
B Approach to gathering information

As outlined in chapter 4, the Commission drew on submissions, as well as consultations with businesses, regulators and other stakeholders, to identify those differences in the OHS regulatory frameworks of the jurisdictions that warranted benchmarking. This appendix details the approach the Commission took to obtaining the data to facilitate this benchmarking.

Gathering information for benchmarking

The Commission sought to minimise the burdens placed on jurisdictions and businesses through requests for information by using existing data sources wherever possible. In particular, the Commission made use of:

- the *National Review into Model Occupational Health and Safety Laws* (Stewart-Crompton, Mayman and Sherriff 2008 and 2009)
- the reports of the Workplace Relations Ministers' Council (WRMC 2008a, 2008b, 2008c and 2009d)
- previously unpublished data provided to Safe Work Australia (SWA) by state and territory governments (used with the permission of the state and territory governments and SWA)
- Australian Bureau of Statistics data
- a Treasury survey of company directors (Treasury 2008).

While these sources provided valuable information for the study, they were not sufficient to adequately address the areas of OHS regulation selected for benchmarking (chapter 4). As a result, the Commission also sought data via:

- a survey of OHS regulators
- a survey of 1802 small and medium sized businesses
- a synthetic estimate of the compliance costs associated with applying for an asbestos removalist licence.

Some information on the costs of OHS regulation were also supplied by a leading Australian retailer.

Information from regulators

Regulators are the primary interface between businesses and the regulations. The way in which regulators approach their administration and enforcement responsibilities can significantly affect the compliance costs of business. As such, OHS regulators are an obvious source of information on the regulatory frameworks they administer and enforce. They should have a detailed knowledge of the regulatory requirements, how those requirements are enforced and how the regulation is administered. To access this information the Commission developed a survey to be completed by ‘general’ OHS regulators (table B.1) and ‘industry-specific’ OHS regulators (table B.2).

Table B.1 General OHS regulators surveyed

	<i>Regulator</i>
Cwth	Comcare
NSW	WorkCover Authority of New South Wales
Vic	WorkSafe Victoria
Qld	Workplace Health and Safety Queensland (a division of the Department of Justice and Attorney-General)
SA	SafeWork SA
WA	WorkSafe WA (a division of the Department of Consumer and Employment Protection)
Tas	Workplace Standards Tasmania (a division of the Department of Justice) and WorkCover
NT	NT WorkSafe (the administrative and regulatory arm of the Northern Territory Work Health Authority)
ACT	ACT WorkCover

Table B.2 Industry-specific OHS regulators surveyed

	<i>Regulator</i>	<i>Industry</i>
NSW	New South Wales Department of Primary Industries	Mining
Qld	Department of Employment, Economic Development and Innovation	Mining
WA	Department of Mines and Petroleum	Mining

Survey development

The surveys were based on those used in the Commission’s previous benchmarking reports (PC 2008b and PC 2008c), but were refined to better target specific aspects of OHS regulation. The survey was further refined following a pilot survey completed during June–July 2009. The feedback from that pilot survey alerted the

Commission to aspects of the surveys where it could better target the questions and where the questions were ambiguous. Having addressed the issues raised in the pilot surveys, the amended surveys were distributed to all relevant regulators during July 2009 for completion by 31 October 2009 (this extended timeframe was provided to allow for the workload experienced by the regulators as the national OHS reforms progressed through this period).

There were 11 parts to the final survey, with:

- part 1 seeking information on the background of the regulator
- part 2 seeking general OHS information
- part 3 seeking information on financials
- part 4 seeking information on staffing
- part 5 seeking information on licensing/certification
- part 6 seeking information on the enforcement of regulations
- part 7 seeking information on appeals and inspectorate decisions
- part 8 seeking comment on OHS issues and the survey
- part 9 seeking information on standards, codes of practice and guidance notes
- part 10 and part 11 seeking additional information (such as copies of key enforcement documents) and contact details of the regulator.

Data for 2008-09 was sought in the surveys. Table B.3 details the questions asked in the survey.

Following the release of the release of the draft report, it became apparent some jurisdictions had used different definitions of ‘inspections’ and ‘investigations’ in completing part 6 of the survey. To clarify these responses the Commission sought further information from the jurisdictions on the inspections and investigations they undertook via a brief follow up survey — table B.4 details the questions asked in the survey.

