HSNO requirements, particularly aimed at SMEs, and operates a dedicated toll free service (0800 376 234) to support industry compliance.

ACC:

- introduced, from June 2007, new levy invoices that provide clearer information for business; and
- is providing to businesses, as part of its levy setting process this year, more understandable and accessible information about how it sets its workplace levies.

The Inland Revenue Department 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 6,279 employers since 1 March 2007.

The Department of Internal Affairs undertook a targeted information provision campaign on how to deal with problem gamblers in March 2007.

Land Transport New Zealand has produced a fact sheet (no. 53) that explains operating conditions for normal over-dimension loads.

The New Zealand Customs Service has instituted the Frontline programme to assist new clients with excise.

### **Complex, onerous or unclear accountability**

#### ***To streamline regulatory processes and to clarify accountability:***

A Business Cost Calculator, that allows the compliance cost of proposed regulation on business to be calculated, will be ready for application within government departments in the first half of 2008 for a two-year trial.

The Inland Revenue Department established on 1 October 2006 new 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.

The Department of Labour:

- has an online Individual Employment Agreement Builder on its website which provides assistance with draft employment agreements;
- released an online tool to assist with entitlement calculations associated with the Holidays Act in March 2007. The Minister of Labour will report to Cabinet on the implementation and effectiveness of this tool by June 2008;

- has been permitted to disclose to potential employers whether non-citizen prospective employees are entitled to work, and the duration of that entitlement (without explicit consent from the prospective employee). This will enable DOL to develop a system for employers to find out about entitlements to work via the Internet; and
- established an immigration policy specifically for employers in the horticulture and viticulture industries.

The Ministry of Health is undertaking a review of the way that the Alcohol Advisory Council of New Zealand 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 calendar year.

Statistics New Zealand:

- is implementing a Respondent Load Strategy that provides a framework for other initiatives that will reduce respondent load over the next three years, such as reduction of load for individual small to medium enterprises where the load is demonstrated to be unreasonable and out of step with industry typical load levels; and
- along with the Ministry of Tourism, has committed to halving the load associated with the monthly Accommodation Occupancy Survey by June 2008.

The Ministry of Transport has:

- recently amended regulations to fix unintended problems arising from a legal technicality which removed the eligibility of certain dealers (primarily boat and trailer dealers) to hold trade plates; and
- removed the requirement for all vehicles with a gross laden weight of less than 6,000kg to have a goods service licence, regardless of whether they are being used for 'hire and reward' or not.

The Ministry of Agriculture and Forestry, Ministry for the Environment and ERMA New Zealand have developed proposals to address current problems with the Biosecurity Act/Hazardous Substances and New Organisms Act interface covering the importation of new organisms. The Ministry of Agriculture and Forestry is working with ERMA to address the concerns raised in the Industry Plant Import Action Group report and will be liaising with the Industry Plant Import Action Group as solutions are developed and implemented.

The Inland Revenue Department 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.

The Society of Local Government Managers has initiated a Recruitment and Retention Programme, an overarching initiative to encourage recruitment across the whole local government sector, as one way to address capacity and capability issues.

Cabinet has agreed to strengthen the offence provision for non-notification of vehicle ownership change, enforceable by Police, local authorities and Land Transport New Zealand – for introduction mid-2007.

## Risk insensitivity

### ***To achieve an effective regulatory approach proportionate to level of risk:***

The Ministry of Agriculture and Forestry:

- structurally integrated Biosecurity New Zealand and the Ministry's Quarantine Service in July 2007 to better connect policy development, risk analysis, standard setting and implementation functions; and
- notes that 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 requirements will be similar to Biosecurity NZ's new standards. This gives businesses the flexibility to decide how to manage the risks.

The New Zealand Food Safety Authority notes that:

- a key feature of the new programme of wine regulations and notices will be a requirement for 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; and
- Food Hygiene Regulations requirements will be replaced with Food Handler Guidance (a non-regulatory approach) for Bed and Breakfast operators.

## Timeliness

### ***To help achieve coordination and greater efficiency of government processes:***

The Companies Office and the Inland Revenue Department's Online Application Project has been enhanced in three ways from July 2007:

- applicants are able to apply for GST numbers simultaneously with their IRD numbers;
- IRD and GST numbers are allocated simultaneously; and
- the provision of information from the Companies Office to the Inland Revenue Department now occurs during the lifetime of a company, rather than just the incorporation stage.

The Minister of Immigration introduced an Immigration Bill in mid-2007, which included interim visas for applicants whose permits lapse before their next application is decided. A new policy (the Recognised Seasonal Employer policy) has been introduced for employers in the horticulture and viticulture industries and changes have been made to address delays in processing Approval in Principle applications.

In February 2007 the Customs and Excise Amendment Bill was passed. It aligns the dates for the excise levy and the Alcohol Advisory Council of New Zealand levy paid by the wine industry at 1 July.

# INTRODUCTION

## Quality Regulation Review

The Quality Regulation Review was announced in May 2006 as part of the Labour-led government's commitment to ensuring that New Zealand's regulatory environment supports business growth.

The Review's specific objectives were to:

- address issues that arise from duplication or inconsistency (across regimes), uncertainty or inconsistency (within regimes), and excessive paperwork requirements;
- reduce the regulatory burden on business; and
- improve regulatory outcomes.

## Sector studies

To ensure the Review delivered on its objectives we engaged with businesses directly in order to understand how regulatory requirements impact on them – and how this could be improved. The sector studies were an important part of this approach. They involved interviewing 136 businesses about their experiences in complying with regulation, and eliciting potential solutions to address issues.

The sectors selected for study were horticulture, hospitality, retail, and wine. Each of those sectors makes a significant contribution to economic growth.

The *horticulture sector*, including downstream service industries, permanently employs 50,000 New Zealanders, and another 40,000 seasonal workers. Domestic sales are worth approximately \$2.5 billion. Horticultural exports have grown dramatically in the past 25 years, and are now worth approximately \$2.3 billion, compared to \$115 million in 1980. The most significant horticulture industries, in terms of exports, are kiwifruit (31%), wine (19%), apples (17%) and vegetables (11% processed/frozen and 9% fresh).

New Zealand's *hospitality sector* is made up of more than 17,000 enterprises and employs more than 117,000 workers. The food service component is New Zealand's number one retail employer and industry sales grew by \$354 million (10%) from 2004 to 2005.

More than 325,000 people are employed either part- or full-time in the *retail sector*, which represents about 20% of the national workforce. There are 49,000 outlets which account for over \$50 billion of sales annually. Retail sales performed strongly in the period September 1999 – September 2005 with actual growth rates ranging from 5.4% to 7.5% per annum.

The *wine sector* has experienced unprecedented growth in recent years. New Zealand has more than 530 wineries – up from 130 in 1990. Vineyard areas, now 22,000ha, are expected to increase by 2,000ha annually and reach 30,000ha by 2010. There are nearly 900 independent grape growers, and the industry also involves a large number of supporting businesses including glass and packaging material suppliers, transport firms, and contract labouring firms. For the first time, sales exceeded 100 million litres for the June 2006 year end, with total sales reaching 108 million litres. There was particular growth in exports, which were up by 12% in volume and 18% in value. New Zealand exported 57.8 million litres of wine worth \$512.4 million in the 12 months to June 2006, with major markets being the UK, the US and Australia.

