



Annual Review of Regulatory Burdens on Business – Social and Economic Infrastructure Services

Introduction

This submission will address the burden placed on business by a range of regulation across Australia's education and training sector (Division P). Specifically, this submission will look at that regulation associated with the rollout of nationally recognised training products and services.

This submission will refer to examples of regulatory frameworks across state and federal jurisdictions such as:

- Australian Quality Training Framework
- Training Funding Models – such as User Choice

The context of training regulation is that it crosses over state and federal tiers of government and, even though the constitution of the country locates powers to the state for training, the federal government strongly influences the outcomes of the vocational education and training (VET) sector. With this in mind, this submission will also make reference to the variety of legislation across the country that lays foundation to the regulatory maelstrom that the nation's VET sector is currently facing.

Why this is important?

The burden of inconsistent national approaches to vocational education and training (VET) places a huge administrative burden on employers and registered training organisations alike. Employers have reported to Service Skills Australia, that current internal budgeting to roll out Australia's VET system means that in the short term, for every dollar that is directly spent on the purchasing of training, there are \$3 indirectly required to support the administrative burden of the system¹. This effectively limits the ability of a large number of employers to engage with the system due to the additional costs of regulation. Employers still train their staff, but just won't use the VET sector because of the regulatory burden

In addition to this, more registered training organisations (RTOs) are delivering VET products and services over a number of jurisdictions. The administration support required to do this is increasing to the extent where, evidence suggests that the emerging focus (emerging value add to clients) of RTOs is that of managing the regulation and compliance burden for clients rather than educational/training expertise. As small RTOs find it harder to maintain their business because of the regulatory requirements, there capacity to offer a distinctive service is more difficult. We note also the apparent rise in larger private RTOs who have the capacity to manage the regulatory burden across jurisdictions and that some of the growth of these businesses is based on acquisition of smaller RTOs who are struggling to meet the regulatory requirements of the VET sector. To that extent, Service Skills Australia would argue that the increase in 'red tape' required

¹ This feedback came to Service Skills Australia through the review of the Retail Training Package in 2007 and was supported by such employers as the Coles Group and industry associations such as the National Retail Association.

for registration as an RTO (public, private or enterprise) is actually changing the RTO market.

Critically, stakeholders of the VET system, industry and RTOs are calling for change. The regulatory burden imposed on training providers and employers alike is a major level of concern.

The recently released 2009 Service Skills Australia Environmental Scan calls for a more responsive and national approach to VET. Whilst, training and education must be seen as only one element of a broader national human capital agenda, the focus on compliance requirements of the VET system is resulting in poorly designed or delivered training that fails to deliver the skills and knowledge required by employers and does not maximise the significant investment of public and private funds.

About us

Service Skills Australia is a not-for-profit, independent organisation, which is one of 11 Industry Skills Councils funded by the Australian Government Department of Education, Employment and Workplace Relations (DEEWR) to support skills development for our industries. We consult and engage with industry, training organisations, government and other stakeholders to develop and support the implementation of nationally recognised training products that respond to industry skill needs.

Service Skills Australia supports skills development for our industries by:

- providing industry intelligence and advice to Skills Australia, government and enterprises on workforce development and skills needs;
- actively supporting the development, implementation and continuous improvement of high quality training and workforce development products and services, including training packages. SSA currently manages a total of 10 industry training packages;
- providing independent skills and training advice to enterprises, including matching identified training needs with appropriate training solutions; and
- working with enterprises, employment service providers, training providers and government to allocate training places.

The service industries and the training that supports it

The service industries are at the frontline of Australia's economy, providing consumer goods and personal and leisure services to both domestic and overseas consumers. In 2007, there were 344,655 businesses, mostly small businesses with 70% employing 20 persons or less. However, there are parts of the service industries, specifically retail industry which are dominated by a small number of major companies and this accounts for a large number of employees.

The contribution of the service industries to Australia's Gross Domestic Product (GDP) for 2007/08 was AUD50.8 billion (4.9%) for wholesale trade and over AUD60.1 billion (5.8%) for the retail trade sector, almost AUD21.4 billion (2.1%) for accommodation, cafes and restaurants, over AUD21 billion (2%) for personal and other services sectors, and AUD16.2 billion for the cultural and recreational services sectors. In 2006/07, tourism contributed over AUD38.9 billion to Australia's GDP.

Service Skills Australia estimates that there are over 1300 private registered training organisations that deliver vocational education and training from the service industry training packages.

State of the nation

A variety of legislation underpins Australia's vocational education and training system. Whilst there are a number of policy frameworks that support a national training system (training package policy being one), these attempts to reduce regulatory burden and create a seamless system are countered by a plethora of state legislation and regulation.