Data from the surveys

The data collected from the surveys is reported in chapters 5–13, along with any caveats applicable to the data and its interpretation. In particular, the tables and figures indicated in tables B.3 and B.4 show where the survey responses have been used to compare regulators in chapters 5 and 6 (as well as specific tables in chapters 10 and 12).

Table B.3 OHS Regulator Questionnaire 2008-09

<i>Survey question</i>	<i>Table / figure number</i>
Part 1 Background Information	
1. Regulator name	Table 5.1 and 5.2
2. How many worksites are covered with respect to your regulation of OHS?	Table 5.3 and 5.6
3 List the industries/activities not covered under the OHS legislation you administer	Table 5.1
Part 2 General	
4. What proportion of total expenditure and total employees are allocated to OHS?	Section 5.3
5. Are there any OHS related acts/regulations administered jointly with another agency? If you answered 'yes', please provide details.	Section 5.3
Part 3 Financial	
6a. What was your agency's total expenditure on OHS activities in 2008-09?	Table 5.16
6b. What was your agency's expenditure on the following categories of OHS activities in 2008-09?	Table 5.16
i) Administration	
ii) Enforcement	
iii) Education activities	
iv) Other	
v) Total	
7a. What was your agency's total income (appropriation and other) for OHS related activities in 2008-09? Indicate its source (central/cost recovery/mixed)	Table 5.4 and 5.6
7b. What was your agency's revenue from the following categories of OHS related fees collected from businesses in 2008-09?	Table 5.4 and 5.6
i) Licensing	
ii) Permits	
iii) Inspections	
iv) Audits	
v) Appeals	
vi) Other (please detail)	
vii) Total	
7c. What was the total value of fines imposed on businesses (for OHS regulatory compliance breaches) by your agency in 2008-09?	Table 5.9
Part 4 Staffing	
8. How many full time equivalent staff (including permanent and casual staff) were engaged in OHS administration and enforcement as at 30 June 2009?	Table 5.3 and 5.6
9. How many full time equivalent OHS inspectors were employed as at 30 June 2009?	Table 5.5 and 5.7
10. What is the percentage of full time equivalent OHS inspector positions filled as at 30 June 2009?	Table 5.5 and 5.7
11. Do you have any problems recruiting OHS inspectors?	Section 5.4
12. What is the minimum qualification requirements and experience/attributes that your agency looks for in OHS inspectors?	

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Table B.3 (continued)

<i>Survey question</i>	<i>Table / figure number</i>
13. What was the turnover of OHS inspectors during 2008-09?	Table 5.5 and 5.7
14a. What was the starting salary of a full time OHS inspector during 2008-09?	Table 5.5
14b. What was the average salary of full time OHS inspectors during 2008-09?	Table 5.5
15. If your agency covers the mining industry, what was the:	Table 5.7
– starting salary of a full time mining inspector during 2008-09?	
– average salary of a full time mining inspector during 2008-09?	
16. As at 30 June 2009, how many OHS inspectors had:	Table 5.5 and 5.7
i) Less than 3 years of relevant regulatory or OHS experience	
ii) More than 3 years, but less than 10 years of relevant regulatory or OHS experience	
iii) More than 10 years relevant regulatory or OHS experience	
17. How many hours of specific OHS professional development (internal or external) was provided, on average, to each OHS inspector in 2008-09?	Table 5.5 and 5.7
Part 5 Licensing/Certification	
18. Do you recognise OHS licences/certificates of other jurisdictions and if so, please provide details	Section 12.3
19. What was the average processing time for requests for high risk work licences/certificates of competency in 2008-09?	Table 12.8
20. What was the average processing time for requests for hazardous substance licences/certificates of competency in 2008-09?	
21. What were the number of asbestos licences, per category, in effect at 30 June 2009? (e.g. friable/bonded)	Table 10.4
22. How are the fees set for licences/certificates of competency?	Table 12.8
23a. If a licence/certificate application is rejected, what appeal processes (internal/external) are available? Please detail	Table 6.3
23b. What proportion of licensing/certification decisions were appealed in 2008-09?	
23c. What proportion of licensing/certification appeals were successful?	
Part 6 Enforcement of Regulations	
24a. In practice, does your agency consider that it is currently able to fully enforce all of the OHS regulation for which it is responsible?	Table 5.8
24b. Please indicate the importance of the following constraints on your current ability to enforce OHS regulation:	Table 5.8
i) Budgetary limits	
ii) Insufficient availability of OHS staff	
iii) Regulations difficult to interpret/enforce	
iv) Regulatory responsibilities unclear	
v) Limited enforcement powers	
vi) Other reasons (please specify)	
25. Is compliance assessed by inspection, accreditation or a mix of approaches? Please specify and provide reason	Clarified in follow up survey
26. Are private OHS systems recognised in assessing compliance with OHS laws and used in place of standard reporting where possible? Please detail	Section 5.5

