



Business SA
Submission to the South
Australian Productivity
Commission's
*SA Regulatory Framework
Inquiry*
May 2021

Introduction

Business SA, South Australia's Chamber of Commerce and Industry, was formed in 1839, has nearly 3,700 members and several thousand clients across every industry sector, from micro businesses through to listed companies. We are a not-for-profit business membership organisation working on behalf of members and the broader business community in pursuit of economic prosperity for South Australia and the nation. Funded by member subscriptions and the provision of products and professional services, we are independent of any government or political party.

As the recognised voice of business in South Australia, Business SA constantly communicates with members to ensure our advocacy speaks to their collective needs and those of the broader business community. This occurs through day-to-day conversations, various online communication mediums including surveys, and more formally through member reference groups, topical roundtables and seminars.

Business SA also has strong links with Regional Chambers of Commerce across the State. We hold quarterly online summits to discuss business activity as well as key challenges and opportunities, and our biennial Regional Voice survey is the most representative survey of regional business issues. We also run regular events across the regions.

Business SA meets with State regulators regularly to discuss particular issues or to participate in formal consultation. We also have representation on a range of government committees including:

- Training and Skills Commission
- Creative Industries, Business, ICT & Cybersecurity Industry Skills Council
- Return to Work Minister's Advisory Committee
- Essential Services Commission of South Australia (Consumer Advisory Committee)
- Minister's Industrial Relations Consultative Committee
- Port Adelaide Container Terminal Monitoring Panel
- State Taxes Liaison Committee.

Business SA believes there is much to be gained in rationalising regulation between state and federal levels. This may lead to cost efficiencies for the regulators and also simplify requirements for business. A consistent, joined-up approach means improved clarity for business and less administrative burden.

There is benefit in a reasonable balance between primary and subordinate legislation. From our perspective, primary legislation provides ongoing certainty for the business community knowing that strategic planning can take place with the comfort that legislation cannot be rapidly changed with little notice. However, while regulation does not offer this same stability, it is far more flexible and responsive, and enables relatively rapid update of ineffective or outdated legislation and encourages innovation. Further, although quasi legislation offers an additional tier of clarification, it can sometimes prove complicated when interpretation appears to conflict with formal legislation.

While Business SA is not directly privy to the internal workings of the South Australian Government in this regard, we believe that an overarching management and ownership of regulation has some merit. How this might be structured and implemented is outside our purview, however Government must ensure the balance between stewardship and 'busy work' is managed. Perhaps the role of South Australian Parliament's Legislative Review Committee could be expanded to manage this work – ensuring adequate oversight with a whole of government viewpoint.

Further, Business SA would welcome the functions of the Legislative Review Committee to include a similar authority to that of its equivalent in NSW to "recommend the disallowance of a statutory instrument on the grounds that it adversely affects the business community"¹. This would provide a relatively independent oversight of proposed legislation to ensure it encourages business growth rather than hinder it.

Business SA is aware of the general frustration felt by our members that operate in more than one state having to deal with multiple state-based regulators that work with competing legislation. Further, multiple regulators operating in the same sector leads to complication and increased burden for our members and the broader business community.

Example of Energy Regulation

There are 5 regulators in the energy sector that impact upon SA businesses, including the ultimate price and reliability of energy:

State:

Office of Technical Regulator (Department for Energy and Mining): Manages electrical, gas and plumbing safety and technical regulation in South Australia.

Essential Services Commission of South Australia (ESCOSA): Protects the longterm interests of South Australian consumers with respect to the price, quality and reliability of essential services. ESCOSA sets electricity and gas service standards for South Australia well as administering the Retailer Energy Productivity Scheme (REPS) which is designed by the State Department for Energy and Mining.

Federal:

Australian Energy Market Commission: Expert energy policy adviser to Australian governments. Makes and revises the energy rules and provides advice.

