



AGRICULTURE, RESOURCES AND ENVIRONMENT COMMITTEE

Reducing regulatory burdens for
Queensland's agriculture and resource
industries

Paper No. 1
July 2012

Aim of this Paper

This paper provides background information about the committee's inquiry into Queensland's Agriculture and Resources Industries and flags issues that the committee invites comment on. The paper also provides guidelines to assist submitters.

The Committee

The Legislative Assembly established the Agriculture, Resources and Environment Committee on 18 May 2012 as a portfolio committee with responsibility for:

- Agriculture, Fisheries and Forestry
- Environment and Heritage Protection, and
- Natural Resources and Mines.

The referral

On 7 June 2012, the Legislative Assembly resolved that the Agriculture, Resources and Environment Committee investigate and report on methods to:

- reduce regulatory requirements impacting on agriculture and resource industries in Queensland; and
- further promote economic development while balancing environmental protections.

Further, that the committee take public submissions and consult with key industry groups, industry participants, and relevant experts.

Reporting deadline

The referral requires the committee to report to the Legislative Assembly by 30 November 2012.

Inquiry Timetable

The committee proposes to complete this inquiry according to the following timetable:

Closing date for submissions	Friday 17 August 2012
Brisbane public hearing	Wednesday 19 September 2012 9.00am – 4.00pm
Report to the House	Friday 30 November 2012

Focus and definitions for the inquiry

For its inquiry, the committee has resolved to focus on 'methods' to reduce regulatory requirements or 'regulatory burdens' having regard to the need to promote economic development whilst balancing environmental protections.

The committee's has adopted the following definitions to define the inquiry scope:

'Agriculture':

For the inquiry, the committee has defined agriculture as the farming or cultivation of land, including crop-raising, forestry and stock-raising, and the farming of marine animals and plants.

'Resource industries':

The committee has defined resource industries as industries connected with the exploration, extraction and processing of coal, petroleum, gas, minerals, gemstones and quarry materials, but excluding energy.

Regulatory requirements

The Productivity Commission recently noted that regulation can be necessary to achieve a range of social, environmental and economic objectives. The Commission also noted that, to achieve agreed goals and yield the greatest net benefit to the community, regulation must be well designed, and effectively and efficiently implemented and enforced.¹

Queensland's agriculture and resource industries, as in other states and territories, are subject to a plethora of formal and quasi regulatory requirements.

Formal regulations include: Acts of Parliament; ministerial orders and declarations; regulations; by-laws; permit requirements; administrative decisions or discretions by government agencies; and international treaties and agreements that are in force.

Quasi-regulations include government-endorsed industry codes; guidance notes and standards; government procurement practices; and government–industry agreements, accreditation and licensing schemes.

Businesses that fail to comply with regulatory requirements face additional penalties and sanctions.

In our federal system of government, all three levels of government may impose separate and sometimes overlapping regulatory requirements.

¹ Productivity Commission 2012, [Regulatory Impact Analysis – Benchmarking, Issues Paper](#), p.9, Productivity Commission: Canberra.

What is good regulation?

Regulations are necessary to address market failures and to achieve, and balance, a range of economic incentives and social objectives. These include consumer protection, public health and safety, law and order, cultural objectives and the preservation and protection of environmental resources.

In 2007, COAG agreed that all governments will ensure that regulatory processes in their jurisdiction are consistent with the following principles:

COAG principles of best-practice regulation

1. establishing a case for action before addressing a problem
2. a range of feasible policy options must be considered, including self-regulatory, co-regulatory and non-regulatory approaches, and their benefits and costs assessed
3. adopting the option that generates the greatest net benefit for the community
4. in accordance with the Competition Principles Agreement, legislation should not restrict competition unless it can be demonstrated that:
 - a. the benefits of the restrictions to the community as a whole outweigh the costs, and
 - b. the objectives of the regulation can only be achieved by restricting competition
5. providing effective guidance to relevant regulators and regulated parties in order to ensure that the policy intent and expected compliance requirements of the regulation are clear
6. ensuring that regulation remains relevant and effective over time
7. consulting effectively with affected key stake-holders at all stages of the regulatory cycle, and
8. government action should be effective and proportional to the issue being addressed.

