



Specialist Contractors SA

**Response to the Investigation and Review of the Construction Industry Training
Fund Act 1993 – Issues Paper December 2022**

**Submitted by the Specialist Contractors SA
28 January 2023**

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Introduction

Whilst an invite has been sent to many individual trade associations, we make this collective response on behalf of the members of the Specialist Contractors SA (SCSA) which is an incorporated association that represents the majority of specialist trade contractors operating in the Building and Construction Industry in South Australia.

Specialist Contractors SA is an incorporated association under the Association Incorporation Act 1985 with membership comprising individuals, firms and companies whose business consists of operations in connection with the erection repair or extension of or alteration to buildings or work as Sub-Contractors in the building and construction industry. The current membership of the Association is the National Electrical Contractors Association SA/NT Chapter (NECASA/NT), Air Conditioning & Mechanical Contractors Association of SA Inc. (AMCA), Master Plumbers Association of SA Inc. (MPA), National Fire Industry Association (NFIA) and the Australian Subcontractors Association (ASA).

Specialist Contractors SA Incorporated (SCSA) is pleased to provide a submission in response to the proposed changes to the Work Health and Safety Act 2012 as contained in the Work Health and Safety (Industrial Manslaughter) Amendment Bill

Background

Several members of the SCSA have been actively involved in the CITB at both Board and Committee level since its inception and have provided significant input into the development and employment of specialist tradespersons for the building and construction industry.

In addition to the responses provided herein we would further comment that the long term and still current proportional allocation of funds to some trades relative to others has been a long time concern to those vocations affected and inconsistent with the inclusion of those vocations in the current federal government's critical skills shortage list. It is the position of the SCSA that all trade vocations should be treated equitably in relation to funding allocation by the CITB.

The following Submission is in response to the proposed changes contained in the Investigation and Review of the Construction Industry Fund Act 1993 Issues Paper December 2022.

Issues paper - Response to proposals made in the Terms of Reference:

CITB composition, administration and operation

Concerning the amendments made to the Act by the Construction Industry Training Fund Act 2019.

| No. | Propositions/Question | ToR |
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| | How effective is the CITB, as currently comprised and administered, in attaining the objects of the CITF Act through the exercise of its functions and powers (as outlined in Sections 11 and 12 of the CITF Act)? | A1 |
| 1. | The Act should include Objects so that the Board's purpose and priority for the administration of the Fund is clearer. This should include that the Fund should be applied to addressing skills shortages, upskilling and entry level training as supported by data and evidence available to the Board. | Agree - allocation of funding based on data is preferred to the more simple allocation based on sector contribution. |
| | What opportunities exist to support the achievement of these objects in relation to <ul style="list-style-type: none"> • The composition of the CITB • The staffing of the organisation • Other governance or operational arrangements | A2 |
| 2. | The Act should require the appointment of Board members to have a greater balance of employer and employee perspectives than is presently the case. | Totally disagree. The Board membership should be based on knowledge and skills that brings expertise to the Board's operation and not purely on representational rights which is counterproductive to good governance principles. |
| 3. | The expression of interest process for Board appointees should remain, but the Minister should not be compelled to utilise this if the Minister is satisfied that good reason exists not to. | Agree - the EOI should remain but not overruled at the Minister's discretion. |
| 4. | The Act should require the appointment of a Board member with extensive knowledge of training policy and the contemporary training landscape. | Agree - and in addition to the requirements noted in the response to point 2 above. |
| 5. | The Act should require that the Minister ensure that through appointments to the Board, members collectively bring sufficient expertise in the building and construction industry, legal and financial skills. Consideration should also be given to promoting diversity in making appointments to the Board. | Agree - in principle in relation to expertise and relevant skills but do not agree in promoting diversity just for the sake of it. |

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| 6. | The appointment of Deputy Members should be reserved only for members appointed due to a specific skill set. | Disagree – it is important for a Board operating on a majority decision basis that full representation can occur in the event the Member is not available. |
| 7. | The ability for the Presiding Member to exercise a casting vote should remain. | Agree |
| 8. | The provision for a majority Board decision should remain. | Agree |
| 9. | The Act should confirm the principle that Board members’ overriding fiduciary duty is to the Board and its objects under the Act. | Agree – whilst this shouldn’t be necessary, we still agree that the Act should articulate this principle. |
| 10. | The Act should formalise a requirement to consult with Sector Committees during the preparation of the Training Plan. | Agree – generally the members of the sector committees have a better and more contemporary understanding of industry training needs. |
| 11. | The appointment of an independent Chair of the Finance and Audit Committee should be facilitated by permitting the Minister to approve remuneration of the Chair of committees | Disagree – current remuneration is already adequate for sitting Board members and additional diversion of available training funds is unacceptable. |
| 12. | The Act’s position in relation to the use of public service employees should reflect that in the <i>South Australian Skills Act 2008</i> to enable more integrated and complementary connections between the Board and Government. | Disagree – we believe it is essential to retain the current independence of the CITB and its operations and do not want public servants who have responsibilities and allegiances to their own departments improperly influencing the operations of the CITB. |
| Are the exemptions to paying the levy as described in Section 23 of the CITF Act and in the Regulations appropriate? | | B2 |
| 13. | If an item’s cost would ordinarily be captured by the Act, the fact that it is associated with generation, supply or transmission of electricity should not exclude that item from calculation of the levy. (For example, construction work associated with the installation of wind turbines or solar panels would be leviable activity.) [See regulation 13(3) of the Regulations] | Agree – subject to the retention of the \$40,000 threshold. |