This report is structured around six themes summarising issues associated with:

- duplication;
- inconsistency;
- insufficient information;
- complex, onerous or unclear accountability;
- risk insensitivity; and
- timeliness.

Under the theme headings are:

- a short discussion of the theme;
- a summary of the issues;
- 'How business sees it' – sample issues identified during the interview process, including some solutions proposed by interviewees; and
- examples of departmental initiatives to address the theme.

# DUPLICATION

A well-coordinated regulatory environment will minimise the need for businesses to repeat processes or provide similar information for different agencies. Duplicative requirements impose a high cost in terms of time, particularly for small businesses. Businesses across the sectors saw the frequency and duplication of regulatory requirements, such as audits, inspections and surveys, as too great.

## Summary of the issues:

Some duplicative requirements are imposed due to a lack of coordination between regulatory frameworks. Some are due to inconsistent approaches in the implementation of regulations and processes. Others come about through information not being shared between departments.

Businesses often identified data collection as a duplicated activity. Some agencies ask for very similar information separately, and at different times of the year. Duplication also occurs when different aspects of a business need to be audited separately.

The duplication of data collection is exacerbated by the fact that departments are not always set up to share information, and in some cases, where personal information is involved, are not permitted to do so by the Privacy Act 1993, because personal information collected for one purpose is not allowed to be used for another purpose without consent. Businesses perceive government as a single entity and so find it frustrating to have to respond more than once to 'government' requests on a particular topic. Another aggravating factor is having to duplicate electronic filing with paperwork.

There is also duplication between requests for information from departments and industry bodies. Requests from the latter tend to feel more relevant to businesses, since they focus on the characteristics of the individual industry and seek less general information.

## How business sees it:

Some businesses receive more than their fair share of surveys, and the Privacy Act seems to force the same information to be provided separately to departments. [wine]

Audits can be up to four times in one month, for (i) annual discharge consent from the regional council (ii) wine exporting (iii) health inspection, and (iv) food inspection. [wine]

Omnibus statistics forms are a waste of time; statistics collected by the industry are more timely and relevant. [wine]

Growsafe certification and Approved Handler certification are unnecessarily duplicative. [horticulture and wine]

A number of solutions to issues of duplication were proposed by interviewees. In general terms, these included:

- giving more recognition to the cumulative impact of audits and certification requirements. A common date for reporting, or exempting businesses from audits for a period of time after being deemed to be compliant would help;
- devising multiple purpose audit or certification tools or having inspectors or auditors carrying out multiple functions in one visit;
- improving coordination and information sharing between local authorities;
- improving coordination between departments and industry associations to collect data and providing exemptions from completing statistics returns for a period of time following compliance.

### **Government initiatives to reduce duplication include:**

ACC, the Inland Revenue Department, the Companies Office and Statistics New Zealand are investigating ways to improve the collection of data from business, to reduce duplication between each department's requirements.

The Inland Revenue Department and the Companies Office now enable companies to register for GST at the time of incorporation.

The Ministry of Economic Development is proposing amendments to the Patents Bill to move to an electronic register instead of current duplicative paperwork filing.

Biosecurity New Zealand and the Ministry of Agriculture and Forestry's Quarantine Service are to be integrated to connect policy development, risk analysis, standard setting and implementation functions from 1 July 2007.

Statistics New Zealand is undertaking a number of initiatives to minimise respondent load and reduce duplication around information collection.

The Ministry of Health recently led a project to identify where contractual and legislative requirements could be enhanced and streamlined to ensure audits are more effective and efficient and less duplicative for health and disability service providers. The outcomes of this work could inform future models for multiple audits and certification requirements in the sectors we reviewed.

# INCONSISTENCY

Consistency in the interpretation and implementation of regulations is a desirable yet problematic feature of any regulatory environment. In order to operate with confidence, businesses require a reasonable degree of certainty, especially when considering making investments. At the same time, businesses often want approaches that are tailor-made to their circumstances.

Both consistency and flexibility have benefits, costs and risks. If substantial variation – between regulatory regimes, agencies or geographical areas – does not seem to be accompanied by clear justification, ‘fairness’ can be seen to suffer. Where approaches appear inconsistent, the level of voluntary compliance is likely to be lower. Of course, a distinction needs to be made between poor performance in the application of regulations leading to inconsistency, and legitimate geographic variations such as District Planning provisions which are designed to reflect local circumstances.

## Summary of the issues:

When varying interpretations result from the interface of different regulatory systems, businesses ‘feel powerless’ and ‘that they are being required to reinvent the wheel’.

Local government regulators were most cited by businesses that mentioned inconsistency as a problem. Interviewees whose businesses operated under the jurisdiction of more than one local body particularly noted the effects of inconsistent interpretations. Food safety and wheelchair access were cited as standout areas of inconsistency between local authorities.

General concerns around inconsistency included the lack of a ‘level playing field’ for businesses. This results in frustration at treatment that appears to either discriminate against some players or disproportionately benefit some at others’ expense. The RMA was a particular source of concern in this regard.

Another general area of inconsistency noted by interviewees was the payment regimes used by different departments. Variations between such processes, for

example around method and frequency of payment, can catch businesses out and lead to unnecessary penalties.

Businesses also cited certain specific regulatory frameworks that could benefit from a greater degree of consistency. Examples included immigration and liquor licensing.

## How business sees it:

Inconsistent implementation by territorial authorities/ District Licensing Authorities has created inconsistent standards in areas such as special licences under the Sale of Liquor Act and food safety and hygiene. [hospitality]

Local Authorities changing requirements after decisions made: e.g. Despite having approved the basement installation of a water meter, the City Council then insisted that it be moved to an area accessible from the street. [hospitality]

A council inspector deemed that a dry goods storeroom needed its roof lined. The business was later made to drop the room’s ceiling, to protect against rodents. [wine]

The local authority’s interpretation of the RMA enabled one person to stall a resource consent application and constrain business development. [wine]

Ratings given for kitchen inspections seem to vary by inspector and the time of day. [hospitality]

Slide-out shelves in counters (for wheelchair users) were required in Wellington and Auckland but not elsewhere. [hospitality]

The interface issues between the Shop Trading Hours Act, Sale of Liquor Act and Holidays Act and the problem related to trading restrictions during Easter and the status of Easter Sunday under the Holidays Act create inconsistencies for business and are unnecessary and onerous. [all sectors]

The multiple regimes for export certification and assurance schemes can confuse verification agencies. [horticulture]

It is harder for smaller businesses to gain immigration permits for workers. [horticulture]

Biosecurity officials appear to adopt a zero tolerance standard when the industry wants to import new plant material. [wine]

Insurance companies require that deadlocks are used but the Fire Service prohibits their use as they restrict people's ability to leave buildings during a fire. [hospitality]

Companies whose activities fall under the Consumer Credit Contracts Act 2003 and the Secondhand Dealers and Pawnbrokers Act 2004 are uncertain which to follow. The two acts are inconsistent around allowing firms to charge interest or fees. [retail]

Storage regulations for compressed butane gas containers do not differentiate for size of place, which limits large retailers' ability to cope with demand. [retail]

### **Government initiatives to address inconsistencies include:**

The Ministry for the Environment is behind the Quality Planning Website [www.qualityplanning.org.nz](http://www.qualityplanning.org.nz) that is aimed specifically at those administering the RMA. Development of guidance specifically relating to the wine industry is under investigation at present.

