



Australian Government Regulation Taskforce

Reducing the Regulatory Burden on Business

The Australian Construction Industry Forum (ACIF) is the peak consultative council for the Construction and Property Industry.

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The Australian Construction Industry Forum (ACIF) is the peak consultative council for the construction and property industry in Australia. A list of ACIF Members is attached.

The Construction and Property Industry in Australia

The construction and property industry is a vital part of the Australian economy. As well as its own output it has a significant impact on the efficiency and productivity of other industries. It promotes investment through its own activities and generates further investment in the broader economy.

The output of the industry has an impact on all. It provides both the physical infrastructure that underpins the economy and the built environment that more directly influences the quality of our lives. Some 95 per cent of people work in the built environment and 90 per cent of Australia's Gross Domestic Product is generated there.

The building and construction industry is a key element of national competitiveness. If the industry uses its resources better and raises its efficiency by reducing construction costs and time, Australian industry as a whole will be more competitive.

Traditionally, the industry has been seen in four broad segments.

- Residential buildings (houses, flats etc);
- Non-residential building (offices, shops, hotels etc);
- Engineering construction (roads, bridges, water, sewerage etc); and
- Construction trades (site preparation services, building structure services, plumbing, electrical etc).

However, the industry is integrated with many other segments. These include:

- client services, such as commercial property operators, developers and financiers;
- suppliers and producers of building products and materials; and
- machinery and equipment sectors providing such items as construction and commercial heating and cooling equipment.

The Australian building and construction industry is extremely diverse. The size of firms varies markedly. So do the types of activity they undertake, the skills they employ, and their capital intensity.

The property sector is another key part of the core structure of the building and construction industry.

This sector is highly sensitive to general economic conditions such as the level of interest rates and inflation, growth in the values of assets held by superannuation funds which invest in property and the availability of finance for development projects.

The impact of regulation

The construction and property industry is affected by a wide range of regulation developed and applied by Commonwealth, State and Local Governments.

Building Regulation has recently been addressed by the Productivity Commission in its November 2004 Report *Reform of Building Regulation*¹. ACIF supports the Government response to that report and the subsequent decision to introduce a new Inter-Governmental Agreement which will strengthen the Building Code of Australia.

Other areas of Commonwealth regulation of concern to ACIF include:

- ACCC Authorisations
- Built and Natural Heritage
- Corporate Governance
- Education Requirements
- Government Procurement Guidelines
- Occupational Health and Safety Regulations
- Product Liability Laws
- Skilled Migration
- Taxation
- Workers Compensation
- Workplace Relations

In recent years there have been significant improvements in the way regulation is developed and applied.

Many jurisdictions now require impact statements for new regulation and annual reports on regulation.

¹ Australian Government Productivity Commission, Productivity Commission Research Report: *Reform of Building Regulation* 17 November 2004

Commonwealth agencies that have a responsibility for business regulation are required to publish a regulatory plan dealing with the agency's area of responsibility and providing information about:

- changes to business regulation which have occurred since the beginning of the previous financial year; and
- activities planned in the current financial year which could lead to changes to business regulation.

As noted in the Task Force's Issues Paper, reform of business regulation is being examined on a number of fronts including National Competition Policy, Taxation and Financial Services.

Despite this, the volume of business regulation is growing year by year. The Task Force has a critical role in measuring the impact of this growth on industry competitiveness and identifying new approaches to regulation which will reduce cost and increase transparency, consistency and effectiveness.

In 2000, an OECD report entitled *The OECD Public Management Services Multi Country Business Survey: Benchmarking Regulatory and Administrative Business Environments in Small and Medium Sized Enterprises*² was released. This report looked at taxation, the environment, and employment compliance costs in 11 countries including Australia. The report concluded that, compliance costs of Australian business regulation in 1998 were \$40,380 per firm or \$14,500 for just tax compliance costs. Given the increase in regulation since 2000 it is likely that these costs have increased substantially.

The impact of the progressive growth of regulation (assessed by the Business Council of Australia at around 10 per cent per annum) has already manifested itself in changes in Australia's competitiveness. The IMD World Competitiveness Yearbook 2005 shows Australia as having dropped from fourth position in 2004 to ninth position in 2005 on the World Competitiveness Scoreboard³. A World Bank and International Finance Corporation report entitled "Doing Business in 2006" ranks Australia sixth out of a number of countries for ease of doing business. Australia ranks behind New Zealand, Singapore, USA, Canada and Norway⁴. There is a clear risk that regulation will reduce the benefits of good macro economic management.

Recently introduced regulation that will impact on the construction and property industry in particular includes taxation, industrial relations and occupational health and safety. Each of these changes imposes new regulatory regimes and obligations on employers and in particular small business and in all cases there has not been full consultation with industry.

