

INDEPENDENT REVIEW OF THE STATE INDUSTRIAL RELATIONS SYSTEM TERMS OF REFERENCE

Background

Between 15%-30% of employees in Western Australia remain in the state industrial relations system following Commonwealth policy to regulate industrial relations for employers who are constitutional corporations and their employees.

It is estimated that most private sector employees in the State system are employed by small business.

It is desirable a State system meets the needs of these particular employers and employees.

The Western Australian Government has committed to an independent review of the State industrial relations system. The primary purpose of the review is to ensure that the State industrial relations system:

- (a) provides flexibility and productivity; and
- (b) is competitive with elements of the new federal industrial relations system.

Terms of reference

1. The review of the State industrial relations system should take into account the Federal Government's *Fair Work Act 2009* and identify:
 - (a) which elements of the *Fair Work Act 2009* should form part of a reformed State industrial relations system; and
 - (b) potential areas for harmonisation of State and federal industrial relations legislation.
2. The review of the State industrial relations system should specifically identify areas of legislative reform including but not limited to:
 - a) **unfair dismissal**, to reduce the regulatory burden on business (especially small business), to discourage vexatious and frivolous claims and to streamline the process for resolving claims;
 - b) **employment agreements**, to ensure they meet the genuine needs of employers and employees, whether individually or collectively, provide sufficient flexibility, and are administratively simple;
 - c) **State awards**, to ensure State awards meet the genuine needs of industry, provide individual employers and employees with sufficient flexibility and are simple to understand;
 - d) **union right of entry**, to ensure that right of entry provisions appropriately balance the interests of the industrial parties including the basis of entry and its exercise;

- e) **minimum wages**, to streamline the process for setting and adjusting minimum rates of pay;
 - f) **dispute resolution** to enable effective and efficient prevention and resolution of industrial and employment disputes, including by mediation under the *Employment Dispute Resolution Act 2008*;
 - g) **statutory minimum conditions of employment**, to ensure they meet the needs of contemporary workplaces;
3. The review should make recommendations with respect to existing structures including the WAIRC and the Coal Industry Tribunal of Western Australia.
 4. The review **must** consider the likely impact of any changes to the State industrial relations system on public sector employment.