The Ministry for the Environment is also addressing consistency in the decision-making process through changes to the RMA requiring RMA decision-makers to be accredited. Training focuses on interpreting the legislation, understanding and running hearings appropriately, and associated matters such as recognising and dealing with conflicts of interest.

The New Zealand Customs Service will investigate ways that limitations on storage flexibility can be overcome without reducing clarity about excise obligations or assurance over Crown revenue.

Cabinet has instructed the Department of Labour and the Ministry of Justice to report back on possible solutions to the inconsistencies that arise on Easter Weekend with the operation of the Shop Trading Hours Act, the Sale of Liquor Act and the Holidays Act.

The Department of Labour is working on a new business model in the area of immigration, which would help with consistency and timeliness, and increase the use of technology for both immigration officers and customers.

The Ministry of Consumer Affairs is considering ways to bring about consistency between the Consumer Credit Contracts Act 2003 and the Secondhand Dealers and Pawnbrokers Act 2004.

Biosecurity New Zealand:

- has updated export standards providing consistency with the New Zealand Food Safety Authority on the requirements for the Independent Verification Agencies (IVA) accreditation; and
- is moving away from an internal accreditation process to requiring accreditation to the International Organisation for Standardisation in the same way the New Zealand Food Safety Authority does.

The New Zealand Food Safety Authority 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.

## INSUFFICIENT INFORMATION

Information provision is a key component of the regulatory environment. Business people are busy and have a wide range of activities to manage. Their ability to understand what is required of them is affected by the size of their business, as well as its management capability and financial resources. For example, compliance can be more complex and challenging for a small business operated by a family than it is for a large business which has ready access to in-house support from a professional management team and advisers such as accountants and lawyers. A common theme from the interviewees was that regulators need to provide clear, accessible and user-friendly information to let businesses know exactly what they need to do to comply with the law.

### Summary of the issues:

The core information provision ‘problem’ was that communicators and their audience appeared to be unaware of each others’ needs or were talking past each other. This hindered understanding and resulted in frustration on both sides and excessive cost to businesses.

Businesses commented that the way in which some government information is provided made it difficult to understand. This caused confusion and misunderstandings amongst interviewees and their staff about their respective obligations. This lack of clarity meant some businesses gave up trying to understand requirements and proceeding on the basis that they were compliant until informed otherwise. Others incurred significant costs to retain the services of specialist advisors to explain and/or take care of compliance.

Some businesses appeared poorly informed about existing procedures/requirements. Some of the issues raised by these businesses were in fact examples of information provision problems or communications breakdowns. In certain instances, businesses were misinformed about government requirements by third parties. Employment Relations and Health and Safety were particularly common areas for misunderstandings.

For some interviewees, especially those from smaller businesses, the main problem was information overload. The volume of material from various sources including central government agencies, local government, industry bodies, and private providers proved too much to process. The time required to identify the relevant information proves a major barrier to these businesses’ ability to access correct information.

Some businesses identified the tone of the information provided as a concern. An overly legalistic tone seemed to stress the possibility of legal action, and detracted from any feeling of a partnership relationship.

Specific areas of concern included tax, hazardous substances and health and safety requirements, the ACC levy, immigration requirements such as working holiday visas, the Consumer Guarantees Act and the KiwiSaver scheme. Interviewees also queried whether there was a systematic and adequate level of information support for new businesses.

### How business sees it:

Provide a user-friendly facility where a business can find out all relevant requirements affecting its operation, particularly through the start-up years. This could cover collective contract rules, which are difficult for employees to understand and for employers to explain. [retail]

The Consumer Guarantees Act is broadly worded legislation and lacks clarity. [retail]

Enhance the clarity of existing information – for example, the Hazardous Substances and New Organisms Act is hard to understand, and compliance is very costly because of the time trying to work out what is required and in many cases making an interpretation. [wine]

Frequently changing gas requirements were so confusing that a hazardous goods consultant now comes annually. [wine]

The requirements of the Approval in Principle scheme for immigration purposes are not well explained. [horticulture]

Small businesses receive as much information about legal requirements as businesses five times the size, and don't have the time to read it. [wine]

A proactive 'what do you want – how can we help?' approach from agencies would be preferable to threats of prosecution. [retail]

Interviewees commented that putting information on a website is not enough, as:

- businesses do not regularly check departmental websites;
- departmental websites can be difficult to navigate; and
- not everyone has access to the internet, and not all areas have access to broadband.

Interviewees also proposed that agencies should give reminders of what is required in advance, instead of taking a punitive approach when mistakes occur through lack of information.

### **Government initiatives to address information provision include:**

The Department of Labour:

- 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; and managing the health and safety of contractors. Improvements are being made to enhance the navigation of Immigration New Zealand's website, with the section for employers due to be reviewed;
- is developing an online Hazard Builder for small and medium-sized enterprises, which aligns with ACC requirements for the new Workplace Safety Discount;
- is undertaking a review of current publications on managing employment relationship problems to provide, for example, explicit guidance for employers on 'how to fire' and probationary periods; and

- the Minister of Labour was expected to report to Cabinet by 31 August 2007 on options to improve the functioning of the employment relationship problems resolution system.

ERMA New Zealand has a programme to develop user-friendly guidance on HSNO requirements, particularly aimed at SMEs, and operates a dedicated toll free service (0800 376 234) to support industry compliance.

ACC:

- introduced, from June 2007, new levy invoices that provide clearer information for business; and
- is providing to businesses, as part of its levy setting process this year, more understandable and accessible information about how it sets its workplace levies.

The Inland Revenue Department 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 (i.e. who become new employers). On average it calls approximately 500 employers per week, and has contacted 6,279 employers since 1 March 2007. The Inland Revenue Department now plans to commence phase two of this proactive contact initiative, whereby new businesses are contacted with a view to helping them understand tax obligations.

The Department of Internal Affairs undertook a targeted information provision campaign on how to deal with problem gamblers in March 2007.

Land Transport New Zealand has produced a fact sheet (no. 53) that explains operating conditions for normal over-dimension loads.

The New Zealand Customs Service has instituted the Frontline programme to assist new clients with excise.

