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| 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). |
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| 30 November 2015 | | | ***Melbourne Office***  Level 12, 530 Collins Street  Melbourne VIC 3000  Locked Bag 2 Collins Street East  Melbourne VIC 8003  Telephone 03 9653 2100  Facsimile 03 9653 2199  ***Canberra Office***  Telephone 02 6240 3200  www.pc.gov.au |

The Hon Scott Morrison MP

Treasurer

Parliament House

CANBERRA ACT 2600

Dear Treasurer

In accordance with Section 11 of the *Productivity Commission Act 1998*, we have pleasure in submitting to you the Commission’s final report into the *workplace relations framework*.

Yours sincerely

|  |  |
| --- | --- |
| Peter Harris' signature | Patricia Scott's signature |
| Peter Harris AO  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]

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# Abbreviations and explanations

Abbreviations

ABCC Australian Building and Construction Commission

ABS Australian Bureau of Statistics

ACAS Advisory, Conciliation and Arbitration Service

ACCC Australian Competition and Consumer Commission

ACCI Australian Chamber of Commerce and Industry

ACOSS Australian Council of Social Service

ACREW Australian Centre for Research in Employment and Work

ACTU Australian Council of Trade Unions

AHA Australian Hotels Association

AHRI Australian Human Resources Institute

AIRC Australian Industrial Relations Commission

ALAEA Australian Licenced Aircraft Engineers Association

AMMA Australian Metal and Mines Association

AMWU Australian Manufacturing Workers’ Union

ANAO Australian National Audit Office

ANZSIC Australian and New Zealand Standard Industrial Classification

APPEA Australian Petroleum Production & Exploration Association

APS Australian Public Service

APSC Australian Public Service Commission

AWA Australian Workplace Agreement

AWALI Australian Work and Life Index

AWRS Australian Workplace Relations Study

AWU Australian Workers Union

BCA Business Council of Australia

BOOT Better Off Overall Test

BRICS Brazil, Russia, India, China and South Africa

BRIT Bendigo Regional Institute of Technical and Further Education

CEPU Communications, Electrical, Electric ,Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia

CFMEU Construction, Forestry, Mining and Energy Union

CGE Computable General Equilibrium

CMS Case Management System

COAG Council of Australian Governments

COAT Council of Australasian Tribunals

COSBOA Council of Small Business Australia

CPI Consumer Price Index

CPSU Community and Public Sector Union

CURF Confidentialised Unit Record File

DEEWR Department of Education, Employment and Workplace Relations

DET Department of Education and Training

DFAT Department of Foreign Affairs and Trade

DIBP Department of Immigration and Border Protection

EA Enterprise Agreement

EBA Enterprise Bargaining Agreement

EITC Earned Income Tax Credit

EPL Employment Protection Legislation

FWA Fair Work Australia

FWAFB Fair Work Australia Full Bench

FWBC Fair Work Building and Construction

FWC Fair Work Commission

FWCFB Fair Work Commission Full Bench

FWO Fair Work Ombudsman

GDP Gross Domestic Product

HILDA Household, Income and Labour Dynamics in Australia

HR Human Resources

HSU Health Services Union

IFA Individual Flexibility Arrangement

ILO International Labour Organization

IR Industrial Relations

IRC Industrial Relations Commission

LITO Low Income Tax Offset

MBA Master Builders Australia

MUA Maritime Union of Australia

NAIRU Non-Accelerating Inflation Rate of Unemployment

NATSEM National Centre for Social and Economic Modelling

NBER National Bureau of Economic Research

NCC National Competition Council

NCOSS Council of Social Service of New South Wales

NES National Employment Standards

NTEU National Tertiary Education Union

OECD Organisation for Economic Cooperation and Development

OLS Ordinary Least Squares

PAYG Pay As You Go

PC Productivity Commission

PIR Post-Implementation Review

PISA Programme for International Student Assessment

PPP Purchasing Power Parity

QUT Queensland University of Technology

RBA Reserve Bank of Australia

SACES South Australian Centre for Economic Studies

TCF Textile, Clothing and Footwear

TCFUA Textile, Clothing and Footwear Union of Australia

TRYM Treasury Macroeconomic

TWU Transport Workers Union

UNSW University of New South Wales

VECCI Victorian Employers’ Chamber of Commerce and Industry

WAIRC Western Australian Industrial Relations Commission

WSC Workplace Standards Commission

WHS Workplace Health and Safety

WR Workplace Relations

WTO World Trade Organization

Explanations

|  |  |
| --- | --- |
| Billion | The convention used for a billion is a thousand million (109). |