



SIX-STEP PATH TO REFORM

*The IR system
must be tweaked
to expedite our
economic recovery*

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It is clear our economy is neither robust nor in good health. This threatens the strength of our communities and our ability to continue to lift living standards. Key indicators point to deteriorating national productivity being a major contributor to slowing growth and rising unemployment and underemployment.

As the Reserve Bank warned last Wednesday, interest rate cuts alone won't do the heavy lifting. A conversation about serious economic reform is needed now, more than ever.

Scott Morrison recently raised the need for business groups to make the case for industrial relations reform. On behalf of our members, peak business representative groups have argued time and again that balanced IR changes are necessary to drive the productivity growth that benefits employees, employers and jobseekers.

The announcement of a review into the system by Industrial Relations Minister Christian Porter is a sensible step to identify areas of concern and inefficiency. Here are some key priority areas we must address.

First, the Ensuring Integrity Bill needs to be passed. Registered organisations and their officials who comply with the law have nothing to fear from these measures. No one can be allowed to regard themselves as above the law, or to operate a business model where penalties for unlawful conduct are regarded as

simply the cost of doing business.

Second, the uncertainty and cost risks associated with the Federal Court's *WorkPac v Skene* decision need to be addressed through defining a casual employee in the Fair Work Act as "one engaged and paid as such". This is the longstanding definition in awards and is consistent with community understanding and industry practice.

The absence of a definition in the act led the court to decide that the common law meaning of a casual applies, which focuses on whether the work is regular and predictable. Today a large proportion of casuals work regular hours and 80 per cent work for small businesses.

Third, the "better off overall test" for enterprise agreements needs to be amended so it applies to logical groups of employees, not to every single employee, as the Productivity Commission has sensibly recommended. Today's test is not workable and a barrier to securing agreements.

Fourth, workers' entitlements in industry funds require better protection. The Proper Use of Worker Benefits Bill must be passed. Super funds are subject to stringent regulations, but other types of industry funds holding billions in workers' entitlements are not subject to appropriate governance standards.

Fifth, unfair dismissal and adverse action laws need to be reviewed. Employers who have a valid reason to terminate an employee should be able to have confidence their decision will not be overturned by the Fair Work Commission, or leave them open to potentially crippling compensation claims.

Sixth, enterprise agreements applying to major projects should be able to cover the life of the project's construction. The

maximum term for an agreement is four years but many projects take far longer. It is disruptive for bargaining over wages and conditions to occur at a critical stage of construction.

We do not seek a wholesale rewriting of the Fair Work Act. What we seek are a few key measures, backed by strong evidence, to make the system work better for everybody.

Unduly partisan politics has been a dead weight on substantial reform in recent years and has led in some cases to poor decision making and sometimes none. These issues should be front of mind for all our political leaders. With economic confidence low and unemployment on the rise, failing to act on productivity carries significant risks.

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