# COMPLEX, UNCLEAR OR ONEROUS ACCOUNTABILITY

Many interviewees saw the costs of compliance as either altogether unnecessary, or disproportionately high. This category of concerns was perhaps the most difficult to synthesise, as each matter that appears unnecessarily onerous to business has to be seen in the wider context of the regulatory environment. It was also the largest category, in that it affects all businesses to some extent.

It is the weight of cumulative requirements that accentuates the difference for smaller businesses. As they are less likely to have staff dedicated to compliance, the time that smaller businesses spend meeting requirements usually directly reduces the time in which they can conduct their core activities. For example, for small businesses the cost of training includes down-time to enable staff both to travel to and attend training courses.

Some regulation was perceived as particularly onerous in the start-up phase but ceased to be a cause for concern once a business had grown.

The cumulative burden of compliance can seem overwhelming to small businesses. One interviewee listed 13 taxes or fees to report to government on. Another noted that transition to new systems in order to comply adds cost and complication.

A well-designed regulatory framework will provide clarity about the accountability of the various parties involved. The extent to which businesses are held accountable for administration is important. Businesses can feel disempowered or presumed guilty by regulatory approaches that are entirely out of their hands. By contrast, they feel that the level to which they are required to take responsibility for some administrative requirements compromises their core business activities. Similarly they expect that the officials responsible for the design and implementation of regulation will ensure it is fit for purpose, impose the least cost on business and be administered fairly and consistently.

## Summary of the issues:

The implementation of some regulations can impose costs that discourage business activity.

Businesses frequently mentioned that some licensing requirements appear unreasonable when compared to other regimes.

It was also seen as onerous to require multiple renewals for licences or permits where the holder's circumstances had not changed in the interim period.

They also often stated that the demands imposed by surveys seem inappropriate in circumstances where the information collected is either unrelated to the business surveyed, or where a large amount of paperwork is required for an exercise that does not contribute any discernible benefit to the business.

Businesses often noted difficulties related to being an employer. Some of these were onerous because of the amount of time taken to calculate leave, and to work out how to pay staff who work irregular hours. Businesses saw potential benefits through being able to exercise greater flexibility to accommodate casual, part-time and seasonal staff, given the flexibility with which these groups are prepared to work. Interviewees were interested in having less complex and more flexible employment law – for example, having a shortened employment agreement for casual workers, setting out the essential terms on one page.

Several businesses in the retail, wine, and horticulture sectors raised concerns that certain biosecurity requirements are stricter than they need to be.

Businesses also stated that it is unnecessarily onerous to require staff to undergo extensive training in areas which do not appear relevant to their core business activities.

Issues about where accountability lies for regulations can, in extreme cases, prove to be fraught matters of legal liability. At the other end of the spectrum are straightforward issues to do with the quality of information that businesses are expected to act upon.

Businesses raised concerns about the capability of government agencies. Some felt that certain agencies lacked either the staff or resources to interact effectively with business. Others considered that the issues would be addressed if agencies were to improve their information sharing, both within government and with stakeholders.

### How business sees it:

In a small business where only one person can sign off excise and GST paperwork, overseas travel opportunities are limited to two weeks. [wine]

Commercial licence requirements seem onerous when transporting a small number of guests. [hospitality]

It is guess work to identify responsible gambling when gamblers' disposable income is unknown. [hospitality]

A permit for an agricultural vehicle to travel on the road between 10am–2pm on weekends or on Public Holidays costs \$600 per year. [wine]

Health and Safety used to involve staff members as delegates, but has escalated into an industry of its own. [retail]

Anomalies between the Holidays Act and Shop Trading Hours Act make pay and leave administration a burden, especially when staff work non-standard hours. [retail and hospitality]

Employment law is difficult to deal with and inflexible, especially around casual, seasonal and/or non-unionised staff. Developing individual agreements for all staff is time-consuming and frustrating. [horticulture]

It can be so hard to comply with the law for wheelchair access within and to shops that businesses end up doing nothing. [retail]

Having to pay a lump sum for ACC instead of paying out with PAYE makes the process unnecessarily cumbersome and requires a lot of accountant involvement. [hospitality]

Escalating and onerous development contribution levies are required by an increasing number of local authorities. [retail]

Applying for consent to have opening hours extended (taking into account legal costs) can lose a business as much as 5% of its gross sales for a year. [hospitality]

Faced with 'never-ending' paperwork and Resource Management Act requirements, a business opted not to develop a new track on Department of Conservation land. [hospitality]

Businesses are required to make deductions from employees' pay to cover debts they have with various agencies. This is hard to administer; amounts and payment dates differ between employees as well as between agencies. [hospitality]

The Building Act places overly prescriptive and draconian requirements on business. Building warrants of fitness are particularly onerous when travel costs for inspectors are added to the cost of inspections. [hospitality]

Approved Handler Status training is too expensive. Course fees range from \$75 to \$300. Wage costs and lost production costs add to the outlay. [horticulture]

Detailed reporting conditions have made annual reports longer and more complex, due to the notes to the accounts. [retail]

NZQA liquor qualifications are designed to meet the needs of both the on- and off-licence trade, despite the fact that they are separate industries [retail, wine and hospitality].

Half the course is irrelevant and half the cost is over and above the company's needs. [retail]

Training is the most expensive part of problem gambler harm minimisation planning. Compliance requirements are high, and disproportionate to other policies. [hospitality]

One can hold a General Manager's licence for 20 years yet have to sit a four-hour course every two years and pay a contractor who provides the answers during the course. [wine]

An auditor for the ACC Workplace Safety Management Practices programme ticked all the boxes yet failed the business without explaining why. He seemed more interested in promoting his services than providing information on how it could comply. [wine]

The Commerce Commission could hold retailers liable for claims such as '90% fat free'. Ensuring compliant pack labelling on all lines would be nearly impossible. [retail]

Illegal workers have IRD numbers so it makes it hard for employers. [wine]

As firms are liable for tax that contractors haven't previously paid, the firm now employs local people on PAYE despite the added paperwork. [wine]

Vineyards are held liable for problems with delivery trucks and drivers. [wine]

The new vehicle registration system lacks incentives for consumers to submit change of ownership forms. [retail]

### **Government initiatives to address complex, onerous or accountability issues include:**

The Ministry of Economic Development:

- is leading work on Standard Business Reporting. This is a transformational, whole-of-government programme to reduce reporting burdens for business and support the e-government strategy. Standard Business Reporting would enable businesses to electronically submit their financial data to many government agencies in the same transaction thereby reducing the time and effort spent preparing and filing reports. Standard Business Reporting is in its infancy in New Zealand and implementation details and timelines are yet to be fully considered by officials. Ministers are currently considering the appropriate priority for Standard Business Reporting as part of the Quality Regulation Review. As a first step it is working with ACC, the Inland Revenue Department and Statistics New Zealand to analyse the feasibility and/or requirements for the establishment of a Centralised Information Repository; and
- has developed a Business Cost Calculator, which allows the compliance cost of proposed regulation on business to be calculated. This will be ready for

application within government departments in the first half of 2008 for a two-year trial.