(Continued next page)

Table B.3 (continued)

<i>Survey question</i>	<i>Table / figure number</i>
27. What type of actions are available to your agency to use in response to OHS breaches? Indicate their use in 2008-09 with penalty (fines) where appropriate	Table 5.12, 5.13, 5.14 and 5.15
i) Educate/advise	
ii) Verbal warning	
iii) Written directive	
iv) Provisional improvement notice	
v) Improvement notice	
vi) Prohibition notice	
vii) Licence suspension	
viii) Licence cancellation	
ix) Adverse publicity	
x) Infringement/penalty notice	
xi) Prosecution	
xii) Enforceable undertaking	
xiii) Other (please list)	
28a. How many OHS inspections and audits were undertaken in 2008-09?	Clarified in follow up survey
28b. Of these inspections/audits, how many were:	Clarified in follow up survey
i) Routine investigations	
ii) Initiated by a complaint	
iii) Reinvestigations following a compliance breach	
29. Please detail the number of workplace investigations by industry conducted in 2008-09:	Clarified in follow up survey
i) Agriculture, forestry and fishing	
ii) Manufacturing	
iii) Building/construction	
iv) Mining	
v) Retail and wholesale	
vi) Hospitality	
vii) Transport and storage	
viii) Consumer and business services	
ix) Education	
x) Health and community services	
xi) Government	
xii) Other industries (please list)	
30. Please detail the number of enforcement actions by type of breach (e.g. hazardous materials, heights etc.)	
31a. In 2008-09, were shutdown periods imposed on businesses due to an OHS breach?	Table 5.18
31b. If shutdown periods were used, how many were imposed during 2008-09?	Table 5.18
31c. What was the shortest shut down period imposed on businesses?	Table 5.18
31d. What was the longest shutdown period imposed on businesses?	Table 5.18

(Continued next page)

Table B.3 (continued)

<i>Survey question</i>	<i>Table / figure number</i>
31e. What was the average shutdown period imposed on businesses?	Table 5.18
32. Please comment on the hierarchy of enforcement actions used to deal with different types of compliance breaches	Section 5.5
33. What measures did you use to promote a culture of OHS compliance among businesses in 2008-09? If 'yes', indicate their frequency of use (seldom/regularly)	Table 5.22 and 5.23
i) Information campaigns (e.g. newsletters, pamphlets, website)	
ii) Education activities (e.g. regulatory awareness workshops and campaigns)	
iii) Incentives (e.g. reduced rate of inspections, positive advertising)	
iv) Reduced workers' compensation premiums for good OHS performance	
v) Free OHS training for businesses (e.g. courses to comply with regulations)	
vi) Fee-based OHS training for businesses (e.g. courses to comply with regulations)	
vii) Confidential compliance advice	
viii) Other	
34. Do you provide special assistance to:	Table 5.24 and 5.25
i) Small businesses	
ii) Employers from non-English speaking backgrounds	
iii) Non-metropolitan businesses	
If 'yes' for any, please detail	
35. Do you actively seek feedback from businesses? If you answered 'yes', what mechanisms do you use:	Table 6.9 and 6.12
i) Online	
ii) Surveys	
iii) Complaints handling	
iv) Focus groups	
v) Point of contact consultation	
vi) Other (please detail)	
36. Which of your regulatory responsibilities do you receive the most queries about from businesses?	
37. Which of the following processes are used to facilitate the uniform interpretation of OHS regulations among OHS staff?	Table 5.19
i) Supervisory oversight	
ii) Structured training	
iii) Staff rotation	
iv) Secondment	
v) Peer review	
vi) Other (please detail)	
38. On which issues relevant to OHS does your agency liaise with other State/Territory and National OHS agencies?	Table 5.20
i) Regulatory overlap	
ii) Regulatory gaps	
iii) Enforcement consistency	
iv) Policy Interpretations	
v) Other matters (please specify)	

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Table B.3 (continued)

