

Media Release – Murray Wilcox QC

9 October 2008

Consultations on the transition to Fair Work Australia for the building and construction industry – Release of Discussion Paper

Murray Wilcox QC, the former Federal Court judge advising the Minister for Employment and Workplace Relations, the Hon Julia Gillard MP, about the transition to a new building industry body, today issued a discussion paper highlighting issues for public debate. The new body, which will begin operations in early 2010, will be a specialist division of the Australian Government's new agency Fair Work Australia. It will replace the Australian Building and Construction Commission.

Since his appointment in June, Mr Wilcox has had meetings with over 100 senior industry stakeholders, mainly representatives of employers, unions and state governments, about the nature, structure and powers of the new body.

Announcing the release of the discussion paper, Mr Wilcox said 'Opinion is polarised on several issues. The paper sets out information and all the points of view. I hope it will help stakeholders grapple with their opponents' arguments and give me reasoned submissions that will assist me in making my recommendations to the Minister.'

Mr Wilcox said the most controversial question is whether the Government should retain the building industry legislation passed by the former Coalition Government in response to the 2003 report of the Cole Royal Commission. This includes special rules that impose heavy penalties on employees and unions for taking industrial action except during bargaining periods.

The legislation also permits the ABCC to summons any person to give evidence about possible unlawful conduct in the building industry, including an unauthorised strike. It is an offence, punishable by up to six months' imprisonment, for a person to fail to attend or refuse to give evidence.

Commenting on the building legislation, Mr Wilcox said 'These rules treat building workers more harshly than people in other industries. However, many employers argue they are necessary in order to maintain industrial peace and high productivity in the building industry. I am looking for hard evidence about that.'

The paper suggests that, if the special powers are given to the new body, safeguards would be desirable. Mr Wilcox examines the possibility of requiring endorsement by a divisional supervisory board, or the President of Fair Work Australia, before the powers are used. The option of having external monitoring by an independent person, as is the case with the Victorian Office of Police Integrity is also canvassed.

Mr Wilcox has called for public submissions, to be lodged by 5 December. The paper is available online at www.workplace.gov.au/wilcox

Media Contact:

DEEWR Media Team

media@deewr.gov.au

Non-media queries: 1300 363 079