Australian Energy Regulator: Regulates electricity networks and covered gas pipelines in all jurisdictions except WA and sets the amount of revenue that network businesses can recover from customers for using these networks. Enforces National Electricity Market related laws. Monitors conduct of market participants and the effectiveness of competition.

Australian Energy Market Operator: Manages electricity and gas systems and markets across Australia.

¹ SAPC, *Inquiry into reform of South Australia's regulatory framework - Issues Paper*, p. 20.

Business SA would welcome a review of the effectiveness and efficiency of 5 regulators working in the same sector –for example, could ESCOSA manage all relevant state-based energy regulation in South Australia? Alternatively, could all energy regulation be moved to a national level instead?

Similarly, the Retailer Energy Productivity Scheme is a South Australian Government energy productivity scheme that provides incentives for South Australian households and businesses to save energy. Given that almost identical schemes operate in every Australian jurisdiction, this could be moved to a national level to ensure consistency, avoid duplication of effort and reduce costs.

National Clearing House

Business SA sees an opportunity to build on this efficiency approach with the introduction of a national clearing house for paying state business-related fees, taxes, and premiums. As outlined above, the administrative burden of managing adherence to the many and varied regulations and payment of related fees across the states and territories (e.g. workers compensation premiums, payroll tax etc.) is a considerable impost on business. If the payment of such monies could be managed by a one stop shop, it would save business owners a great deal of administrative cost – allowing those resources to go to a much more productive use. This would also help with enabling small local South Australian businesses to expand interstate, often a pre-cursor to exporting.

We have already achieved this approach with superannuation and state based employee taxes are the next logical step.

Problematic Regulation

Example 1 - *Dangerous Substances Act 1979*

The system set out by South Australia's *Dangerous Substances Act 1979* should be repealed as it is inconsistent with other jurisdictions, imposes higher costs on business and results in poorer safety outcomes. The intent of developing model work health and safety laws in Australia was to ensure there were consistent workplace safety standards across all states. As part of that process there was a decision to remove the need for licensing requirements for dangerous goods, consistent with the previously agreed approach of the National Standard for the Storage and Handling of Workplace Dangerous Goods. In 2015, SafeWork SA advised that the state-based dangerous substances licencing scheme would be maintained; a step away from the nationally harmonised system. The consequences of SafeWork SA's decision are threefold:

- the need to obtain a dangerous substance licence is an additional cost imposed on South Australian businesses. Such licenses are not required by regulators in other states;
- unnecessary administrative complexity created by jurisdictional inconsistency in substance safety approaches. The South Australian business community does not operate in isolation from other states and the transport of dangerous substances and hazardous chemicals across jurisdictional boundaries occurs daily; and
- South Australia is no safer for maintaining the burdensome, costly and, arguably, riskier licence system.

Example 2 - *Training and Skills Development Act 2008*

In the lead up to the recent amendments to the *Training and Skills Development Act 2008* Business SA was consulted on the provisions of the Act, the Regulations and Skills Standards. We found that excessive red tape has been a significant issue in registering as an employer able to take on trainees. This legislation and attached regulation was recently streamlined by the State Government and is a good example of where businesses were listened to and their feedback acted upon.

Example 3 – *Holidays Act 1910*

While recognising that Commonwealth legislation overrides State legislation where there is conflict, there is a complex interplay of legislative requirements around employee pay rates on public holidays. As these requirements cross between the South Australian *Holidays Act 1910* and *Shop Trading Hours Act 1977*, and Commonwealth legislation (*Fair Work Act 2009*), there is often confusion and complication which merits investigation.

Example 4 – *Council development applications*

Business SA notes the significant red tape and lengthy timeframes experienced by the business community when making council development applications. The recent planning reforms should ensure applications can be dealt with reasonably and in a more timely manner although the relatively recent implementation of these reforms makes it hard to judge effectively at this point in time. In a similar vein, the fact that South Australian businesses often have to deal with different requirements for various permits etc across Adelaide's 19 metropolitan councils alone is another area of ongoing frustration which again impacts upon the productivity of our economy more broadly.