<i>Survey question</i>	<i>Table / figure number</i>
Part 7 Appeals and Inspectorate Decisions	
39a. Do you have appeal processes for inspectorate decisions available to businesses?	Table 6.1 and 6.10
39b. If yes, list and detail the internal appeal processes for inspectorate decisions, including when they apply	Table 6.1 and 6.10
39c. List and detail the external appeal processes for inspectorate decisions, including when they apply	Table 6.1 and 6.10
39d. What fees, if any, are involved in the appeal processes for inspectorate decisions?	Table 6.1 and 6.10
39e. How many inspectorate decisions were appealed in 2008-09?	Table 6.1 and 6.10
39f. What proportion of appeals were successful?	Table 6.1 and 6.10
40a. How many prosecutions took place in 2008-09?	Table 6.2 and Section 6.4
40b. List and detail the appeal processes for prosecutions available to businesses	Table 6.2 and Section 6.4
40c. How many prosecution cases were appealed in 2008-09?	Table 6.2 and Section 6.4
40d. Of these appealed prosecution cases, how many were successful?	Table 6.2 and Section 6.4
40e. Of these appealed prosecution cases, how many are ongoing?	Table 6.2 and Section 6.4
Part 8 Comments	
41. Do you have any comments on the accuracy/comparability of the data published in the Comparative Performance Monitoring Report: Comparison of Occupational Health and Safety and Workers' Compensation Schemes in Australia and New Zealand?	
42. What do you consider to be the most burdensome regulations on business?	
43. In your view, are there any regulatory compliance burdens on businesses that could be reduced without affecting OHS outcomes? If so, please provide information.	
44. In your view, are there any innovative enforcement approaches or practices used by your agency that could be of benefit to other agencies in your jurisdictions or in other jurisdictions? If so, please provide information.	
45. Do you have any general comments or observations about this survey?	

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Table B.3 (continued)

<i>Survey question</i>	<i>Table / figure number</i>
Part 9 Standards, Codes of Practice and Guidance Notes	
46a. Attachment A provides a table of the adoption of National Health and Safety Commission (NOHSC) standards, codes of practice and guidance notices across the jurisdictions, as of 1 November 2007. Please fill in or update the information for your jurisdiction where appropriate.	Table 2.5 and Section 2.5
46b. Where your jurisdiction has not fully adopted the unamended national standard into legislation, please provide reasons below	Section 2.5
47. How many standards, codes of practice or guidance notes have you developed solely for your jurisdiction? Please provide reason for your answer as well as details on where these standards, codes of practice or guidance notes can be accessed, if applicable	Section 2.5
Part 10 Additional information request	
Please attach a copy of the following written notices if applicable:	Table 6.7 and 6.11
<ul style="list-style-type: none"> • Inspection notice • Infringement notice • Improvement notice 	

Table B.4 **OHS Regulator Follow Up Questionnaire 2008-09**
Inspections and investigations

<i>Survey question</i>	<i>Table / figure number</i>
Part 1 - Workplace visits	
1a. Does your agency conduct both inspections and investigations?	Section 5.5
1b. If you answered 'yes', how does your agency define an: <ul style="list-style-type: none"> • Inspection • Investigation 	Section 5.5
1c. How many: <ul style="list-style-type: none"> • Inspections were conducted during 2008-09? • Investigations were conducted during 2008-09? 	Tables 5.9, 5.10 and 5.11
2a. Please detail and describe the processes involved in conducting a workplace investigation <i>For example, explain the different levels of investigation available (from phone calls to a number of workplace visits) depending on the seriousness of the situation</i>	Section 5.5
2b. Please provide the number of each investigation level, described in question 2a, conducted in 2008-09	Section 5.5
3a. Please detail and describe the processes involved in conducting a workplace inspection	Section 5.5
3b. Please provide the number of each inspection level, described in question 3a, conducted in 2008-09	Section 5.5
4. How many proactive visits did you conduct in 2008-09 to check compliance with OHS requirements? That is, visits not in response to a workplace incident, complaint, or breach	Tables 5.9 and 5.10

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Table B.4 (continued)