The Inland Revenue Department:

- established on 1 October 2006 new 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;
- is investigating whether it can lower compliance costs for small businesses by reducing the number of fringe benefit tax returns that have to be filed; and
- is considering including a review of the threshold for twice-monthly PAYE payments as a part of the Government's upcoming discussion document on reducing compliance costs for SMEs.

The Department of Labour:

- has an online Individual Employment Agreement Builder on its website which provides assistance with draft employment agreements;
- released an online tool to assist with entitlement calculations associated with the Holidays Act in March 2007. The Minister of Labour will report to Cabinet on the implementation and effectiveness of this tool by June 2008;
- will review licensing requirements in the Approved Code of Practice for the Training of Forklift Operators in the 2007/08 financial year;
- has been permitted to disclose to potential employers whether non-citizen prospective employees are entitled to work, and the duration of that entitlement (without explicit consent from the prospective employee). This will enable the Department of Labour to develop a system for employers to find out about entitlements to work via the Internet; and
- established an immigration policy specifically for employers in the horticulture and viticulture industries.

The Ministry of Health is reviewing the way that the Alcohol Advisory Council of New Zealand 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 calendar year.

Statistics New Zealand:

- is implementing a Respondent Load Strategy that provides a framework for other initiatives that will reduce respondent load over the next three years, such as reduction of load for individual small to medium enterprises where the load is demonstrated to be unreasonable and out of step with industry typical load levels; and
- along with the Ministry of Tourism, has committed to halving the load associated with the monthly Accommodation Occupancy Survey by June 2008.

The Ministry of Transport has:

- recently amended regulations to fix unintended problems arising from a legal technicality which removed the eligibility of certain dealers (primarily boat and trailer dealers) to hold trade plates; and
- removed the requirement for all vehicles with a gross laden weight of less than 6,000kg to have a goods service licence, regardless of whether they are being used for 'hire and reward' or not.

The Ministry of Agriculture and Forestry, Ministry for the Environment and ERMA New Zealand have developed proposals to address current problems with the Biosecurity Act/Hazardous Substances and New Organisms Act interface covering the importation of new organisms. The Ministry of Agriculture and Forestry is working with ERMA to address the concerns raised in the Industry Plant Import Action Group report and will be liaising with the Industry Plant Import Action Group as solutions are developed and implemented.

The Ministry for the Environment is also working on new regulations to prescribe some organisms as no longer 'new' and clarifying those organisms that were never 'new' through the Plant Biosecurity Index. This will make it easier for businesses to determine when HSNO approvals are not necessary.

The Inland Revenue Department:

- 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; and
- is investigating a web-based system for validating certificates.

The Society of Local Government Managers has initiated a Recruitment and Retention Programme, an overarching initiative to encourage recruitment across the whole local government sector, as one way to address capacity and capability issues.

Cabinet has agreed to strengthen the offence provision for non-notification of vehicle ownership change and create an offence for this, enforceable by Police, local authorities and Land Transport New Zealand – for introduction mid-2007.

ACC will be reviewing payment options in 2007, including method and frequency, and will take into account inconsistency with other business payments (such as GST and PAYE).

## RISK INSENSITIVITY

A risk-based regulatory approach is one that finds a balance between justifiable constraints and the flexibility necessary for innovation and investment to flourish. The most efficient regulatory approach should be the option that achieves the objectives at lowest cost, where those costs are justified by the benefits to society.

The design and implementation of regulation should be proportionate to the level of risk being mitigated and take reasonable account of the characteristics of the regulated firm (e.g. the track record of the firm). Interviewees felt that in some cases the burden and cost of compliance was disproportionate to the level of risk posed by non-compliance.

### Summary of the issues:

The most common area in which businesses raised questions about risk sensitivity was where they had a feeling that the balance of liability places an unfair, or impractical onus upon business. Interviewees were concerned that risk has in some cases been extended across all members of a sector as the result of the behaviour of a non-compliant minority, with the result that intended outcomes may be compromised while compliance costs increase for all. A common example of this process was contract seasonal labour. A number of problems around employing contractors had been identified in the past and changes made to address these. Both horticulture and wine sector interviewees expressed concerns that withholding tax for contractors and responsibilities for contract workers can still prove to be 'grey areas'.

Interviewees were critical of regulatory regimes where businesses with a good track record are required to go through repeated application processes, including renewing licences that have been held for a lengthy, trouble-free period. The main focus of this criticism was the liquor licensing regime.

Businesses often stated a view that a 'one size fits all' approach is taken to the design and implementation of regulation. This sort of approach runs the risk of failing to take into account the characteristics of particular sectors or sub-sectors, which can impose unnecessary

costs upon them. For example, wine sector interviewees were concerned that the wine standards management plan part of a new set of wine regulations would be based on the meat and dairy industries – which have quite different food safety issues.

When regulatory requirements do not take a balanced risk-based approach, higher costs can accrue to low-risk businesses without any corresponding benefit. This reduces the incentive for businesses to improve compliance and performance to a higher standard. Interviewees pointed to a number of tax areas in which the Inland Revenue Department appeared not to take a risk-based approach. Biosecurity was another common topic, with interviewees feeling that a more risk-averse approach is taken in some instances than in others. Businesses also felt that a number of Conservation Act processes took an unnecessarily risk-averse approach.

### How business sees it:

Potential plant imports are treated equally for biosecurity purposes, even though some are more risky than others. [horticulture]

Due to ACC classifications, horticulture contractors have to pay a higher ACC premium than that faced by growers, even though the work is the same. [horticulture]

Businesses have to complete the same food preparation forms for audits, regardless of scale or sub-sector. [hospitality]

Because errors are never honest mistakes in the eyes of the Inland Revenue Department, the time taken to fill out tax forms is added to by checking, double checking, and worrying. [wine]

Because people do not need any experience in order to run a licensed premise, there is a risk that 'unfit' persons are being licensed to sell alcohol. [hospitality]

Renewing both on- and off-licences every three years is expensive (\$776 per licence), time-consuming, requires newspaper advertising and each time repeats the information filed previously. Also, training and certification of bar managers should be akin to driver training and licensing. [hospitality]

It cost an estimated \$300,000 per year to ensure that 210 outlets comply with HSNO, despite them having been built to internationally recognised standards. [retail]

Take into account previous track record. For example, the Inland Revenue Department should take a longer-term view of taxpayers' performance and make allowances, instead of presuming that everyone is guilty of trying to rip off the system. [wine]

### **Government initiatives to do with risk-based approaches include:**

The Inland Revenue Department:

- is proposing, in its Tax Policy Work Programme, to review the requirement for businesses in the horticulture sector to pay PAYE twice monthly;
- proposes to include reviewing the issue of what constitutes an invoice for GST purposes in the upcoming government discussion document on reducing compliance costs for SMEs;
- is investigating a validation process for certificates of exemption. Such a process, if feasible, will assist in reducing the compliance costs associated with the use of contractors; and
- notes that the Government has included a number of changes in the Taxation (Annual Rates, Business Taxation, KiwiSaver, and Remedial Matters) Bill which is currently before Parliament. These include removing GST and withholding-type taxes from the scope of the unacceptable tax position shortfall penalty, and increasing the thresholds above which this penalty is imposed to over \$50,000 and 1% of the taxpayer's total tax figure for the relevant tax return. Another proposed change is for taxpayers to be notified the first time their payment is late, rather than incurring immediate payment penalties. The late payment legislation will be clarified relating to employer monthly schedules.