Source: Council of Australian Government 2007, [Best Practice Regulation – A Guide for Ministerial Councils and National Standard Setting Bodies](#), Department of Finance: Canberra.

The Australian Government endorses the Organisation for Economic Co-operation and Development's (OECD) *Guiding Principles for Regulatory Quality and Performance*, and implements those principles through the *Best Practice Regulation Handbook*.²

The OECD's guiding principles are based on a 'coherent, whole-of-government approach [to] create a regulatory environment favourable to the creation and growth of

firms, productivity gains, competition, investment and international trade'.³

Following the global financial and economic crisis and the consequential recognition of the increased need for regulatory quality to ensure well-functioning markets and societies, the OECD Council in March 2012 adopted a report, *Recommendation of the Council on Regulatory Policy and Governance*, prepared by its Regulatory Policy Committee.⁴

The Council's recommendation report includes:

- commitment to a whole-of-government policy for regulatory quality with clear objectives and frameworks for implementation to ensure that economic, social and environmental benefits justify the costs, and the net benefits are maximised
- adherence to principles of open government which includes transparency and participation in the regulatory process
- establishment of mechanisms and institutions to provide oversight of regulatory policy procedures and goals, support and implement regulatory policy and foster regulatory quality
- integrating Regulatory Impact Assessment in the early stages of the process for the new regulatory proposals, including considering means other than regulation
- conducting systematic reviews of significant regulation against policy goals, including costs and benefits, ensuring that regulations are current, cost effective, consistent and delivering intended objectives
- developing policies to ensure that regulatory decisions are made without conflict of interest, bias or improper influence
- promoting coherent regulation through appropriate mechanisms between national, state and local governments, and
- fostering the development of regulatory management and performance at sub-national levels of government.⁵

The Council also recommended that high standards be implemented to improve regulatory processes, and that regulations be used wisely in pursuing economic, social and environmental policies.⁶

³ OECD 2005, [Guiding Principles for Regulatory Quality and Performance](#), p.1.

⁴ OECD 2012, [Recommendation of the Council on Regulatory Policy and Governance](#), pp 1-2.

⁵ OECD 2012, pp 4-5.

The Recommendation has been paraphrased from the original document. The full Recommendation and principles expressed in the recommendation can be found on the OECD website at: <http://www.oecd.org/dataoecd/45/55/49990817.pdf>

⁶ OECD 2012, p 5.

² Department of Finance 2010, [Best Practice Regulation Handbook](#), Department of Finance: Canberra.

The burden of regulation

In addition to benefits, regulations invariably impose economic, financial and other costs on governments, industries and individual businesses that affect productivity, performance and competitiveness.⁷

The costs imposed on businesses by the regulatory framework or 'regulatory burden' include:

- the costs involved in meeting the substantive requirements of the regulatory framework
- the administration and paperwork costs involved in complying with the regulatory framework
- the costs arising from the disincentives, distortions and duplication attributable to the regulatory framework, and
- other costs (such as psychological stress) and opportunity costs for the business owner associated with compliance.⁸

The combined weight of local, state and federal regulation can impose hefty burdens on businesses and individuals and absorb resources that would otherwise be directed at delivering products and services, and generating income. A disproportionate regulatory burden can be placed on small businesses.

The Taskforce on Reducing Regulatory Burdens on Business in 2006⁹ identified five features of regulations that contribute to burdens on business that are not justified by the intent of the regulation:

- **Excessive coverage, including 'regulatory creep'** — regulations that appear to influence more activity than originally intended or warranted, or where the reach of regulation impacting on business, including smaller businesses, has become more extensive over time.
- **Regulation that is redundant** — some regulations could have become ineffective or unnecessary as circumstances have changed over time. Other poorly designed regulations might give rise to unintended or perverse outcomes.
- **Excessive reporting or recording requirements** — companies face excessive or unnecessary demands for information from different arms of government. These are rarely coordinated and often duplicative.

