



30 March 2011

Minister Paul Lucas MP
Deputy Premier and Attorney-General
PO Box 15009
City East QLD 4002

Dear Deputy Premier

I write to you in relation to the Mandatory Code of Practice for Outworkers in the Clothing Industry (the Code) and in response to the former Attorney-General Cameron Dick's correspondence dated 10 November 2010 (J/10/06637, 533478/1) responding to our concerns over the increased red tape for businesses resulting from the introduction of this code.

The Chamber of Commerce and Industry Queensland (CCIQ) understands that the Queensland Government introduced this legislation with the best of intentions. However based on our contact with members in the business community there is evidence of significant cost and burden from compliance with the Code and its requirements.

Since its introduction in January this year, CCIQ has been working closely with a number of small businesses in the textiles and clothing industry to better understand the compliance requirements and reporting obligations associated with the Code. Based on actual business feedback CCIQ has used the Australian Government's Business Cost Calculator to estimate the following impacts on the affected businesses:

- The average cost of compliance for individual businesses with the Code was \$43,360 per annum.
- The time spent meeting the regulatory requirements in the Code was 522 hours per annum, or an average of 10 hours per week.
- For "suppliers" the time taken to fill out the required forms was 30 – 60 minutes depending on the size and complexity of the order/agreement (as opposed to the 15 minutes suggested by your Department based on a NSW study). An average business would undertake this activity for an average of 3-4 agreements per week.
- For "retailers" the time taken to complete the required reports for the Department was approximately 10-15 hours every 6 months (as opposed to the one hour suggested by your Department based on a NSW study).
- The total cost to the Queensland economy as a result of the introduction of the Code was estimated to be over \$21 million per year.

A full summary of the Business Cost Calculator report and industry issues is enclosed.

Chamber of Commerce &
Industry Queensland
Industry House
375 Wickham Terrace
Brisbane Q 4000

ABN 55 009 662 060

t > 07 3842 2244

f > 07 3832 3195

e > info@cciq.com.au

Employer Advice Line
1300 135 822

Regional Offices
Gold Coast, Sunshine Coast,
Toowoomba, Rockhampton,
Mackay, Townsville, Cairns



CCIQ and businesses in the textiles and clothing industry believe these costs to be unreasonable especially when there is no direct correlation between the reporting requirements of the code and the actual protection and maintenance of outworker employment conditions. The Code and its requirements appear simply to be a mechanism by which the Department can establish a comprehensive database of all retailers, suppliers, contractors and outworkers operating in Queensland and on that basis is essentially a transfer of responsibility and cost from what should be the Department's role onto businesses and the community. CCIQ would therefore contend that there are more effective and less costly options for 'ensuring that all parties in the outworker chain are easily identified' (as per letter of 10 November 2010).

CCIQ is also concerned at the unintended consequences for workers and employees in the textile and clothing industry. CCIQ believes that if action is not taken to address the significant red tape burden and cost resulting from the introduction of the code then suppliers and retailers may choose to shift their operations offshore and/or source products from overseas suppliers to avoid the application of the codes reporting requirements. Additionally suppliers and retailers may avoid using outworkers altogether essentially removing the opportunities available to groups within the community including skilled mothers and semi-retired people who are seeking the flexibility and convenience associated with being an outworker. This policy therefore seems at odds with state and national policy to encourage and support work-life balance and equal opportunity of employment for women.

CCIQ advocates a more balanced approach to regulation that both protects at risk employees while minimising the burden on the business community. In this instance CCIQ believes there may be more appropriate policy and regulatory mechanisms by which to achieve the same, if not an improved outcome. Our recommendations have been outlined in the attached report.

CCIQ strongly supports the need to protect workers from exploitation. In order to maintain our outstanding business operating environment and strong economy, all workers must be entitled to fair pay and decent working conditions. We strongly acknowledge the need for policy instruments to protect vulnerable workers such as outworkers and therefore welcome the opportunity to work with the State Government to review this policy instrument to ensure it achieves its objectives while delivering an equal playing field for all those businesses involved in the supply and retail of clothing products in Australia.

Yours Sincerely



Nick Behrens
General Manager - Policy

Textiles Industry Compliance with Mandatory Code for Outworkers – March 2011

ABOUT THE CODE AND INDUSTRY COMPLIANCE:

The Queensland Government passed legislation in 2010 introducing a Mandatory Code of Practice for Outworkers in the Clothing Industry. The code came into effect as of 1 January 2011. The intent of the code is to protect the rights and ensure minimum working conditions for outworkers in the clothing industry. The code imposes responsibilities on contractors, manufacturers, suppliers and retailers of clothing products in Queensland.

The code requires:

- Retailers to obtain information from suppliers regarding the engagement of outworkers and keep records of this information (Form 2, 3, 3A)
- Retailers to report to the Department at 6 monthly intervals (via completion of Form 1) details of their suppliers
- Suppliers to obtain information from contractors (Form 4, 4A) and supply information to retailers (Form 3, 3A) regarding the engagement of outworkers and keep records of this information. (Forms 5, 6 and 7 also relevant where a third party assumes a suppliers obligation or where there is a change of contractor)
- All parties to inform corresponding parties of any changes that occur during the agreement period
- All parties to notify the department if they become aware of a breach of outwork rights and conditions.

