

Chapter 1

Introduction

Establishment

1.1 On 11 October 2016, the Senate established the Select Committee on Red Tape (committee) to inquire into and report on the effect of restrictions and prohibitions on business (red tape) on the economy and community, by 1 December 2017, which was later extended to 3 December 2018, with particular reference to:

- a. the effects on compliance costs (in hours and money), economic output, employment and government revenue, with particular attention to industries, such as mining, manufacturing, tourism and agriculture, and small business;
- b. any specific areas of red tape that are particularly burdensome, complex, redundant or duplicated across jurisdictions;
- c. the impact on health, safety and economic opportunity, particularly for the low-skilled and disadvantaged;
- d. the effectiveness of the Abbott, Turnbull and previous governments' efforts to reduce red tape;
- e. the adequacy of current institutional structures (such as Regulation Impact Statements, the Office of Best Practice Regulation and red tape repeal days) for achieving genuine and permanent reductions to red tape;
- f. alternative institutional arrangements to reduce red tape, including providing subsidies or tax concessions to businesses to achieve outcomes currently achieved through regulation;
- g. how different jurisdictions in Australia and internationally have attempted to reduce red tape; and
- h. any related matters.¹

1.2 The committee decided to conduct the inquiry by focusing on specific areas. This interim report presents the committee's findings and conclusions about the effect of red tape on private education (private education inquiry).

Conduct of the private education inquiry and acknowledgement

1.3 The committee advertised the private education inquiry on its website and wrote to a number of organisations, inviting submissions by 8 August 2018. The committee continued to accept submissions received after this date. In total, the committee received 16 submissions, which are listed at Appendix 1.

1 *Journals of the Senate*, No. 9–11 October 2016, pp. 290–291; *Journals of the Senate*, No. 73–28 November 2017, p. 2314.

The committee held a public hearing in Melbourne on 9 October 2018. The witnesses who appeared before the committee are listed at Appendix 2. The committee thanks the individuals and organisations, who made submissions and gave evidence to assist the committee with its private education inquiry.

Scope of the report

1.4 Chapter one outlines the regulatory context for private education. Chapter two then examines some of the information presented to the committee, which may be drawn upon in the committee's final report.

Regulatory context for private education

1.5 In Australia the formal education system starts at preschool (children aged 3–5 years) and continues through the years of primary and secondary school (children aged 5–16+ years) to post-school education (vocational education and training (VET); higher education). This report discusses three sectors only: school education, higher education, and VET.

School education sector

1.6 The Australian Government is not responsible for school education. However, under a national agreement the government has certain shared and sole responsibilities.² The latter category includes funding for non-government (private) schools, which is primarily provided through the *Australian Education Act 2013* (Cth).³ The basic funding conditions set out in the Act include a requirement that private schools must be not-for-profit (section 75). The Australian Government provides the majority of public funding for private schools (\$10.0 billion in 2016),⁴ with the funding level to increase by \$3.2 billion over the next 10 years.⁵

Higher education sector

1.7 The Tertiary Education Quality and Standards Agency is the national quality and regulatory agency for the higher education sector. The *Tertiary Education Quality and Standards Agency Act 2011* (Cth) sets out the agency's core functions, such as registering providers and accrediting their courses of study (section 134).⁶ The Act also provides for basic regulatory principles (necessity, risk and proportionality, sections 13–16) and a standards-based quality framework (the Higher Education

2 Council of Australian Governments, *National Education Reform Agreement*, cll. 29 and 31.

3 Australian Government, 'Federal Register of Legislation, *Australian Education Act 2013*', <https://www.legislation.gov.au/Details/C2018C00012> (accessed 28 November 2018).

4 Productivity Commission, *Report on Government Services 2018*, 2018, p. 4.4.

5 The Hon. Scott Morrison MP, Prime Minister of Australia, and the Hon. Dan Tehan MP, Minister for Education, 'Transcript', *joint press conference*, 20 September 2018, <https://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2F6223293%22> (accessed 28 November 2018).

6 Australian Government, 'Federal Register of Legislation, *Tertiary Education Quality and Standards Act 2011*', <https://www.legislation.gov.au/Details/C2017C00271> (accessed 28 November 2018).

Standards Framework).⁷ The legislative framework also includes the *Education Services for Overseas Students Act 2000* (Cth), which provides additional requirements for providers offering courses of study to international students.⁸ The Australian Government supports higher education through various policies, programs and funding, which is primarily administered under the *Higher Education Support Act 2003* (Cth).⁹ This Act establishes the Higher Education Loan Program to provide income contingent loans to eligible students.¹⁰

VET sector

1.8 The Australian Skills Quality Authority is the regulatory agency for the VET sector throughout Australia, excepting certain registered training organisations in Victoria and Western Australia.¹¹ The authority's core functions are set out in the *National Vocational Education and Training Regulator Act 2011* (Cth),¹² for example, registration of training providers and accreditation of VET courses (section 157). The Act also provides for a risk-based approach to regulation (Risk Assessment Framework, section 190). Under a national agreement, the Australian Government funds state and territory governments to support their training systems and provides http://www.federalfinancialrelations.gov.au/content/npa/skills/national-partnership/skills-reform_NA.pdf certain specific interventions and support.¹³

Australian Government's overall role

1.9 According to the Department of Education and Training, the Australian Government is committed to a high-quality education sector underpinned by effective regulation:

These regulatory frameworks, which apply to all education institutions, maintain the quality and reputation of Australia's world-class education. Australia's education landscape is characterised by diverse stakeholder

-
- 7 Australian Government, 'Federal Register of Legislation, Higher Education Standards Framework (Threshold Standards) 2015', <https://www.legislation.gov.au/Details/F2015L01639> (accessed 28 November 2018).
- 8 Australian Government, 'Federal Register of Legislation, *Education Services for Overseas Students Act 2000*', <https://www.legislation.gov.au/Details/C2018C00210> (accessed 28 November 2018).
- 9 Australian Government, 'Federal Register of Legislation, *Higher Education Support Act 2003*', <https://www.legislation.gov.au/Details/C2018C00312> (accessed 28 November 2018).
- 10 Department of Education and Training, 'Higher Education Loan Program', <https://www.education.gov.au/higher-education-loan-program-help> (accessed 28 November 2018).
- 11 Australian Skills Quality Authority, 'Jurisdiction', <https://www.asqa.gov.au/about/agency-overview/jurisdiction> (accessed 28 November 2018).
- 12 Australian Government, 'Federal Register of Legislation, *National Vocational Education and Training Regulator Act 2011*', <https://www.legislation.gov.au/Details/C2017C00245> (accessed 28 November 2018).
- 13 Council of Australian Governments, *National Agreement for Skills and Workforce Development*, cl. 26.

objectives, perspectives and fiscal pressures. The regulatory frameworks reflect this environment and take into account the unique nature of education providers. Private education providers contribute greatly to the schools, vocational education and training, and higher education sectors, and have a significant role to play in supporting a diverse training market and learner choice.¹⁴

14 Susan Hewlett, Group Manager, Industry Skills and Quality, Skills and Training, Department of Education and Training, *Committee Hansard*, 9 October 2018, p. 38. Also see: Catholic Education Commission Victoria, *Submission 11*, p. 4, which argued that Australian Government regulation may sometimes exceed its role.