The Ministry of Agriculture and Forestry:

- is structurally integrating Biosecurity New Zealand and the Ministry's Quarantine Service by 1 July 2007 to better connect policy development, risk analysis, standard setting and implementation functions;
- is reviewing how border standards are developed and implemented. This is likely to involve developing strategies for managing biosecurity risks across groups of commodity types and pathways;
- is working with the Ministry for the Environment and ERMA New Zealand to develop proposals to address current problems with the Biosecurity Act/Hazardous Substances and New Organisms Act interface covering the importation of new organisms; and
- notes that Biosecurity New Zealand released updated standards for plant exports in June 2006, which are being phased in by 1 September 2007. The New Zealand Food Safety Authority's requirements will be similar to Biosecurity New Zealand's new standards. The revised standards are outcome-based, which gives businesses the flexibility to decide how to manage the risks.

The Department of Conservation proposes the following changes to the Conservation Act:

- extending the period for fee, rent and royalty reviews to a maximum of five years;
- enabling applications for activities with minor effects, or which are consistent with a management plan or strategy, to be issued for a maximum of five years without the need for public notification;
- shortening the period for public submissions, on a proposal to grant a concession, from 40 days to 20 days (minimum); and
- enabling the Minister to tender concession opportunities directly, if consistent with the management plan/strategy.

The New Zealand Food Safety Authority notes that:

- a key feature of the new programme of wine regulations and notices will be a requirement for 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; and
- Food Hygiene Regulations requirements will be replaced with Food Handler Guidance (a non-regulatory approach) for bed and breakfast operators.

## TIMELINESS

Interviewees raised some matters that related principally to the process around regulatory compliance. They would like to know that requests for information or other compliance are coordinated across government and government processes are efficient.

### Summary of the issues:

Businesses were particularly frustrated by 'red-tape' bureaucratic process delays. Paperwork and other delays can significantly affect business process. An example of an area where delays can have a wide-ranging impact is immigration, where quickly ascertaining workers' immigration status can make a huge difference to the ability of a business to carry out its role. A more narrow issue raised was the Inland Revenue Department's processing of notifications that an employee has left a business. As minor delays add weight to the cumulative burden of regulatory compliance, this is an area where even small improvements could yield real benefits for business.

Businesses noted some instances where compliance burdens fall at inconvenient or inappropriate times that could be avoided. The nature of this issue varies. It can be to do with process requirements falling at the same time and compounding the impact on businesses. Conversely, it could do with requirements falling at different times and thereby making businesses go through similar processes on multiple occasions.

Another process problem is around short notification periods for changes. If insufficient time is provided to enable necessary adjustments to be made well in advance, business confidence can suffer.

### How business sees it:

The date for the increase in the Alcohol Advisory Council of New Zealand levy does not fall at the same time as excise payments. [wine]

Grape growers must estimate their income in October, but crop size cannot be accurately estimated before flowering. If too little provisional tax is paid, the grower must pay use of money interest at a high level on top of penalties. [wine]

Businesses get insufficient notice of minimum wage changes. [retail]

Consultation on the new Electronic Monitoring System Game Rules began in late December 2005 and closed on 1 February 2006. The rules were received the day before they came into effect. [hospitality]

There are no penalties for failing to meet the 20-day timeframe for issuing building consents. It took 120 days for a consent to be issued to a restaurant in Auckland, and the business carried many of the costs – despite the Council having a sign saying it could take 60 days. [hospitality]

Because the Council did not expedite notification of a resource consent application, the interviewee incurred substantial ongoing costs. [wine]

Testing of imported goods can delay the product for up to four weeks. Some items have to be retested despite being identical to previously tested products. [retail]

### Government initiatives to address process issues include:

The Companies Office and Inland Revenue Department's Online Application Project has been enhanced in three ways from July 2007:

- applicants are able to apply for GST numbers simultaneously with their IRD numbers;
- IRD and GST numbers are allocated simultaneously; and
- the provision of information from the Companies Office to the Inland Revenue Department now occurs during the lifetime of a company, rather than just the incorporation stage.

The Department of Labour is working on a new immigration business model, to help with consistency, timeliness and to increase the use of technology for both immigration officers and customers. It will include resources for closer work with employers, and better information about recruiting foreign workers. An Immigration Bill which is due for introduction in mid-2007 will include interim visas for applicants whose permits

lapse before their next application is decided. A new policy (the Recognised Seasonal Employer policy) has been introduced for employers in the horticulture and viticulture industries and changes have been made to address delays in processing Approval in Principle applications.

In February 2007 the Customs and Excise Amendment Bill was passed. It aligns the dates for the excise levy and the Alcohol Advisory Council of New Zealand levy paid by the wine industry at 1 July.

## WHERE TO FROM HERE?

This report summarised the issues raised by business during the studies of four sectors (horticulture, hospitality, retail and wine), undertaken as part of the government's Quality Regulation Review. It also outlines some of the solutions put in place by government agencies in response to some of the issues raised.

The government is committed to working with business to ensure that their regulatory concerns are identified and addressed in an appropriate and timely manner.

Good progress has been made to address regulatory concerns identified as limitations on business. In some cases, the solutions implemented by government agencies will have positive outcomes that extend beyond the four sectors (for example, improvements to building and resource consent processes).

It has not been possible to address all of the issues raised. In some cases the issues raised relate to the policy underlying regulations, which was explicitly outside the scope of the Review. In others, after careful consideration, relevant agencies considered that some issues did not provide sufficient justification for changing the status quo at this time. There were also issues that, due to their complexity, require further thinking, and these have been included in departmental work programmes that extend beyond the timeframe of the Review.

The feedback obtained from business as part of the sector studies confirms that the quality of regulatory frameworks and the regulatory environment play a key role in determining business growth, productivity and innovation. This means that a commitment to the continuous improvement of the regulatory environment is a key part of achieving our economic goals. However, the necessary changes cannot be achieved by central government alone, and require active support and engagement by others, including local government and business.

In going forward, the government will use the experiences from the Review to inform the future work programme on quality regulation. The government's approach will focus on four key objectives:

1. Ensuring the quality of new regulation;
2. Improving the quality of existing regulation;
3. Developing a culture of good regulatory practice; and
4. Building the capability of regulators and business.

From the government's perspective, undertaking detailed analysis of the regulatory frameworks for specific sectors provides opportunities for improving the quality of existing regulation, as well as building the capability of regulators and businesses.