Currently a number of pieces of state legislation provide the framework for training in each state. Each government has their own acts associated with VET – some more than one.

These are:

- ACT Training and Tertiary Education Act 2003
- NT Employment and Training Act 2004
- NSW Board of Vocational Education and Training Act 1994
- NSW Vocational Education and Training Act 2005
- QLD Vocational Education, Training and Employment Act 2000
- SA Training and Skills Development Act 2003
- TAS Vocational Education and Training Act 1994
- VIC Education and Training Reform Act 2006
- VIC Vocational Education and Training (TAFE Qualifications) Act 2003
- VIC Vocational Education and Training (Training Framework) Act 1997
- VIC Victorian Qualifications Authority (National Registration) Act 2004

Each piece of state legislation are vastly different for example they contain different definitions for “Australian Quality Training Framework” and “Accredited courses”, different requirements and processes for the registration of training organisations, some deal with overseas students whilst others do not, and most have different processes for the auditing of registered training organisations.

Critically, whilst the intent of these pieces of legislation are the same, it is the processes that they outline that cause huge levels of administrative burden for those employers and registered training organisations that are providing training services over more than one jurisdiction. From the point of view of skilling a national labour market, the regulatory framework that this series of legislation creates is a burden on industry, as described by the following case study.

a major national retail employer who is trying to deliver high quality VET training and commit to the national accredited system, has to contend with at least 5 separate administration and compliance processes to roll out their Certificate II and III in Retail. This employer needs to employ a large team of administration staff across the country to manage these 5 different administration and paperwork requirements, different face to face contact requirements between provider and employee, different duration/nominal hours and different funding level.

Further examples of the effects of complex regulatory VET framework follow.

Case Study – Training Packages

Training Packages is an example of where the regulatory framework across the country does balance the needs of assuring quality of service to the nation with the needs of industry and end users of the training system.

A Training Package is a set of nationally-endorsed standards, qualifications and guidelines used to recognise and assess the skills and knowledge that people need to perform effectively in the workplace. Training packages are developed by industry through Industry Skills Councils to meet the training needs of an industry or group of industries. Training packages describe outcomes required by the workplace, not training or education modes or pathways required to gain the described standards. A Training Package contains three compulsory endorsed components - Competency Standards, Qualifications Framework and Assessment Guidelines.

Recently, COAG and the National Quality Council affirmed the following commitment to the standards that underpin Australia's VET sector.²

There is a need for a policy framework which enables VET qualifications and products to:

- *meet the needs of businesses and industry; and*
- *equip individuals with broadly based skills and knowledge;*

That industry performance standards are the basis of Training Packages; and

that there will be a continued role of industry in defining workplace competence.

Training Packages provide for national portability of qualifications for employees, potential employees and employers. They allow for industry to articulate the outputs that they require from the national training system and, provide for a nationally consistent standard to vocational qualifications.

In short, they are a model of how a nationally consistent approach can work.

Currently, the Federal Government contracts Industry Skills Councils to undertake a range of consultations with industry and stakeholders across the country to develop these products. The role of the ISC is to ensure agreement to the standards, qualifications and guidelines and then submit them to the National Quality Council for endorsement for implementation through the states and territories.

At time of submission of this paper, this ISC notes that:

- There are additional state based consultation process that occur in 3 jurisdictions. These state based consultations replicate the work that the ISC's undertake and vary from state to state.
- Implementation of the national training package varies from state to state. On average, state jurisdictions have 12 months to roll over to a new training packages – this does vary and the process for implementation and RTO roll over to a new training package also varies in each state

Case Study – Productivity Places Program

Currently, the Federal Government's Productivity Places initiative is being rolled out across the country. This represents a massive commitment by the government to developing the skills of the nation to support ongoing growth and productivity.

² Adapted from *VET Products in the 21st Century* Consultation paper – Noonan P, 2008

Whilst the initial intention of the program was that it be rolled out via a centralised national body (Industry Skills Councils) the program has now been allocated to the state and territory governments for implementation.

This has effectively resulted in 7 different jurisdictional responses to the program.