Key industry issues:

- Definitions within the Code are inconsistent and its applicability is unclear. Industry is unsure when the code applies to products/agreements and the department to date has not been able to provide a consistent nor definitive response to industry.
- The commencement of the code has been poorly communicated across industry and there is anecdotal evidence that the majority of industry are currently non-compliant. For example other than the Code itself, there is no information available on the department's website. No fact sheets or guidance material has been produced/supplied (as occurred in other jurisdictions).
- Due to poorly designed definitions primarily concerning suppliers/retailers/contractors and the nature of their agreements (i.e. what value-adding/changes are occurring to the garment) Forms 2, 3, 3A, 4 and 4A are often required to be completed multiple times for the same order.
- The paperwork burden is excessive and the information required to be reproduced on forms is duplicative of invoicing information etc. Forms 2, 3, 3A, 4 and 4A are unnecessary and irrelevant if/when no outworkers are engaged in the process. Note, NSW requires the completion of only 2 separate forms when applicable.
- Six monthly reporting to the department is excessive when industry advises that there is typically little change to suppliers/contractors agreements over a 12 month period. The completion and submittal of Form 1 is unnecessary and irrelevant if/when no outworkers are engaged during the period.
- The reporting requirements within the Code are further made time consuming by the fact that existing business accounting and invoicing systems have no capability to produce these reports or store the required information. Accordingly all forms will need to be completed manually and manual records kept.
- Industry believes the department has demonstrated a lack of understanding of the operation of small businesses within the clothing industry and the nature of contracts/agreements for the supply/manufacture of clothing goods.

- The department has essentially shifted their own responsibility for overseeing workers rights and identifying breaches of working conditions onto retailers who have no direct relationship with the outworkers.
- The cost of compliance and the time required for compliance with code is excessive, especially when there is no evidence that this process will alleviate any of the concerns for outworker employment conditions and exploitation. This is particularly the case when the whole process is premised on individuals accurately and honestly completing the forms and providing advice on outworkers arrangements.

The following report was completed using the Australian Government's Business Cost Calculator.

MANDATORY CODE OF PRACTICE FOR OUTWORKERS IN THE CLOTHING INDUSTRY 2011

- Changing procedures and practices to comply with the code commencement as of 1 January 2011
- Maintaining manual records and generating manual reports in compliance with code (outside of existing systems and databases)
- Completing required forms to accompany each new order and agreement for supply/purchase of clothing products

<i>Task</i>	<i>Cost Category</i>	<i>Frequency</i>	<i>Number of Times Performed</i>	<i>Time Required</i>	<i>Labour cost per hour</i>	<i>Purchase Cost</i>	<i>COST TO BUSINESS</i>
Compliance Activities and Monitoring Regulatory Changes	Education / Notification	Start-up	1	50 hours	\$100		\$5,000
Completing Mandatory Forms for each new order/agreement	Procedural	Weekly	15 per week (average)	30 mins each (390 hrs/year)	\$80		\$31,200
Filing and Storage of Records	Purchase/Procedural	Weekly	1	1 hours	\$80		\$4,160
Reporting to Government	Reporting	Annual	2	15 hours	\$100		\$3,000
<i>Annual Cost to Business</i>							\$43,360
<i>Annual Hours Spent on Compliance</i>							522 hours

There are an estimated 5000 small clothing retailers/suppliers operating in Queensland who this code covers. Based on the above costings, the introduction of this code will cost the Queensland economy \$21.6 million per year.

RECOMMENDATIONS FOR REDUCING RED TAPE COST AND BURDEN

CCIQ advocates a more balanced approach to regulation that both protects at risk employees while minimising the burden on the business community. In this instance CCIQ believes there may be more appropriate policy and regulatory mechanisms by which to achieve the same, if not an improved outcome.

CCIQ recommends the following reforms to reduce the red tape while meeting the intended objectives of the code:

1. Review and simplify the reporting requirements for retailers.
 - a. If the underlying objective of the reporting requirements is to assist the Department to identify all parties in the outworker chain, then the industry would be supportive of a periodic 'census' approach to assist the department in compiling and updating their records.
 - b. Should recommendation 1(a) not be supported, then the industry supports reducing the frequency of reporting to an annual report. This report should only need to be supplied if the retailer had been advised during the period of the engagement of an outworker and they would be exempt if no outworkers were engaged during the period (an alternative 'No outworker' form may be an accepted alternative provided minimal paperwork).
 - c. The report should be made available online to reduce the paperwork burden for business.
2. Simplify the forms and reduce the paperwork burden. Only one form is required for the purpose of informing retailers of the engagement of outworkers to enable them to report to the department.
 - a. Forms 2, 3, 3A, 4, and 4A require duplication of information already contained in order agreements (e.g. ABN details, description of clothing products, quantity of supplied, delivery address, etc) and invoices and the value of duplicating this information on the forms is unclear (irrelevant to the engagement of outworkers). Form 2 and Part 1 of Form 4 do not even make reference to outworkers. Part B of Form 4 repeats requirement to state details of clothing product already required in Part 1 of Form 4.
 - b. Forms 2, 3, 4, and 4A could all be removed and replaced with a single requirement to complete a somewhat modified Form 3A, which would act as a declaration that an outworker was/was not engaged in the process of supplying products and details of the outworker.
 - c. Forms 5 and 6 are unnecessary and should be left as a matter of business management between two parties if/when ownership of a company changes hands.
3. The Queensland Government to improve the information and consultation processes relating to the introduction of the Code.
 - a. The Department must immediately review the definitions included in the Code to ensure clarity and remove current confusion across the affected businesses. The Department must also take active measures to ensure all departmental staff providing advice and information to businesses provide consistent and accurate advice (evidence suggests that officers are providing conflicting and inaccurate advice to questions and scenarios)
 - b. Additional guidance material and fact sheets should be produced to assist businesses in understanding their obligations. The Department must make these and summary information on the Code's applicability and requirements available on its website.
 - c. The department must take active measures to communicate the existence of the code and its compliance requirements to affected businesses, including all retailers, suppliers and contractors as there is currently low level awareness across Queensland.