<i>Survey question</i>	<i>Table / figure number</i>
5. How many return visits did your agency conduct in 2008-09 to check that a breach or other issue identified in a proactive visit had been rectified?	Tables 5.9 and 5.10
6a. How many reactive visits did your agency conduct in 2008-09? That is, how many visits were to examine an OHS incident with injury, near miss, complaint or compliance breach after the event, such as injury or death or exposure to toxic substances, etc for the purpose of identifying the cause and possible culpability?	Tables 5.9 and 5.10
6b. Of these reactive visits, how many were conducted because of a: <ul style="list-style-type: none"> • Complaint • OHS incident with injury • Near-miss • OHS compliance breach 	Table 5.9 and 5.10
7a. Do you also conduct specific visits to workplaces for purposes other than those detailed?	Section 5.5
7b. If you answered 'yes', what are those purposes? <ul style="list-style-type: none"> • Training • Education • Other (please specify) 	Section 5.5
8a. For the following industries, please provide the number of proactive, return and reactive visits conducted in 2008-09 <ul style="list-style-type: none"> i) Agriculture, forestry and fishing ii) Manufacturing iii) Building/construction iv) Mining v) Retail and wholesale vi) Hospitality vii) Transport and storage viii) Consumer and business services ix) Education x) Health and community services xi) Government xii) Other industries (please list) 	Table 5.11
8b. If data are not available for the above visit categories, please provide the number of inspections and investigations, in terms of your agency's definitions, conducted in 2008-09 <ul style="list-style-type: none"> i) Agriculture, forestry and fishing ii) Manufacturing iii) Building/construction iv) Mining v) Retail and wholesale vi) Hospitality vii) Transport and storage viii) Consumer and business services ix) Education x) Health and community services xi) Government xii) Other industries (please list) 	Table 5.11

The Commission reviewed the completed surveys and sought clarification from the regulators on any unusual responses. In November 2009, the Commission circulated a working draft of the study to the jurisdictions for their review and comment. The working draft contained the benchmarking data (from all sources) for all jurisdictions. The circulation of the working draft was the first time the jurisdictions had seen their survey responses in the context of the data from other jurisdictions.

Cost of data collection

Part 11 of the initial survey and part 2 of the follow up survey asked the regulators to record the time taken to complete the survey. This provides an indication of the cost to jurisdictions of providing data to the Commission (table B.5).

Table B.5 Total time spent completing the surveys
2008-09

<i>Regulator</i>		<i>Total time for initial survey</i>	<i>Total time for follow up survey</i>
		minutes	minutes
Cwth	Core	ns	75
NSW	Core	2505 ^a	ns
	Mining	2400	440
Vic	Core	9600	ns
Qld	Core	900 ^b	ns
	Mining	ns	ns
SA	Core	2400	120
WA	Core	1500	150
	Mining	800	30
Tas	Core	240	120
NT	Core	240	ns
ACT	Core	ns	ns

ns not specified in the survey response. ^a Two regulators completed the survey. ^b Two regulators completed the survey, but only one provided the time to complete.

Source: Productivity Commission survey of OHS regulators (2009 unpublished).

Information from businesses

Survey of small and medium sized businesses

The Commission also sought information from small and medium enterprises (SMEs) on the impact of OHS regulation on their business activities. Among the responses sought were: their awareness of OHS regulations; the actions they had undertaken to comply with OHS regulations; the costs associated with those actions;

and whether differences in OHS regulations in different jurisdictions constituted a significant cost burden.

The first hand experience of SMEs in complying with OHS regulation was considered to be an important source of quantitative and qualitative information for the study.

To this end, the Commission engaged Sensis Pty Limited (Sensis) to ask a number of questions of SMEs as part of its quarterly *Business Index* survey (box B.1). Sensis also provided input into the design of the survey questions based on its extensive experience of surveying SMEs — including testing to ensure SMEs understood the questions included in the survey. The 1802 businesses surveyed (table B.6) were asked the questions listed in table B.7.

Box B.1 The Sensis Business Index

The Sensis® *Business Index* began in 1993 and has become one of the most extensive and regular surveys of small businesses in Australia. Initially, the *Business Index* was focused on businesses employing less than 20 people, but in November 2000 it was expanded to include medium-sized businesses (those with between 20 and 199 employees). The June 2009 *Business Index* was based on telephone interviews conducted with approximately 1400 small businesses and 400 medium businesses drawn from metropolitan and major non-metropolitan regions.

Source: Sensis (2009).

