

The Effect of Red Tape on Occupational Licensing

Submission to the Senate Select Committee on Red Tape May 2018

Introduction

The Australian Chamber of Commerce and Industry (the Australian Chamber) welcomes the opportunity to make a submission to the Senate Select Committee on Red Tape on the effect of red tape on occupational licensing.

The Australian Chamber has maintained a strong interest in occupational licensing and various reforms in this area over the years. With over 70 associations and chambers as part of our network, our members cover most areas of occupational licensing including in the important licensed areas of plumbing, electrical and construction.

This submission sets out the case in support of reducing red tape and improving occupational licensing regulations to benefit the economy, employment outcomes and overall conditions of doing business in Australia, but in a way that does not reduce licensing to the lowest common denominator.

Senate Committee - Terms of Reference

As part of its inquiry into the effect of red tape on the economy and community, the Senate committee will examine the effect of red tape on occupational licensing, in particular:

- the effects on compliance costs (in hours and money), economic output, employment and government revenue;
- any specific areas of red tape that are particularly burdensome, complex, redundant or duplicated across jurisdictions;
- the impact on health, safety and economic opportunity, particularly for the low-skilled and disadvantaged;
- the effectiveness of the Abbott, Turnbull and previous governments' efforts to reduce red tape;
- alternative institutional arrangements to reduce red tape, including providing subsidies or tax concessions to businesses to achieve outcomes currently achieved through regulation;
- how different jurisdictions in Australia and internationally have attempted to reduce red tape; and
- any related matters

Background

In 2008, the Productivity Commission identified occupational licensing as an area where there is considerable scope to reduce regulatory burden¹. The two main reasons to establish occupational licensing is to protect the safety of consumers and the public and to ensure a sufficient and reliable level of service quality. Occupational licensing also signals that a business/person has the requisite training and skills required to function competently and safely in the occupation. Licensing of occupations is still predominantly a State and Territory function. These State and Territory licensing systems have different licence nomenclature and licence structures. Although there exists mutual recognition of licensed occupations among states and territories in Australia, they must first apply for recognition of their existing license and pay another fee to work in the state or territory. There are currently over 180 occupational regulators in Australia and New Zealand².

According to the Australian Chamber's 2015 National Red Tape Survey, over 60 percent of businesses surveyed mentioned the cost of compliance to get regulatory approvals and licences came at a large cost to their business³. Therefore, although licensing is critically important to protect consumers, the public and worker health and safety, there should be scope to reduce the red tape hampering business conditions and productivity.

Reducing Red Tape in Occupational Licensing

National Occupational Licensing System

On 30 April 2009 COAG signed an Intergovernmental Agreement to establish a national occupational licensing system (NOLS) for specified occupations, designed to deliver greater consistency and harmonization between jurisdictions in their licensing regimes, in order to reduce costs for business and licensees, reduce red tape, improve labour mobility and enhance productivity. Existing state and territory licences were to be automatically transferred to an equivalent national licence, entitling the holder to use the licence to work anywhere in the country. Licences granted would be based on a single set of nationally agreed eligibility requirements.

NOLA, the National Occupational Licensing Agency was established midway through 2012 but in 2013, the Council of Australian Governments (COAG) abandoned NOLA and NOLS. The States and Territories were unable to agree on nationally uniform registration requirements for each occupation. This position was also a reflection that there was not sufficient support amongst industry (both union and employer groups in many cases) for a lowest common denominator approach that was being advocated by Treasury and others through the Regulatory Impact Statement (RIS). The RIS made the case that the economic gain was achieved by basing the national licence on the state or territory licence which had the least restriction and cost. This was unacceptable to many of the stakeholders.

Abandoning NOLA meant that each state and territory had to develop alternate licensing reforms including finding ways to harmonise state based requirements and ensuring mutual recognition across state boundaries.

There were, undoubtedly, many benefits to the NOLS most notably that the national occupational licensing system would allow licensees to perform regulated work anywhere in Australia. This would contribute significantly to address skills and labour shortages by allowing free mobility of labour and therefore our national productivity especially following events such as natural disasters, sporting

¹ Productivity Commission 2008, [Review of Australia's Consumer Policy Framework](#), p. 489.

² Productivity Commission 2015, [Report on Mutual Recognition Schemes](#), p. 116.

³ Australian Chamber of Commerce and Industry 2015, [National Red Tape Survey](#)

events etc. Significantly, it would have alleviated duplicate licensing requirements and the payment of multiple fees for businesses operating across borders.

The Australian Chamber in principle supported the NOLS but stressed that the blanket approach to using a model across industries was inflexible and that adequate industry representation was needed to achieve the best outcome for all stakeholders including business, tradespeople and consumers. This important element of industry support is critical in any further consideration of reform.

Labour and Licence Mobility - Automatic Mutual Recognition

Subject to the view and conditions of each industry, occupational licences need to be more portable to ensure inter-state migrants are not unduly inconvenienced or discouraged from making the move. Issues with the current Mutual Recognition Scheme such as the reluctance of regulators to implement mutual recognition, as intended, has been highlighted by the Productivity Commission in its 2015 research report.

In principle, the Australian Chamber supports a system of Automatic Mutual Recognition (AMR) as described by the Productivity Commission in their 2015 Report on Mutual Recognition Schemes for occupations that are low risk. The AMR would make an occupational licence issued by one jurisdiction automatically valid in other jurisdictions. In effect, AMR would apply to registered occupations the same mutual recognition principle used for the sale of goods. Unlike the current arrangements, individuals who wish to practise outside their jurisdiction would not be required to register and pay a fee again in the destination jurisdiction⁴. Currently, very few occupational licenses such as electricians and veterinarians are granted AMR, and these are limited to the East Coast States and Territories (with some exception)⁵. Only nine medical and allied health occupations are under a national registration scheme⁶.