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| 14. | If an activity would ordinarily be captured by Schedule 1 of the Act and the activity is maintenance or repair work carried out by a self-employed person or an employee for the benefit of his or her employer, where the principal business activity of the self-employed person or employer is not in the building and construction industry, this activity should not be excluded from building or construction work for the purposes of the Act. (For example, maintenance or repair work performed by employees of a council would be leviable activity – as is the case presently if such work is contracted out.) [See Schedule 1(2)(a) of the Act] | Disagree – other similar Acts (eg PLSL) exclude service and maintenance work from the levy for valid and practical reasons. This is not “construction work” |
| 15. | If an activity would ordinarily be captured by Schedule 1 of the Act, the fact that it is associated with mining and petroleum activity should no longer automatically be grounds for exemption. Exemption should apply when associated with core resources operations or other specified activities. (For example, earthworks and building activity associated with the construction or maintenance of roads, tracks, or airstrips would be leviable activity. However, if WA’s exemptions were mirrored, then work associated with resource exploration, unsealed haul road tracks etc. would continue to be excluded) [See Schedule 1(15) of the Act] | Agree – This sector greatly profits from the excellent work of the CITB in providing funding for both entry level and upskilling training and should contribute the same as other sectors. |
| Is the current levy collection method effective? | | B3 |
| 16. | The levy should be calculated by reference to employee data not by project value to enable a similar quantum of funds to be collected via a more streamlined process. | Disagree – this process would require significantly greater work and therefore cost in determining the levy and substantially change who is responsible for payment of the levy. |
| 17. | If the levy is still to be calculated by project value, the definition of project owner should be changed so that the levy is payable by the landowner or head lessee rather than the current definition of project owner. | Disagree – The current project definition for the collection of the levy should be retained. |
| 18. | The Civil sector should remain as part of the CITF Act scheme. | Agree |
| 19. | Planning for allocation of the Fund should be revised to better utilise available funds for the Civil sector, including in relation to attraction and retention initiatives; and short courses which equip Civil sector workers to work in other sectors when there is a downturn in civil construction activity. | Disagree – why does this sector require special terms and conditions for the allocation of funds. |
| Is the current levy rate of 0.25 per cent of the estimated value of building or construction work (or such other percentage not exceeding 0.5 per cent of that value as may be prescribed in regulations) appropriate to meet the workforce needs of the sector? | | B1 |
| 20. | In the absence of an alternative method of calculation than project value, the 0.25% levy remains as an appropriate rate for the Board to fulfil its role and functions under the Act | Agree |
| 21. | If the levy is based on project value, it should apply to a project’s value excluding GST. | Agree |

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| 22. | If the levy remains calculated based on project value and exemptions are reduced resulting in an increase in revenue, the threshold of \$40,000 should be increased to reduce the administrative burden of payment and collection on low value projects. | Disagree |
| 23. | The levy threshold should be contained in the Regulations and reviewed periodically against CPI increases and other relevant data (such as expenditure from the Fund). | Agree – this would enable a significantly easier process to change the levy |
| Are there alternative collection methods that would improve levy collection? | | B4 |
| 24. | The CITB should increase the resources devoted to education and compliance. | Agree - with an increase to compliance only. |
| 25. | If the levy remains calculated according to project value, the South Australian Government should work with the CITB to identify reconciliation options for construction industry projects that are not captured by the usual planning approvals process. | Agree |

Allocation of funds obtained through the levy

Does section 32(3) of the CITF Act, which requires money for the provision of training to a given sector in “approximately the same proportion” as the amount contributed by that sector:

- *create barriers to holistic workforce and skills development across the building and construction industry?*
- *result in challenges addressing any particular areas of need such as upskilling, higher-level training, or cross-sector skilling?*

| No. | Propositions/Question | ToR |
|------------|---|---|
| 26. | A minimum of 60% of the CITB fund allocations to training activity should be allocated between each sector of the building and construction industry in approximately the same proportions as has been contributed to the Fund by that sector. The remainder of training funds may be allocated for holistic or cross-sector programs such as sector attraction and cross-sector development. | Agree |
| 27. | The CITB should allocate funding to administration activities such as research, data analysis, education and compliance. | Agree - We understand from experience this has always occurred and were not aware of recent Board decisions (note p28) to reduce this activity/function which we believe is counter productive to proper compliance with the Act |

Training plans

What impact does the requirement under Section 32(1) for the CITB to produce a training plan on an annual basis have on:

| No. | Propositions/Question | ToR |
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| | <ul style="list-style-type: none">• longer term workforce planning | D1 |
| | <ul style="list-style-type: none">• addressing longer term skills and workforce requirements• investment in multi-year projects or programs? | D2 |
| 28. | Government and the CITB should develop processes that facilitate information and market intelligence sharing in the formative stage of the development of a Training Plan | Agree |
| 29. | The annual planning cycle should be replaced by four-year rolling reviews of the overall strategic direction developed through the CITB's investment decisions, with capacity for annual adjustments and reallocation of funds. | Agree – we believe however a three (3) year period would be more appropriate. |

Consideration of other models to support industry outcomes

Are there any other models for supporting industry training and workforce development outcomes that the reviewer recommends to assist the Construction Industry Training Board achieve its objectives?

I do not know of any other model other than those applied to PLSL Funds across the country whereby some are purely remuneration based levies vs a project value-based model which is essentially the same as the current SA CITF arrangements.

SCSA does not support the implementation of a similar employment based levy for the purposes of industry training. Experience from the NT PLSL scheme has shown significant shortfalls in revenue when industry activity is greatly reduced which ironically is a time when employees are more available to upskill.

Closing Comments

SCSA thanks the Construction Industry Training Board for the opportunity to comment on the matters contained in the Issues Paper – December 2022 and welcomes this initiative to improve both the operation and governance of the CITB and collection and distribution of funding to assist the building and construction industry meet its important training needs.



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