Table B.6 SME survey — respondents by jurisdiction and industry

	<i>NSW</i>	<i>Vic</i>	<i>QLD</i>	<i>SA</i>	<i>WA</i>	<i>Tas</i>	<i>NT</i>	<i>ACT</i>	Total
Manufacturing	13	43	14	49	41	17	39	44	260
Building/Construction	19	51	18	40	28	15	25	24	220
Wholesale Trade	9	34	6	29	24	13	24	13	152
Retail Trade	26	44	33	39	41	23	45	44	295
Accommodation, Cafes and Restaurants	8	18	21	20	10	16	25	21	139
Transport/Storage	2	14	7	24	9	11	20	12	99
Finance and Insurance	6	12	4	12	11	9	26	7	87
Communication, Property and Business Services	30	48	26	57	37	23	59	37	317
Health and Community Services	19	14	6	11	15	11	13	7	96
Cultural, Recreational and Personal Services	19	22	16	19	9	13	24	15	137
Total	151	300	151	300	225	151	300	224	1802

Table B.7 Small and medium size enterprises survey — 2009

Survey question

Part 1

- 1a. What has your business done to comply with Occupational Health & Safety or OH&S laws and regulations? Have you...
- 1b. What has been the approximate cost for the past twelve months of the following things that you have done?
- Employed an additional employee with specific skills dedicated to handling OH&S matters
 - Engaged an external consultant such as an accountant or HR expert to assist with OH&S matters as required
 - Tasked existing staff to monitor and implement OH&S matters in-house as part of their duties
 - Developed an OHS committee and/or appointed OHS representatives
 - Conducted hazard identification and risk control
 - Provided protective clothing
 - Kept records
 - Purchased information from external sources
 - Purchased staff training externally
 - Undertaken staff training internally
 - Modified existing plant and equipment
 - Replaced plant and equipment earlier than otherwise
 - Changed what we produce
 - Changed production processes in order to produce the same products or services
 - Changed the type of inputs or materials to produce products or services
 - Anything else? (specify)
- 1c. As a proportion of your total business costs, over the past 12 months, would you say the total costs of the actions you have taken were trivial, moderate, or substantial?
- 1d. Why have you taken these actions to comply with OHS laws and regulations in the past 12 months?
- As a result of a workplace injury
 - To lower workers' compensation premiums
 - To retain staff
 - Made aware of OH&S regulations by a workplace inspection or audit
 - Made aware of OH&S regulations by information supplied by a regulator or government body
 - Made aware of OH&S regulation by information on TV or other media
 - As a result of a prosecution
 - As part of ongoing OHS compliance procedures
 - Other (specify)

(Continued next page)

Table B.7 (continued)

Survey question

Part 2

2a. How aware are you of the OH&S requirements for your business? (Very aware/Somewhat aware/Not aware)

2b. Do you consider that your current OH&S practices are satisfactory? (Yes/No)

Part 3

3a. Does your business buy or sell goods or services interstate? (Buy/Sell/Both/Neither)

3b. Does your business have employees or operations based interstate? (Yes/No)

3c. As you may be aware, different States and Territories may have different OH&S legislation. Does this impact on your business either positively or negatively? (Does impact/Does not impact)

3d. In what ways do the different OH&S laws impact your business?

- Makes it harder to compete with businesses undertaking similar activities interstate
- Makes our costs higher than businesses in other States and Territories
- Results in cheaper prices for products and services from other States and Territories
- Other impact (specify)

3e. Has your business incurred any costs through having to deal with differences in OH&S regulations in other states and territories? (Yes/No)

3f. What was the nature of these costs? Have you incurred... 3g. Can you rank in order the three highest costs that you face?

- Costs associated with obtaining information on the differences in OH&S?
- Training costs for staff to make them aware of the differences?
- Costs of additional inspections or audits?
- Added costs such as training when recruiting staff from interstate?
- Difficulties in ensuring machinery and equipment transferred or purchased from interstate complies with your state/territory OH&S laws?
- Any other costs? (specify)

3h. And would you say that the total costs associated with differences in OH&S regulations between States and Territories are...? (Small/Moderate/Substantial)

Part 4

4. In order of significance, which three elements of OH&S regulations concern you the most in terms of the costs it imposes on your business?

Part 5

5a. Has your business experienced a workplace injury in the past 12 months, including any incidents of stress or harassment? (Yes/No)

5b. Were these injuries...?

- Physical
- Related to harassment
- Other psychological injury or illness — such as overwork, under work, client violence or abuse)

5c. What was the extent of the worst of these injuries? Was it...