Victoria: the Victorian Government has reached an agreement with the Commonwealth Government that rather than run a separate Productivity Places Program in Victoria, this funding will be incorporated into existing arrangements.... [Victoria] will commit to deliver an additional 138,000 places over four years as part of current and future training delivery arrangements.³

Queensland: The department is currently working with these state industry training engagement bodies to finalise industry specific procurement plans. To date, a number of industry specific procurement plans have been finalised including sport and recreation and tourism and hospitality.⁴

Western Australia: The department is linking the PPP program into the traineeship infrastructure system, and using the program for “1000 workers (to) improve their skills in more than 110 qualifications at Certificate IV, Diploma and Advanced Diploma level. These places are available until the end of June 2009.”⁵

Tasmania: The Tasmanian jurisdiction is the only state to have direct engagement with Industry Skills Councils. Skills Tasmania will be implementing a range of procurement strategies targeted at meeting the objectives and outcomes of the program and addressing state priorities. The tender process for phase 3 of the programme will be advertised at the beginning of March. There will be a series of workshops for all stakeholders taking place during February and March.⁶

South Australia: The launch of the DFEEST Productivity Places Program for job seekers was originally scheduled to be early January 2009. This has been delayed pending finalisation of the administrative agreement between the state and Australian governments. The website does advertise that the department is open to discuss possible PPP proposal.⁷

For national employers the opportunity provided with one national approach to implanting training was enormous. For them, it meant reductions in VET overheads. Recently, the Federal Government has rolled out a series of national productivity places pilots. The expression of interest in these national pilots was enthusiastically responded to by industry and more employers are requesting a national approach to VET implementation via the PPP.

This enthusiasm is not limited to large employers. Small and medium sized businesses are also keen to work with industry skill councils via partnerships with franchise operations and national industry associations who represent SME's.

³ http://www.skills.vic.gov.au/corporate/programs_and_initiatives/victorian-arrangements-forproductivity-places-funding

⁴ http://www.training.qld.gov.au/partners/funding_and_tenders/ppp/index.html

⁵ <http://www.det.wa.edu.au/apprenticentre/detcms/navigation/category.jsp?categoryID=318039>

⁶ <http://www.skills.tas.gov.au/providers/purchasing/productivity>

⁷ <http://www.dfeest.sa.gov.au/Projects/ProductivityPlacesProgram/tabid/416/Default.aspx>

Case Study – Retail Traineeships

Over the course of our work on the Review of the Retail and Wholesale Training Packages, a key systemic issue that has arisen are the barriers and challenges facing employers in the Retail industry with User Choice policy.

The purpose of this case study is to summarise the key issues as they relate to the Retail Sector. The comments in this case study are based upon discussions held with large, medium and small retailers across the country during the review over 2006 and 2007. Whilst some of the issues in this case study would necessarily relate to employers implementing traineeship across jurisdictions, a number are consistent to traineeships being delivered in both single and multiple jurisdictions.

User Choice and Retail

Traineeships in the Retail sector have been embraced by industry as a method of benchmarking skills and knowledge and also encouraging professionalism and careers within the retail sector. The opportunities provided by the competency based training “system” also are being used as one strategy to address the current skill shortage issues.

Training Packages, competencies and qualifications are being accessed to encourage employee loyalty to the sector and raise the profile of the profession. From our feedback in the review it would appear that UserChoice policy as it is currently implemented across the country, is acting as a barrier to best practice and possibly inhibiting the learning and development activity of retailers as it applies to competency based training.

Key Issues

The following concerns are consistently expressed by employers and industry on UserChoice and traineeship implementation.

- *Inconsistent Rules*

All employers criticised the inconsistent rules for UserChoice across the country.

Whilst employers agree that states should have the right to implement traineeship funding for specific regional issues they absolutely question the practicalities of this when the majority of work in UserChoice does not require this.

The result of the inconsistent process and procedural requirements is that employers need to allocate up to 3 (in some cases 5) times the real expenditure of actual training on management and administrative of the UserChoice process. This is a huge cost to their businesses, one that employers see as unnecessary and wasteful and one that makes them constantly question their engagement in the system.

Examples of this issue have been described previously in this submission. However, as an example, the following table demonstrates the inconsistency in funding models across state jurisdictions.

Qualification	ACT	NSW	NT	QLD	SA	TAS	VIC	WA
SIR20207 Certificate II in	\$800	\$1400	Not funded	Not funded	Not funded	\$1623	Not funded	Not funded

Retail	\$500 ASBA \$1100 (non school)							
SIR30207 Certificate III in Retail	\$800 \$500 ASBA \$110 (non school)	\$1350	Not funded	Not funded	\$1846	\$1220	Not funded	Not funded

NT, QLD, VIC and WA do not display funding publicly.