- **Variation in definitions and reporting requirements** — this can generate confusion and extra work for businesses than would otherwise be the case.
- **Inconsistent and overlapping regulatory requirements** — regulatory requirements that are inconsistently applied, or overlap with other requirements, either within governments, or across jurisdictions. These sources of burden particularly affect businesses that operate across jurisdictional boundaries.

Estimates of the costs of regulatory burdens in Queensland

There is a lack of conclusive Australian data on the burden of regulation imposed by Government, and no direct measurement of the cost of regulation in Queensland. Proxy measures such as growth in the numbers of pages of legislation provide some indications of the cost.

Methods to reduce regulatory requirements

The challenge for government is to deliver effective and efficient regulation – regulation that is effective in addressing an identified problem and efficient in terms of maximising the benefits to the community, taking account of costs.

A number of Australian and other governments have sought to review and refine their regulatory stems to address these problems.

The following sections discuss methods that governments have used, or are using, to reduce existing and future regulatory requirements that are inefficient or ineffective, and which do not compromise the regulatory objectives.

Better policy development

Requiring departments to improve their communication and consultation with affected businesses during their policy development process and the development of regulatory proposals may improve the efficacy of regulations. As part of this process, departments may be required to canvas alternatives to primary legislation to achieve the desired policy outcome.

Benchmarking of regulatory costs

Governments have used surveys that estimate the regulatory costs for business to inform their regulatory reform programs. The Government of British Columbia has since 2005 conducted periodic survey of regulatory compliance costs to gauge the paperwork burden imposed on small and medium sized enterprises and to track changes in the burden over time. These surveys

⁷ Productivity Commission 1997, [Reducing the Regulatory Burden: Does firm size Matter?](#), Staff Research Paper, p. xiii; European Commission, 2007, [Models to reduce the disproportionate regulatory burden on SMEs – Report of the Expert Group](#), May, p.10, European Commission: Brussels.

⁸ Productivity Commission 1997, p.1.

⁹ Attorney General's Department 2006, [Rethinking Regulation – Report on the Taskforce on Reducing Regulatory Burdens on Business](#), p.iii, Attorney General's Department: Canberra.

were designed to support government efforts to develop quantitative evidence-based approaches to assessing the efficiency of that country's regulatory system.

Regulatory impact assessments

Transparent and rigorous regulatory impact assessments (RIA), otherwise known as regulatory impact statements (RIS), are widely used by governments to filter proposals for new legislation and amendments to existing legislation. The Productivity Commission is undertaking a benchmarking study of RIA processes in Australian jurisdictions to identify best practice approaches.

The Queensland Government has committed to making RIS a legislative requirement for new legislation and regulations.

Regulatory reduction targets

This involves the setting of targets for reductions in the volume of regulations or net costs to business to be achieved in a given period. Setting targets can help to motivate departments while also communicating the government's objectives to the community.

The Queensland Government has committed to cutting red tape and regulation by 20 per cent, that is, a 20 percent reduction in the number of pages of regulation.

Reviews of legislation

There are a number of approaches that departments may take to review their existing stock of regulations. They include: reviews of legislation across all departments affecting a specific industry; internal reviews by departments of legislation they administer; and reviewing legislation routinely at some period after its commencement.

The Queensland Regulatory Simplification Plan 2009-13, an initiative of the previous Queensland Government, required departments to consult with stakeholders and identify outdated regulations. The plan's target was to reduce the compliance burden for business and the administrative burden for government by \$150 million per annum.

Regulatory offsetting arrangements

A novel approach to containing the growth in regulatory requirements is the use of offset arrangements. Under these arrangements, any proposal for new legislation must be accompanied by proposals to repeal or reduce existing regulations.

The Queensland Government's offset policy requires ministers to propose up to three options to reduce regulatory burdens as part of their submissions to Cabinet before imposing new regulatory requirement for small business.

Cabinet gatekeepers

Governments may establish stricter requirements for proposals for new regulations that may be considered by their cabinets. This could include specific tests for impacts of regulatory proposals on affected small businesses.

Regulatory review office/committee

This involves the establishment of a discreet body within the government with a mandate and authority to drive the regulatory review process.