- Minor injury/s only with no significant disruption to work
 - A major injury that resulted in significant lost production due to shut down required while cause of the accident(s) was investigated
 - A major injury that resulted in significant lost production while OH&S practices were changed to prevent future accidents
-

Among the advantages anticipated with using this approach was that the survey vehicle used — the Sensis Business Index — had a representative sample of 1802 small and medium firms spread across all states and territories and a range of industries. The firms to be surveyed had already agreed to participate in the quarterly survey of SME business activity, with the additional questions on OHS only expected to add a few minutes to the normal time taken to complete the survey. Hence the survey was expected to only constitute a minor additional burden on the participating businesses.

The survey data provided to the Commission included weights for each firm that responded to the survey. These weights, when applied to survey responses, provide for statistical measures that better reflect the actual population of SMEs in each jurisdiction. For example, the weighting corrects for the overrepresentation of medium sized firms (relative to the population) within the sample for some jurisdictions.¹ The use of weighted data better allows for assessments to be made regarding the population of SMEs within each jurisdiction, rather than simply just those firms responding to the survey.

The data collected through this process is presented throughout the report along with any caveats applicable to the data and its interpretation.

Information supplied by a leading Australian retailer

The Commission approached a leading Australian retailer to provide details of the costs it faced due to selected aspects of OHS regulation, including the costs of:

- understanding and staying up to date with the different OHS regimes in effect across Australia
- staying up to date with the Australian Standards referred to in OHS regulations
- incident reporting.

The information provided by this retailer is reported in chapters 4, 12 and 13, and appendix D.

¹ The weights have been used to adjust for differences between the sample of SMEs and the actual population of SMEs for factors such as industry sector, firm size (in terms of number of employees), and location (in terms of whether they are located in metropolitan or non-metropolitan regions).

Synthetic analysis

This approach involved the Commission estimating the time required, difficulty experienced and cost incurred, in applying to become a licensed asbestos removalist. The Commission arrived at its estimates by replicating the experience of a hypothetical business in searching for information on the licensing requirements (and other regulatory requirements), obtaining copies of application forms and completing those forms. Box B.2 provides further details of the synthetic analysis and the characteristics of the hypothetical business.

The Commission used the synthetic analysis approach in the study *Performance Benchmarking of Australian Business Regulation: Cost of business registrations* (*Cost of Business Registrations* report — PC (2008b)). Based on the experience of that study, the Commission has focused the synthetic analysis in this study on those tasks that could be readily replicated and those which often represent the most burdensome aspect of a licensing process — providing the supporting information required by the regulator. The *Cost of Business Registrations* report showed the nature and availability of the supporting information to be provided to regulators varies from business to business and cannot be reliably replicated in a synthetic analysis. However, the process of determining what the requirements are for ‘supporting information’ can be replicated and so it was on this aspect of ‘supplying supporting information’ the synthetic analysis focused.

The principal benefit of the synthetic analysis approach is that it produces data which is readily comparable across jurisdictions, although this benefit comes at the cost of the data not necessarily being representative of the ‘real world’ experience of businesses.

Box B.2 Synthetic analysis — scenario and hypothetical business characteristics

The synthetic analysis exercise was entirely desk based and used the internet as its primary source of information. The exercise involved assuming the role of a hypothetical business and commencing the application process to be licensed to remove asbestos. In addition to being provided with the details of the scenario below, those completing the synthetic analysis were provided with additional details for the company (and its sole director), including: address and contact details, referees and bank account details.

Scenario and hypothetical business characterises

You are the sole director (and secretary) of the company Asbestos Removals (Aus) Pty Limited (Asbestos Removals). You are also the sole shareholder. Asbestos Removals has only recently been established and its sole line of business will be the removal of asbestos.

Neither you, nor Asbestos Removals, have ever held a licence to remove asbestos or had a licence of any type revoked or cancelled. You do not have a criminal record and have never declared bankruptcy.

You have recently completed a training course on asbestos removal and supervision. You heard about this course from a colleague in the building industry who also told you that you will need a licence from the [details of relevant OHS regulator] before you undertake any asbestos removal work. Neither your colleague, or those providing the training course, could give you any more details on what you need to do before Asbestos Removals starts business as an asbestos removalist.

Asbestos Removals will specialise in the removal of 'friable asbestos'. Asbestos Removals has gained in principle agreement from the owners of 15 different sites to remove over 10m² of friable asbestos from each site. The work involves removal of asbestos only and no demolition work.

While Asbestos Removals is a new company, you have 7 years of (full time) experience in the removal of both bonded and friable asbestos. Your have not documented your experience, nor have prepared any:

- business plans or financial projections for the business
- risk management procedures or site control plans for the removal of asbestos
- policies or procedures of any type for the proposed operations of Asbestos Removals.

