Workplace Relations Framework Productivity Commission Draft Report August 2015. 
This is a draft report prepared for further public consultation and input. The Commission will finalise its report after these processes have taken place.Workplace Relations Framework Productivity Commission Draft Report August 2015.

This is a draft report prepared for further public consultation and input. The Commission will finalise its report after these processes have taken place.

Commonwealth of Australia 2015



Except for the Commonwealth Coat of Arms and content supplied by third parties, this copyright work is licensed under a Creative Commons Attribution 3.0 Australia licence. To view a copy of this licence, visit http://creativecommons.org/licenses/by/3.0/au. In essence, you are free to copy, communicate and adapt the work, as long as you attribute the work to the Productivity Commission (but not in any way that suggests the Commission endorses you or your use) and abide by the other licence terms.

Use of the Commonwealth Coat of Arms

For terms of use of the Coat of Arms visit the ‘It’s an Honour’ website: http://www.itsanhonour.gov.au

Third party copyright

Wherever a third party holds copyright in this material, the copyright remains with that party. Their permission may be required to use the material, please contact them directly.

Attribution

This work should be attributed as follows, *Source: Productivity Commission, Workplace Relations Framework, Draft Report*.

If you have adapted, modified or transformed this work in anyway, please use the following, *Source: based on Productivity Commission data, Workplace Relations Framework, Draft Report*.

An appropriate reference for this publication is:

Productivity Commission 2015, *Workplace Relations Framework*, Draft Report, Canberra

Publications enquiries

Media and Publications, phone: (03) 9653 2244 or email: maps@pc.gov.au

|  |
| --- |
| The Productivity Commission |
| The Productivity Commission is the Australian Government’s independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.  The Commission’s independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.  Further information on the Productivity Commission can be obtained from the Commission’s website (www.pc.gov.au). |
|  |

# Opportunity for further comment

You are invited to examine this draft and comment on it by written submission to the Productivity Commission, preferably in electronic format, by **18 September 2015**. Further information on how to provide a submission is included on the inquiry website http://www.pc.gov.au/inquiries/current/workplace-relations.

The final report will be prepared after further submissions have been received and public hearings have been held, and will be forwarded to the Australian Government by the end of November 2015.

### Public hearing dates and venues

|  |  |  |
| --- | --- | --- |
| **Location** | **Date** | **Venue** |
| Bendigo, VIC | Friday 4 September 2015 | TBC |
| Hobart, TAS | Monday 7 September 2015 | The Old Woolstore  1 Macquarie Street |
| Melbourne, VIC | Tuesday 8 September 2015 | Rattigan Room  Productivity Commission  Level 12, 530 Collins Street |
| Canberra, ACT | Friday 11 September 2015 | Hearing Room  Productivity Commission  Level 2, 15 Moore Street |
| Perth, WA | Monday 14 September 2015 | Hotel Mercure Perth  10 Irwin Street |
| Adelaide, SA | Tuesday 15 September 2015 | Stamford Plaza Adelaide  150 North Terrace |
| Sydney, NSW | Thursday 17 September 2015 | The Grace Hotel  77 York Street |
| Ipswich, QLD | Monday 21 September 2015 | TBC |

### Commissioners

For the purposes of this inquiry and draft report, in accordance with section 40 of the *Productivity Commission Act 1998* the powers of the Productivity Commission have been exercised by:

Peter Harris Presiding Commissioner

Patricia Scott Commissioner

# Terms of reference

WORKPLACE RELATIONS FRAMEWORK

***Productivity Commission Act 1998***

I, Joseph Benedict Hockey, Treasurer, pursuant to Parts 2 and 3 of the *Productivity Commission Act 1998*, hereby request that the Productivity Commission undertake an inquiry into the workplace relations framework.

**Background**

The Australian Government believes that it is fundamentally important to make sure that the Fair Work laws work for everyone.

Workplaces are important to our economy and society. Higher living standards, better pay and more jobs all depend on having fair, productive, and effective workplaces. The prosperity of tomorrow is driven by what happens in our workplaces today and this is why it is in our national interest to make sure that the Fair Work laws are balanced and effective.

The Australian Government’s objectives in commissioning this Inquiry are to examine the current operation of the Fair Work Laws and identify future options to improve the laws bearing in mind the need to ensure workers are protected and the need for business to be able to grow, prosper and employ.

**Scope of the Inquiry**

The Productivity Commission will assess the performance of the workplace relations framework, including the *Fair Work Act 2009*, focussing on key social and economic indicators important to the wellbeing, productivity and competitiveness of Australia and its people. A key consideration will be the capacity for the workplace relations framework to adapt over the longer term to issues arising due to structural adjustments and changes in the global economy.

In particular, the review will assess the impact of the workplace relations framework on matters including:

* unemployment, underemployment and job creation
* fair and equitable pay and conditions for employees, including the maintenance of a relevant safety net
* small businesses
* productivity, competitiveness and business investment
* the ability of business and the labour market to respond appropriately to changing economic conditions
* patterns of engagement in the labour market
* the ability for employers to flexibly manage and engage with their employees
* barriers to bargaining
* red tape and the compliance burden for employers
* industrial conflict and days lost due to industrial action
* appropriate scope for independent contracting.

In addition to assessing the overall impact of the workplace relations framework on these matters, the review should consider the Act’s performance against its stated aims and objects, and the impact on jobs, incomes and the economy. The review should examine the impact of the framework according to business size, region, and industry sector. It should also examine the experience of countries in the Organisation for Economic Co‑operation and Development.

The workplace relations framework encompasses the *Fair Work Act 2009*, including the institutions and instruments that operate under the Act; and the *Independent Contractors Act 2006*.

The review will make recommendations about how the laws can be improved to maximise outcomes for Australian employers, employees and the economy, bearing in mind the need to ensure workers are protected, the need for business to be able to grow, prosper and employ, and the need to reduce unnecessary and excessive regulation.

The Productivity Commission will identify and quantify, as far as possible, the full costs and benefits of its recommendations.

An overarching principle for any recommendations should be the need to ensure a framework to serve the country in the long term, given the level of legislative change in this area in recent years.

In conducting the review, the Productivity Commission will draw on the full spectrum of evidence sources including, but not limited to:

* Australian Bureau of Statistics data and publications
* data sources maintained by other relevant Government bodies, including but not limited to the Department of Employment, Fair Work Commission and Fair Work Ombudsman
* employers or their representatives
* employees or their representatives
* academia
* special interest groups.

The review should also identify gaps in the evidence base where further collection may assist in the analysis of the overall performance and impact of the system.

**Process**

The Commission is to undertake an appropriate public consultation process including holding hearings, inviting public submissions and releasing a draft report to the public.

The final report should be provided to the Government in November 2015.

J. B. HOCKEY

Treasurer

[Received 19 December 2014]

Contents

Opportunity for further comment iii

Terms of reference iv

Overview 1

1 Australia’s recent labour market performance does not suggest a dysfunctional system 9

2 Institutional reform 10

3 The safety net 13

4 Protecting employees 27

5 Enterprise bargaining 31

6 Individual arrangements 35

7 Industrial disputes and right of entry 39

Draft recommendations, findings and information requests 45