



THE LAW SOCIETY
OF NEW SOUTH WALES

Our ref: BLC/PLC:MTIb1521437

23 May 2018

The Hon Matthew Kean MP
Minister for Innovation and Better Regulation
GPO Box 5341
SYDNEY NSW 2001

By email: office@kean.minister.nsw.gov.au


Dear Minister,

Inquiry into removing unnecessary regulatory burdens on NSW businesses

The Law Society of NSW appreciates the opportunity to provide input into your inquiry into ways to remove unnecessary regulatory burdens and reduce administrative costs on NSW businesses. The Law Society's Business Law and Property Law Committees contributed to this submission.

Support for reduction of unnecessary regulatory burdens

The Law Society supports initiatives to reduce any unnecessary or excessive regulatory burden on businesses. We agree that the regulatory burden imposed on businesses can be complex and difficult for businesses to navigate, costing time and money and ultimately reducing productivity. The imposition of any new regulatory measures, particularly those affecting small businesses, should, in our view, be the subject of rigorous cost benefit analysis and public consultation.

Your letter notes that the modern global marketplace, world-wide-web and digitisation of processes and procedures, provides opportunities to achieve these desired policy outcomes without resorting to traditional regulatory responses. We suggest that caution is required in any move away from traditional regulatory responses. Regulation plays an important role in providing consumers with rights and remedies, as you have noted, and in creating a level playing field and protecting the community more broadly from potential harm.

While we did not identify any specific examples of unnecessary or excessive "red tape" in the sectors and industries regulated by legislation in your portfolio, we do suggest that a modern and sophisticated regulatory system needs to be developed to save time and manage complexity for end users to minimise the compliance burden.

Regulation as a Platform

While we consider that traditional regulatory responses are necessary to fulfil the functions set out above, we suggest that tools and services can be developed to provide accessible and streamlined compliance.

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We note that the NSW Government has entered into a strategic partnership with CSIRO's Data61, the Australian Government's data innovation network which is exploring opportunities to maximise the value of public data, through their project 'Regulation as a Platform'.

As you are aware, Regulation as a Platform allows users to leverage the regulatory infrastructure to develop tools and services to help reduce the compliance burden. The Law Society's view is that this is an important project for supporting the reduction of red tape and improving the regulatory framework overall.

We understand that Data61 is looking for projects and support to progress the digitisation of legislation. We would welcome the opportunity to work with the Department and Data61 to identify appropriate projects.

One such project could be to build on the excellent work of the Department of Finance, Services & Innovation in consumer law. At the moment there is no "single door" by which a consumer can make a query or lodge a complaint. Similarly, businesses have multiple regulators to respond to depending on the nature of the goods and services that they sell.

Other opportunities

We have identified the following specific examples of unnecessary or excessive "red tape" in sectors regulated by legislation outside of your portfolio but within the Department of Finance, Services and Innovation.

Nominal duties

Currently under the *Duties Act 1997* ("Act"), nominal duty of \$10 is payable in relation to a transfer made in conformity with an agreement for sale (s 18(2) of the Act) and in relation to a transfer of lease and most surrenders of a lease. Transmission applications are also subject to nominal duty of \$50 under s 63(1) of the Act.

We suggest that the administration and cost to the parties created by the need to pay the nominal duty outweighs the benefit to government. These duties should be abolished as a red tape reduction measure.

Verification of identity ("VOI")

Increasingly the need to identify clients is becoming a necessary part of interacting with government. We recognise the importance of identification as a fraud mitigation measure. However we suggest consideration should be given to standardisation of the process of identification required for interaction with different government departments and services. For example, the differences in the VOI requirements applicable generally in conveyancing and the VOI requirements of Revenue NSW for First Home buyers.

At present there is unnecessary duplication of process and expense in satisfying the different requirements for satisfactory identification of different government departments and services. For example, it would be very helpful if Revenue NSW would accept the report compiled by an identity agent such as Australia Post to satisfy its identification requirements. These identity agent reports satisfy the requirements of the *Conveyancing Rules* and the *NSW Participation Rules for Electronic Conveyancing*, but are currently not accepted by Revenue NSW.

Conclusion

We support the continued investment by government in the leveraging of public data to deliver efficiencies and cost savings to business through accessible and streamlined compliance.

If your Departmental staff have any questions in relation to this submission, please do not hesitate to contact Liza Booth, Principal Policy Lawyer, on (02) 9926 0202, or by email at liza.booth@lawsociety.com.au.

Yours sincerely,



Michael Tidball
Chief Executive Officer