The government intends to build on the work already undertaken, and develop a programme of annual sector studies. The studies will focus on one sector or one piece of cross-sector legislation each year. They will provide an in-depth analysis of the key regulatory issues affecting sectors, including the productivity, innovation and global connectedness of firms, and focus on finding solutions to these issues. To be effective, the studies will require the engagement and buy-in of the relevant sectors and government agencies. The Ministry of Economic Development, in consultation with relevant stakeholders, has been asked to report to Cabinet by 31 March 2008 with detailed proposals for undertaking a programme of annual sector studies, including recommending sectors that could be studied.

In addition to sector studies, the government intends to build on other initiatives undertaken during the Quality Regulation Review. This will include considering ways that the Regulatory Impact Analysis (RIA) requirements, which were strengthened as a result of the Review, could be further enhanced. One area that will be considered carefully is the process around the development of policy proposals for the implementation, monitoring and review of regulatory proposals.

The government is also considering whether a fast track legislative vehicle, such as the proposed Omnibus Bill, could be used as a permanent mechanism for quickly remedying failures in regulatory frameworks. The

Ministry of Economic Development intends to consider these matters as part of its 2007/08 work program, and will report to the Minister of Commerce on the outcome of this work as appropriate.

As noted above, the government's approach to quality regulation post-Quality Regulation Review involves key roles for other stakeholders, including local government and business. The type of regulatory environment required to achieve New Zealand's economic goals cannot be achieved by the various stakeholders working alone or in isolation. It is vital that the relationships established between business and sectors, and the government during the Review, are not lost at its conclusion. These relationships have an important role to play in the quality of regulation going forward.

# APPENDIX ONE: SECTOR STUDIES PROCESS & AREAS OF CONCERN

## Methodology

It was expected that a deeper understanding of how regulations (and the interaction of regulatory requirements) impact on business would be gained through engagement with firms. The studies were not intended to be comprehensive, or to include a completely representative sample of firms. Rather it was expected that after interviewing 136 firms of varying sizes from Auckland to Southland, it would be possible to draw lessons and develop general solutions.

The key industry organisations in each of the four sectors proposed a selection of businesses, on the basis of their ability to provide information on regulatory concerns and proposed solutions. Officials contacted potential interviewees, and conducted the interviews. The interviews were designed to ensure active engagement; officials were present for the purpose of seeking information, not to defend or rebut concerns or solutions. Each interviewee was sent a written summary of the notes. This gave them an opportunity to confirm that the record of the interview was correct, and to provide rewording or additional information. Next, the government departments responsible for the areas to which each issue related were sent a list of relevant issues. Departments then considered the issues and provided responses.

## Areas of concern

A range of regulatory frameworks apply across the four sectors. It should be noted that some issues raised were outside the scope of the Review because they relate to underlying policy. These include some issues relating to the provisions of the Employment Relations, Holidays, Gambling, Customs and Excise, and Tax Acts.

All four sectors raised concern about;

- accident compensation scheme administration;
- the Building Act;
- the Employment Relations Act;
- food safety;
- health and safety;
- the Holidays Act;
- immigration;
- local government;
- the Resource Management Act;
- statistical surveys; and
- tax.

It became evident that some areas of particular concern were common across the studies. For example, the Holidays Act received a great deal of criticism due to its perceived complexity and generic approach (although it should be noted that it was subject to a number of conflicting views). Implementation of regulations such as the Resource Management and Building Acts, which enabled a degree of local flexibility, raised the concern about balancing local flexibility versus the desire for national consistency. Examples of areas of particular concern for certain sectors are noted below.

**Employment matters:** Employment issues were raised in all four studies. Many interviewees indicated support for added flexibility to dismiss staff in probationary periods, and criticised the paperwork associated with employment agreements. The view that disputes processes are biased in favour of employees was often expressed by retail and hospitality interviewees, but this remains anecdotal and has not been substantiated in the research the Department of Labour has undertaken. Requirements to do with part-time and seasonal workers, including calculating leave and statutory holiday payments, were common to all sectors. Immigration enforcement, noting that the immigration status of contract workers is often not clear to employers, was a particular concern to the wine and horticulture sectors.

**Liquor licensing:** Concerns were raised in most of the sectors. A particular focus was on the number of licences and renewals required, the training required, the expensive and out-dated requirement to advertise licence renewals, and the one size fits all approach.

Hospitality interviewees had concerns about special licence requirements.

Wine interviewees were more concerned with the lack of a risk-based approach to different types of businesses, and the lack of a distinction between new applicants and established licence-holders with good records.

Retail interviewees noted the onerousness of the regulation required to sell alcohol, and expressed concern and confusion around the required physical location of the licensee during trading hours.

**The Hazardous Substances and New Organisms Act (HSNO):** Concerns about the complexity and impracticality of the information communicated about HSNO requirements were expressed in the horticulture, retail and wine sectors.

**Excise:** Excise was the most frequently mentioned issue in the wine sector interviews. A particular concern was the indexation to the Consumer Price Index, though this was a move that was introduced by the government to respond to demands for more certainty to the way the rates would be determined. Some interviewees criticised the fact that excise puts the collection onus on wineries rather than at the point of consumption. The calculation and payment process is seen as laborious. Furthermore, for many wineries the excise payment date comes before they have been paid for the wine by customers.

**Gambling:** Hospitality sector interviewees raised a range of concerns about gambling requirements. Problem gambling training was seen as disproportionately expensive and time-consuming, and not a solution to difficulties in identifying and approaching potential problem gamblers. The sheer number of rules, including gaming machine auditing requirements, were noted. Interviewees also identified a perceived lack of a level playing field across the sub-sectors of the gambling industry.

**Retail consumers:** Retail sector interviewees indicated that there is a lack of clarity in some areas, such as the Consumer Guarantees Act. They also noted inconsistencies between the Sale of Liquor Act, Holidays Act and Shop Trading Hours Act.

**Biosecurity:** Horticulture and wine interviewees shared concerns over the perceived inflexibility and inconsistency of New Zealand's biosecurity processes.

**Wheelchair access:** Some retail and hospitality interviewees stated that wheelchair accessibility requirements are excessive and often imposed inconsistently or in some cases provide little benefit as it was unlikely that a person in a wheelchair would be able to access the area.

**Forklift licences:** Wine and horticulture interviewees noted confusion about the licence renewal requirements for forklift operators. There was also a feeling that forklift licences are unnecessarily singled out as different from other licences.

**Provisional tax:** Grape growers identified a particular problem with provisional tax, given the difficulty of predicting the size of a harvest months in advance.

## APPENDIX TWO: CODE OF GOOD REGULATORY PRACTICE

In aiming to improve the regulatory environment for business, the Quality Regulation Review takes the Code of Good Regulatory Practice as a guide (see: [http://www.med.govt.nz/templates/MultipageDocumentTOC\\_\\_\\_\\_22149.aspx](http://www.med.govt.nz/templates/MultipageDocumentTOC____22149.aspx)). Although the Code is primarily expressed in terms of regulatory design, its principles are applicable to the implementation and administration of regulation. In short, these principles are:

- efficiency: adopt and maintain only regulations for which the costs on society are justified by the benefits to society, and that achieve objectives at lowest cost, taking into account alternative approaches to regulation;
- effectiveness: regulation should be designed to achieve the desired policy outcome;
- transparency: the regulation-making process should be transparent to both the decision-makers and those affected by regulation;
- clarity: regulatory processes and requirements should be as understandable and accessible as practicable; and
- equity: regulation should be fair and treat those affected equitably.