² OECD Report, *The OECD Public Management Service Multi-Country Business Survey: Benchmarking Regulatory and Administrative Business Environments in Small and Medium Sized Enterprises*. Pp 45-47. 2000

³ International Institute for Management, *World Competitiveness Yearbook 2005* p5

⁴ World Bank and International Finance Corporation, *Doing Business in 2006*, September 2005

Taxation

ACIF has recently released a policy containing 10 principles for Australia's taxation system⁵. These are:

1. The tax system should be simple, transparent and should minimise uncertainty.
2. The design, administration and operation of the tax system should be undertaken with full and effective consultation with relevant stakeholders including the business community.
3. The tax system should fairly balance the need to protect the taxation revenue base with the principles of a good tax system, i.e. efficiency, fairness (horizontal and vertical equity), simplicity, clarity, certainty and low compliance costs.
4. The tax system should enhance competitiveness by providing a climate conducive to improved investment in Australia and from Australia for Australian-based entities and individuals.
5. Indirect taxation at the state and territory level should be more efficient and competitive.
6. The pattern of Federal/State financial relations should be transparent, efficient and sustainable.
7. The tax treatment for savings should be consistent with an overall savings policy that encourages the sustainability of strong, ongoing growth.
8. The tax, and social security, treatment of personal income and fringe benefits should conform to the principles of fairness, efficiency and simplicity.
9. The tax system should avoid the double taxation of business income and provide relief for all business expenses.
10. The tax system should not impede organisational restructuring.

Industrial Relations

ACIF supports workplace reform. Currently, the Australian workplace relations system is overly complex and imposes significant transaction and compliance costs upon employers and employees. The Commonwealth Government's reforms have the potential to generate higher levels of productivity in the economy, especially for the building and construction industry. However continued scrutiny will be needed to ensure that the reforms continue to provide a net reduction in the regulatory load on business.

⁵ Copies of ACIF Policy documents referred to in this submission are available from the ACIF Secretariat

Occupational Health and Safety

Australia has six State, two Territory and one Federal set of Occupational Health and Safety Acts and legislation, all with differing compliance requirements.

There is also legislative conflict within jurisdictions eg. NSW OH&S Act 2000 with NSW Building Act, which imposes its own inflexible duties of care on individuals who are accredited certifiers. Differences also exist between various jurisdictional OH&S Acts and Australian Standards on Safety Management.

For firms working across several jurisdictions, OH&S regulation creates confusion and the need to commit major time, costs and resources in an attempt to ensure compliance with inconsistent and frequently changing regulation.

ACIF supports the development of nationally consistent OH&S regulation throughout Australia.

Innovation

A recent Study by the Cooperative Research Centre for Construction Innovation concluded, amongst other things, that improving national consistency and moving more rapidly from prescriptive to performance based approaches would help to reduce the negative impact of regulation on innovation in the construction industry⁶.

Small business

The impact of regulation is felt particularly on small firms which make up the great majority of businesses in this sector:

- Regulatory costs make up a large portion of overhead costs and net margin. This often implies a direct reduction in profitability and retained earnings which in turn may effect investments and the return to share holders.
- Administrative costs tend to be fixed, so that changes to sales have no effect on the costs in the short run. In other words, if sales go down, the cost is still the same meaning the break even point is raised.
- Diversion of entrepreneurial attention. In small companies, the owner, senior manager or director has to deal with the paper work instead of focusing their energy on business development.

Conclusion

ACIF supports the eight basic principles for developing, administering and reviewing business regulation enunciated by the Business Council of Australia, viz:

⁶ CRC for Construction Innovation, *BRITE Innovation Survey 2004*, P10

1. *Regulation should be the last, not first, response of Government and the benefits of proposed regulation should always be shown to outweigh the costs of administration and compliance.*
2. *Regulation should set a framework, not try to cover the field.*
3. *Regulation has a use-by date, after which it may no longer be necessary or appropriate.*
4. *The current law should always be tested and enforced before more law is added.*
5. *Governments should not impose regulation upon private persons or companies that they are themselves not prepared to adopt.*
6. *All businesses, whether large or small, private or public, should be treated equally.*
7. *Where property rights are affected by regulation, there should be just compensation.*
8. *There must be full transparency and accountability around the processes for making and administering regulation.⁷*

For the future, the government must ensure that any regulation impacting on business is subject to stringent and consistent processes of evaluation.

The scrutiny and review processes referred to above should include building industry organisations where those regulations impact upon the building and construction industry. The government must engage in genuine and open discussion with the industry on regulatory regimes prior to implementation.

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⁷ Business Council of Australia *Business Regulation Action Plan For Future Prosperity* p vii.

ACIF Board Members

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