There is an opportunity to roll out AMR across all occupations that require licensing to reduce red tape and allow for free labour mobility across jurisdictions. However, this opportunity is conditional upon the support and circumstances of each industry as there are instances where automatic recognition may not be suitable. In those circumstances, there are two possible courses of action:

- the industry could commit to working towards creating the conditions where automatic recognition would be suitable; or,
- the COAG Governments agree that there could be national licence for that industry which would have automatic recognition across Australia (see below).

National Licence Revisited

The NOLS process was abandoned as there was no consensus on discontinuing all state and territory licences in favour of a single licence. An alternative approach could have been agreeing that a national licence could be established in certain occupations that would be additional to the licences operating in each jurisdiction. It would then be up to each jurisdiction and its stakeholders to decide to discontinue their licence and adopt the national licence. This allows state licensing to be phased out and potentially only kept in those jurisdictions that have a much higher set of requirements. Companies and licensees operating across borders or who often shift between jurisdictions would

⁴ Productivity Commission 2015, [Report on Mutual Recognition Schemes](#), p. 167.

⁵ Fair Trading NSW, [Automatic Mutual Recognition – East Coast Electricians](#)

⁶ Productivity Commission 2008, [Review of Australia's Consumer Policy Framework](#), p. 490

seek the national licence to enable automatic right to work in any state or territory, but those businesses and individuals only working in one state, could continue with their current licence.

In summary, this is a phased approach to achieve a single regulated licence over time, or at least to achieve considerable progress in reducing the number of regulators and costs in the system. An example of this approach has been in vocational education and training (VET) regulation, where a national regulator was established (ASQA), and then each jurisdiction referred powers and discontinued their regulator. Two states (WA and Vic) chose to continue their VET regulation. In this example, training providers operating nationally need to be registered with ASQA but small providers operating only within WA and Victoria can choose to be registered with their state regulator.

Duration Increased and Fee Quantum Reduced

The duration of some occupational licenses could be increased to ensure they are not repeatedly renewing licenses at extra cost. Likewise, the cost of licenses needs to be evaluated and reduced to ensure it does not unnecessarily create barriers for tradespersons and businesses. Expensive unaffordable licensing also results in the creation of an underground-unlicensed sector who conduct their business compromising public health and safety as well as their own.

New Licence Arrangements

Given the aim of reducing red tape, it is important that any new proposal to license operators or industries is carefully considered. Licensing should not be imposed on industries without extensive consultation. Industries such as the automotive industry have limited to no support for licensing automotive trade occupations, with survey evidence suggesting that businesses regarded it as an unnecessary impost and reported little benefit for either consumers (through improved safety) or themselves (through greater revenues).

Removing Barriers to Entry

The Australian Chamber does not endorse lowering qualification levels or skills requirements for trade qualifications, business skills or continuing professional development for licensed tradespeople to reduce red tape. There have been instances in some industries of the use of training package reviews to circumvent licensing schemes effectively lowering the qualification required to perform a particular job. The current property services training package review for *CERT II and III in fire protection inspect and test* is one such example, with units in testing and inspecting of water and gas based sprinkler systems in buildings being re-written to allow people with no industry experience to perform the task. Any such potential change in qualification requirements should be in consultation with respective industries and the broader public due to the potential impact on worker and public health and safety.

However, excessive licensing in low-risk occupations does discourage potential workers, with the highest impact felt in certain population groups such as low-income earners, young people and immigrants. It can also sometimes be a barrier for immigrants with the required skills who due to high training and licensing fees are unable to afford to work in the occupation or take a long time to start working productively due to other restrictions.⁷

⁷ Wisconsin Institute for Law & Liberty 2017, [Fencing Out Opportunity](#), pp. 3-10.

Effect on Consumers

Due to shortage of licensed businesses or providers in an occupation, the cost to consumers can be higher than necessary without any improvements to the quality of service delivered. This drives consumers to seek alternatives, often with disastrous consequences. It is important that the training sector, Government and industry work closely together to ensure the shortages of licensed operators are not as significant as to affect price.

Recommendations

1. Take an approach that has strong support of the industries relevant to the occupation licence.
2. Encourage all state, territories, and industries to adopt AMR for all occupational licenses.
3. Consider a phased-in approach to establishing a national licence in certain occupations where AMR is not suitable.
4. Reduce the quantum of licensing fees across all state and territories.
5. Increase the duration period of licences issued across all state and territories
6. Allow for licensing to be optional in low risk occupations (which do not pose a risk to public health and safety) which then allows for licensing to act as a distinguishing factor among competitors rather than a mandatory regulation.
7. View licensing not as a revenue stream but rather as a model to guide businesses in best practice regarding required safety and health guidelines and skills required to operate in certain occupations.

The Australian Chamber strongly recommends an industry centric approach to licensing while noting that a strong evidence base must inform any intent to reform occupational licensing policy.



About the Australian Chamber

The Australian Chamber of Commerce and Industry speaks on behalf of Australian Businesses at home and abroad.

We represent more than 300,000 businesses of all sizes, across all industries and all parts of the country, making us Australia's most representative business organisation.

Telephone | 02 6270 8000 Email | info@australianchamber.com.au
Website | www.australianchamber.com.au

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