Methodology

For each of jurisdiction the Commission recorded:

- the time taken and difficulty² experienced in obtaining information on the requirements for asbestos removal and licensing, reviewing that information and obtaining the licence application form (*‘obtaining information and forms’* in table 10.6)
- the time taken and difficulty experienced in completing the application form (*‘completing the form’* in table 10.6). The estimates do not include any allowances for sourcing any of the material or evidence that must accompany a licence application
- the details of the information required to support the application
- the method by which the application form could be lodged and any relevant fees paid
- the fees payable as part of the application and licensing processes.

In undertaking the synthetic analysis, there was potential for the estimates of those jurisdictions completed later in the process to be biased by a ‘learning by doing’ effect. The Commission sought to control for this by:

- undertaking the synthetic analysis tasks a number of days apart in order to reduce any familiarity with the overall licensing process
- undertaking the synthetic analysis before any research into the regulatory requirements had been commenced or the regulator’s website extensively used
- not repeating common tasks — for example, part of understanding the regulatory requirements in most jurisdictions involved locating and reviewing the national standards listed by SWA. This task was only undertaken once and the time estimate for that task incorporated into the time estimates for the jurisdictions where the requirement applied.

As the Commission’s estimates were derived in a controlled working environment, they may underestimate the time taken by a typical businesses to perform the same tasks. However, the estimates provide a consistent basis on which to compare the burden imposed by similar processes in different jurisdictions.

² Table B.8 provides the scale by which ‘difficulty’ was measured.

Table B.8 Level of difficulty: rating scale

<i>Rating</i>	<i>Meaning</i>	<i>Examples</i>
1	No difficulty in finding or completing the form (very easy)	<ul style="list-style-type: none"> • In the case of finding the form, the website was very intuitive, links were off the home page or there was a self explanatory link to the forms. There were no problems in downloading the form. • In the case of completing the form, the form was easy to complete, there was no reason to read a lot of information, it was short and only required generally available information.
2	Easy to find and complete	<ul style="list-style-type: none"> • In the case of finding the form, the website provided self explanatory links, however, you had to go beyond the home page to find them. There were no problems in downloading the form. • In the case of completing the form, the form needed information which was slightly more detailed, with some guidance from accompanying documentation being needed.
3	Neither easy nor difficult (medium difficulty)	<ul style="list-style-type: none"> • In the case of finding the form, there were no self explanatory links, the search engine had to be used and/or the regulator had to be contacted (with a quick response) to find the form. There were no problems in downloading the form. • In the case of completing the form, the form required less standard information, however, the information could be obtained reasonably quickly.
4	Difficult to find or complete the form	<ul style="list-style-type: none"> • In the case of finding the form, there was no intuitive means of finding it. The search engine did not assist greatly and/or the regulator was contacted and after considerable discussions the form was located and obtained. • In the case of completing the form, the form would require input from a third party (for example, accountant or lawyer) and/or a detailed reading of guidelines.
5	Very difficult to find or complete the form	<ul style="list-style-type: none"> • In the case of finding the form, there was no intuitive means of finding it. The regulator was contacted and once the form was located, it was only available after some time. • In the case of completing the form, the form was complex, required a lot of assistance from the guidelines and would need the input of third parties.

Source: Based on PC (2008b).

Fees

Fees imposed by regulators or required as a part of the licensing processes constitute a separate indicator to the time indicators discussed above. There can be two types fees payable in relation to an application for an asbestos removalist licence: an application fee and a licence fee. Payment of the application fee is required when the application is lodged, while the licence fee usually covers a specific (future) period and can vary depending on factors such as:

- the nature of the licence sought (for example, a licence to remove bond asbestos as opposed to a licence to remove friable asbestos)

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- the legal structure of the applicant (for example, a sole trader as opposed to a company).

As the licence fees cover different periods across different jurisdictions, the fees were standardised to apply to a common period. For example, where the fee imposed by one jurisdiction covers two years and in other jurisdictions the comparable fee covers one year, the fee for the first jurisdiction is divided by two to bring it into line with the annual basis quoted in other jurisdictions.

In the ACT, business operators need to hold an individual licence prior to obtaining a company licence. In this instance, the Commission assumed the business operator did not hold a licence as an individual and so included the time, difficulty and fee estimates for both an individual and company licence.