The Government has committed to establishing an Office of Best Practice Regulation within the Queensland Competition Authority.

Harmonisation

There have been a number of initiatives by Australian governments, through the Council of Australian Government (COAG), to reduce regulatory requirements by harmonising the stock of like regulations operating across jurisdictions. Under the COAG National Partnership Agreement, over 36 areas of business regulation and competition reform, including occupational health and safety (OH&S), consumer law and occupational licensing are being targeted.

Tiering

Regulatory requirements can impose disproportional and inequitable impacts on small businesses in terms of compliance and administrative costs compared with large businesses. These impacts can be reduced by imposing a lower level of regulatory requirements on smaller businesses, on the basis of lower risk, such as temporary or permanent exemptions, reduced record-keeping and lighter regulatory requirements.

Governments can also assist compliance efforts by small businesses by simplifying regulatory obligations.

Better regulatory information

Providing better information to regulated businesses about their obligations could help to raise awareness, improve compliance and reduce regulatory costs. This could also provide an avenue for businesses to provide feedback on regulatory issues.

Electronic services

Providing more opportunities for business to lodge paperwork and apply for permits and licenses online instead of attending departmental offices in person can reduce the impost on regulated businesses.

One-stop shops

Having a single point of access for businesses for all regulatory information may assist businesses to find

information more easily whilst encouraging information sharing between agencies.

Common commencement dates

Requiring departments to ensure that all new regulations or amendments to existing regulations commence on key dates such as 1 January or 1 July, rather than at different dates throughout the year, can assist businesses to track and prepare for the new obligations.

Consolidating the original act and subsequent amendments into one act.

Consolidation consists of the integration of successive amendments and corrections in a single Act. The purpose is to collect all existing provisions relevant to a subject area in an easily accessible legislative form. The benefits of consolidating into the one instrument include greater transparency, easier access to the law and streamlining of existing laws.

Point for comment:

The committee invites comments on the benefits of these and other methods for reducing regulatory requirements and their relative importance.

The committee also seeks comment on the combination of methods that will be most beneficial to reducing unreasonable regulatory requirements for Queensland's agriculture and resource industries whilst balancing environmental protections.

Brisbane Public Hearing

The committee will hold a public hearing on 19 September 2012 in the Parliamentary Annexe in Brisbane to clarify issues raised in submissions and other advice for the inquiry.

The hearing will be open to the public. The committee will broadcast the hearing live via the Parliament's website at <http://www.parliament.qld.gov.au/work-of-committees/broadcast-committee/live>.

Committee Contact Details

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Making a Written Submission

The committee invites submissions on the points raised in this paper, and any other issues that are relevant to the inquiry.

What format is required?

There is no required format for submissions. Committees prefer written submissions (emailed, posted or faxed) that are: typed or legibly handwritten with numbered pages; are clearly structured, concise and accurate; include evidence to support the opinions or recommendations in the submission; are brief and to the point. For longer submissions, (e.g. 10 pages or more) it will assist the committee to include a summary of the main points.

Submissions should include: the author's name and signature; mailing address (and email if available) and daytime telephone number. If the submission is made on behalf of an organisation, please advise the level of approval (e.g. a local branch, executive committee or national organisation) for the submission.

If you wish to have a say but are unable to provide a written submission, talk to the committee's staff about other options. Depending on the inquiry and the time available, the committee may take oral (spoken) submissions.

Making a confidential submission

The committee may decide to keep a submission confidential. If you want all or part of your submission to be kept confidential, you should state this clearly and explain the reasons in a covering email or letter.

Further guidelines on submissions are available from the Parliament of Queensland website at: http://www.parliament.qld.gov.au/documents/committees/guidelines/Guide_MakingASubmission_WebVersion.pdf

Submissions close Friday, 17 August 2012

Written submissions should be sent to:

Research Director
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PARLIAMENT HOUSE QLD 4000

OR by facsimile to 07 3406 7070

OR by email to: arec@parliament.qld.gov.au

OR electronically via the committee's website at www.parliament.qld.gov.au/arec