

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, 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 On 28 November 2017, the Senate extended the reporting date to 3 December 2018.² 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 occupational licensing (licensing inquiry).

Conduct of the licensing inquiry and acknowledgement

1.3 The committee advertised the licensing inquiry on its website and wrote to a number of individuals and organisations, inviting submissions by 4 May 2018. The committee continued to accept submissions received after this date. In total, the committee received 15 submissions, which are listed at Appendix 1.

1 *Journals of the Senate*, No. 9–11 October 2016, pp. 290–291.

2 *Journals of the Senate*, No. 73–28 November 2017, p. 2314.

1.4 The committee held a public hearing in Sydney on 13 June 2018. The witnesses who appeared before the committee are listed at Appendix 2.

1.5 The committee thanks the individuals and organisations, who made submissions and gave evidence to assist the committee with its licensing inquiry.

Scope of the report

1.6 Chapter one provides broad background information to set the regulatory context for the licensing inquiry. Chapter two then examines some of the information presented to the committee, which may be drawn upon in the committee's final report.

Regulatory framework for occupational licensing

1.7 In 2008, Australian, state and territory governments signed the *National Partnership Agreement to Deliver a Seamless National Economy* (NPA).³ This agreement sought to create a seamless national economy, enhance Australia's long-term growth, and expand Australia's productive capacity over the medium-term.⁴

1.8 The NPA set out a complex range of microeconomic reforms (Implementation Plan), including the establishment of a national trade licensing system to allow licensees in specified occupations to work throughout Australia (Deregulation Priority 4).⁵

National Occupational Licensing Scheme

1.9 Throughout 2009–2013, progress was made toward implementation of a national occupational licensing scheme (NOLS). However, in December 2013, the majority of states and territories decided not to pursue the reform, citing concerns with the proposed model and its potential costs.⁶

3 Council of Australian Governments, *National Partnership Agreement to Deliver a Seamless National Economy*, http://www.federalfinancialrelations.gov.au/content/npa/other/national-partnership/past/seamless_national_economy_NP.pdf (accessed 9 August 2018).

4 Council of Australian Governments, *National Partnership Agreement to Deliver a Seamless National Economy*, clause 10, http://www.federalfinancialrelations.gov.au/content/npa/other/national-partnership/past/seamless_national_economy_NP.pdf (accessed 9 August 2018).

5 Council of Australian Governments, *National Partnership Agreement to Deliver a Seamless National Economy, Implementation Plan*, Attachment A, p. 3, http://www.federalfinancialrelations.gov.au/content/npa/other/national-partnership/past/seamless_national_economy_IP_part1_Apr_2012.pdf (accessed 9 August 2018).

The specified occupations were: air conditioning and refrigeration mechanics; building and building-related occupations; electrical; land transport (passenger vehicle drivers and dangerous goods); maritime; plumbing and gas-fitting; and property agents.

6 Council of Australian Governments, Meeting Communiqué, 13 December 2013, <https://www.coag.gov.au/meeting-outcomes/coag-meeting-communiqu%C3%A9-13-december-2013> (accessed 9 August 2018).

1.10 Instead, state and territory governments decided to develop alternative licensing reforms through the Council for the Australian Federation (CAF). The CAF reforms aim to enhance flexibility and mobility for workers, without imposing a national system that would increase regulatory costs. The CAF notes particularly:

The decision on whether to implement CAF occupational licensing reforms, including external equivalence, rests with individual State and Territory Governments. Reforms can be implemented on a unilateral, bilateral, multilateral or national basis. States and Territories will also have the flexibility to opt-in to reforms over time.⁷

Mutual recognition arrangements

1.11 The *Mutual Recognition Act 1992* (Cth) enables licensees in one jurisdiction to seek recognition and gain access to an equivalent occupational registration in another jurisdiction. This scheme of mutual recognition aims to reduce the costs to individuals and businesses who wish to trade interstate or to operate in more than one state.⁸

1.12 The Department of Education and Training (Department), which administers the scheme, explained that mutual recognition is based on equivalence and that there are three primary ways to establish equivalency:

- direct application to a regulatory authority—the individual applies for registration in an equivalent occupation and the application is assessed by the authority;
- ministerial declarations—equivalency of occupations is agreed by responsible state ministers in legislative instruments, and individuals' applications are processed by regulatory authorities without the need for equivalency assessment; and
- automatic mutual recognition—if agreed on a bilateral or multilateral basis, certain occupations do not need to apply for further registration but can operate in another jurisdiction under their original occupational registration.⁹

1.13 Accordingly, mutual recognition of occupational licensing is essentially a matter for the states and territories:

The Commonwealth has no legislative power to recognise licenses or registration, determine occupational equivalency, confer automatic mutual recognition, or to make or rescind ministerial declarations.¹⁰

7 Council for the Australian Federation, 'Council of the Australian Federation (CAF) Occupational Licensing Reform', <https://www.caf.gov.au/OccupationalLicensingReform.aspx> (accessed 9 August 2018).

8 Department of Education and Training, *Submission 4*, p. 2. Also see: Part 3 of the *Mutual Recognition Act 1992* (Cth), <https://www.legislation.gov.au/Details/C2017C00372> (accessed 9 August 2018).

9 Department of Education and Training, *Submission 4*, pp. 2–3. For further information, see: education.gov.au, 'Licence Recognition', <https://www.licencerecognition.gov.au/> (accessed 9 August 2018).