These principles provide useful benchmarks against which issues and solutions can be assessed. When putting forward policy proposals, departments are required to confirm that the principles of the Code of Good Regulatory Practice have been complied with, and that their regulatory impact analysis has been undertaken in accordance with the Regulatory Impact Analysis regime.

## APPENDIX THREE: INTERVIEWEES & INDUSTRY ASSOCIATIONS

### Horticulture sector study

#### **Industry association: Horticulture New Zealand**

Horticulture interviewees:

1. Alastair Bridge (olive grower)
2. Apollo Pac (pipfruit packhouse)
3. Arthur Peake (pipfruit grower)
4. Bharat Bhana (vegetable grower)
5. Colin Limmer (contractor)
6. Daren Drury, Delica NZ (mixed produce exporter)
7. Dave and Lyn Roberts (kiwifruit growers)
8. Geoff Carey, Seeka Packhouse (kiwifruit packhouse)
9. Gwynne Jones (citrus grower)
10. Hugh Moore (avocado grower and packer)
11. John Jackson, McCain Foods (vegetable processor)
12. Malcolm Woolmore, Lyndale Nurseries
13. Matthew Johnston (contractor)
14. Michael Jones, Suncrest (summer-fruit grower)
15. Michael Tracey (Nashi grower and Euro Pear packhouse)
16. Mike Wellwood (kiwifruit grower)
17. Murray Denyer, Zespri (kiwifruit exporter)
18. NZ Hothouse (hothouse vegetable grower)
19. Paul Hickson (kiwifruit grower and accountant)
20. Peter Dooney (pipfruit grower)
21. Peter Reynolds (vegetable grower)
22. Peter Tayler, Rainbow Park Nursery
23. Phillip Hyatt (Blackcurrant grower)
24. Richard Palmer, Saxton Fruit (pipfruit packhouse)
25. Tony Ponder (exporter)
26. Anonymous
4. Aristocrat Technologies NZ Ltd
5. Auckland Central Backpackers
6. Black Cat Group Ltd
7. Central Southland Lodge Ltd
8. Cock & Bull
9. Degree Gastrobar
10. DB Breweries Ltd
11. Dunedin Catering Company Ltd
12. El Taverna
13. Flannagans Seafood Restaurant
14. Flat Earth New Zealand Experiences
15. Gardens Tavern
16. Holy Grail Sports Bar
17. Hospitality Standards Institute
18. Hot Water Beach Bed and Breakfast
19. Invercargill Licensing Trust Charitable Trust
20. Karamea Village Hotel
21. Leuven – Belgian Beer Café and The Black Harp and the Feathers Public House
22. Longwood – A Country Lodge
23. McDonald's Restaurants (New Zealand) Ltd
24. Monsoon Poon Auckland (Akl) Ltd and Monsoon Poon (Wgtn) Ltd
25. Mt Maunganui Returned Services Association Inc
26. Pub Charity
27. Skycity Entertainment Group Ltd
28. Smith the Grocer Ltd
29. Soul Bar and Bistro Ltd
30. Spotless Services (NZ) Ltd
31. Teal Motor Lodge
32. The Bolton Hotel
33. The Drover's Return Bar & Cafe
34. The Tote Bar
35. Trevinos Bar and Restaurant and The Yacht Club Hotel & Conference Venue
36. Waipuna Hotel and Conference Centre
37. Wilderness Lodges of New Zealand Ltd

### Hospitality sector study

#### **Industry association: Hospitality Association of New Zealand**

The Restaurant Association of New Zealand and the Tourism Industry Association of New Zealand also assisted.

Hospitality interviewees:

1. Accor Hotels and Resorts
2. Adventure South Ltd
3. Anglers Paradise Resort

## Retail sector study

### **Industry association: New Zealand Retailers Association**

Retail interviewees:

1. Acquisitions
2. Bonzai Bakery & Pizzeria Ltd
3. California Home & Garden Ltd
4. Cash Converters Ltd
5. Farmers Trading Company
6. Foodstuffs NZ Ltd
7. Destination Queenstown Inc
8. First Mobile Ltd
9. H & J Smith Ltd
10. Harfords Menswear
11. Hedgehog Bikes Ltd
12. Kirkcaldie & Stains Ltd
13. LV Martin & Son Ltd
14. Magnetix Ltd and Bling
15. McKinlay's Footwear Ltd
16. Moore Wilson & Co Ltd
17. Noel Leeming
18. Paper Plus New Zealand Ltd
19. Placemakers Ltd
20. Progressive Enterprises Ltd
21. Point Chevalier Pharmacy Ltd
22. Resene Paints Ltd
23. Shell Oil New Zealand
24. Simply New Zealand Ltd
25. Southern Spas & Pools
26. The CD & DVD Store
27. The Cotton Store
28. The French Art Shop Wellington Ltd
29. Veterinary Centre Ltd
30. The Warehouse Ltd
31. Torque Marine Ltd
32. Wellington Photographic Supplies Ltd
33. Westfield (New Zealand) Ltd
34. Whitcoulls Group Ltd
35. Zip Plumbing & Electrical Supplies Ltd
36. Anonymous (caravan sales)
37. Anonymous (corner dairy)
38. Anonymous (florist chain)

39. Anonymous (retail jeweller)
40. Anonymous (sporting goods chain)
41. Anonymous (toy retailer)
42. Anonymous (wholesale butchery)

## Wine sector study

### **Industry association: New Zealand Winegrowers**

Wine interviewees:

1. Allan Scott Wines and Estates Ltd
2. Amisfield Wine Company
3. Babich Wines Ltd
4. Carrick Wines
5. Crosse Vineyard
6. Fairhall Downs Estate Wines Ltd
7. Felton Road Wines Ltd
8. Forrest Estate Winery Ltd
9. Gibbston Valley Wines Ltd
10. Gisborne WineGrowers Society
11. Hunter's Wines (NZ) Ltd
12. Lone Gum Vineyard Ltd
13. Mission Estate Winery Ltd
14. Montana Wines Ltd
15. Mount Riley Wines and Estates Ltd
16. Mt Difficulty Wines Ltd
17. Muirlea Rise
18. Murdoch James Estate Ltd
19. Palliser Estate Wines of Martinborough Ltd
20. Peregrine Wines Central Otago Ltd
21. Rapaura Vintners Ltd
22. Riverpoint Nursery Ltd
23. Soljans Wines Ltd
24. Stirling Vines Ltd
25. Stonecroft Wines Ltd
26. Te Kairanga Wines Ltd
27. Te Mata Estate Winery Ltd
28. Te Whau Vineyard Ltd
29. Trinity Hill Ltd
30. Waiheke Vineyards Ltd
31. Anonymous