- *Changing Rules and Inconsistent/Unclear application*

In addition to inconsistent rules across the country, industry regularly commented on the changing nature of these rules. Regularly, rule changes were “discovered” by “accident” rather than by formal processes and often only discovered by virtue of the skill and knowledge of the managers/project leaders having regular contact with their state training authority and/or Apprenticeship Centre/RTO. There was a persistent strong feeling that the amount of energy spent on trying to keep up with these rule changes impacted negatively on the employers time spent on managing staff, working on their core business and actually training staff. Often, employers described that the skill base required to understand the UserChoice system was at managerial level (“you have to be a lawyer”) and required such complex knowledge that extra staff that specialised in this needed to be added to the payroll to accommodate the national training system. Trainers were becoming experts in UserChoice requirements rather than training and learning.

- *Unrealistic Rules*

Some of the rules required for User Choice are felt to be unrealistic as they relate to running a business in the retail sector.⁸

An example of this is the requirement for trainees to work 30 or more hours worked per week to be eligible for the UserChoice funding – many staff in Retail Sector work less than this, part time and casual

Finally, the UserChoice system is incompatible with the very nature of the workforce and the skills shortage issues that face the country. The statistics associated with workforce shortage after 2011 encourage workforce planners to look to the re-engagement of women returning to the workforce for economic growth, especially the re-engagement of mothers with young children. Typically this group of potential workers is looking for part time work and as previously stated, UserChoice requirements do not typically accommodate this. Moreover, there is a growing feeling that UserChoice requirements are geared towards one type of worker who is young and typically looking for full time employment. This is in fact a diminishing part of the labour market. Retailers are looking to mature age workers who, in fact may be looking for career transition into another

⁸ Whilst this case study is particular to the retail industry, similar issues such as that described here across all the service industries.

industry. Typically “career transitioners” come to the retail industry with previous qualifications and experience which the current UserChoice system penalises in its eligibility criteria and in the recognition process of existing skills.

Summary

This case study is designed to describe the issues and provide examples of challenges that retail businesses are having with UserChoice in Australia. In summary the traineeship system is not helpful to them growing their business or even investing in training and education that is accredited. Employers also constantly question the thinking behind the UserChoice system when explanations for its complexity are often provided on the basis that it is about encouraging quality. It is the experience of the employers that we spoke to that the UserChoice system does not encourage quality, rather it encourages unnecessary bureaucracy.

It is worthwhile at this point noting that the retail industry – for its size, share of the working population, contribution to the economy and contribution to the skilling up of Australia’s labour – does not receive adequate share of the funding available. Often the retail industry is criticised for having “too much of the traineeship pie” and too much access for funding that may be unwarranted. Service Skills Australia has supporting arguments from a range of large and medium sized retailers that indicate the funding that retailers do receive for their traineeship work only covers approximately 10 to 20 percent of the expenditure required for training their staff in nationally recognised qualifications

Recommendations

Whilst the policy of training packages (national work standards which all national qualifications are based upon) has been in place for some time, this submission shows that there are a range of barriers to making that truly effective.

Recently, the Australian Government has made attempts to move to a truly national system of VET. One example of this was efforts made to make one common apprenticeship/traineeship enrolment form. Another is a common national RTO scope registration for RTOs via their ‘home state’ – which means that they do not need to apply for registration in every state.

At this point, SSA would like to also acknowledge the advent of NARA (National Audit and Regulatory Authority). NARA represents a significant forward step in terms of national regulation of the VET sector. We are aware of many significant enterprise and private RTOs who are looking to register with NARA because of the opportunity to reduce their regulatory overheads and costs associated with state by state RTO registration.

Service Skills Australia would make the following recommendations:

1. A single legislative process for vocational education and training

VET legislation and regulation at state and federal level needs to be conscious of the effects of regulation beyond borders. The production of regulatory impact statement when establishing regulation and regulatory processes around VET would be beneficial. This statement could analyse any new regulation or process in VET that would seek to benchmark the activity in terms of its reduction of red tape for training across state borders.

2. Industry Skills Councils become the national body for the coordination of the Productivity Places Program.

This would allow the opportunity to roll out national programs to small to medium enterprises and large business via the Productivity Places Program. The benefit of this program is that it allows industry to truly deliver to the needs of their business and employees. Employers have reported that they are more interested in dealing with one body across the country.

3. National vocational education and training legislation

That the model for national regulation represented and modelled by NARA be considered for other areas of VET regulation. One instance may be one national approach to User Choice with consistent nominal durations and funding models. We acknowledge that different states will require different skill requirements for their region, however, in a national labour market, a system that is able to accommodate the national interest and the regional need without increasing the burden on employers must be developed.

4. National registered training organisation registration

That all RTOs are initially registered through a single national body and that industry through the industry skills councils has the authority to confirm excellence through the quality of graduates and not bureaucratic auditing processes.