GOVERNMENT RESPONSE TO THE REPORT OF THE SENATE EMPLOYMENT, WORKPLACE RELATIONS AND EDUCATION REFERENCES COMMITTEE

"BEYOND COLE- THE FUTURE OF THE CONSTRUCTION INDUSTRY: CONFRONTATION OR COOPERATION?"

December 2005

GOVERNMENT RESPONSE TO *"BEYOND COLE- THE FUTURE OF THE CONSTRUCTION INDUSTRY: CONFRONTATION OR COOPERATION?"*

BACKGROUND

The Senate Employment, Workplace Relations and Education References Committee ('the Committee') tabled its report *Beyond Cole - The Future of the Construction Industry: Confrontation or Cooperation?* ('the Report') on 21 June 2004.

The reference was made in October 2003, following the Government's introduction of the *Building and Construction Industry Improvement Bill 2003* (BCII Bill). A number of matters were referred, including the provisions of the BCII Bill; whether the BCII Bill was consistent with international obligations; and the findings of the Royal Commission into the Building and Construction Industry ('the Royal Commission').

The Committee's Report consisted of a Majority Report, a Minority Report and a report from the Australian Democrats members of the Committee.

EXECUTIVE SUMMARY

The Australian Government has considered the Report put forward by the Committee and disagrees with a number of the Committee's findings and recommendations. The Australian Government believes the recommendations contained in the Majority Report are unsubstantiated and do not adequately reflect the building and construction industry in Australia.

While the Australian Government contests the recommendations of the Majority Report, a number of recommendations in the Australian Democrats report have since been addressed by the passage of the *Workplace Relations Amendment (Codifying Contempt Offences) Act 2004* and the *Workplace Relations Amendment (Work Choices) Act 2005* (see Democrat Recommendations 8, 10 and 16).

The Australian Government rejects the Chair's assertion that it failed 'to win the confidence of either most industry stakeholders or the Senate in pursuit of this policy.' Following the release of the final report of the Royal Commission, the Australian Government engaged in extensive consultation with industry regarding the Royal Commission's findings and recommendations. The Government's response to the Royal Commission was developed in consultation with industry participants and governments. The Government's reform package has the strong support of industry participants.

The Australian Government is committed to reforming this $50 billion industry. To that end, the Government introduced the *Building and Construction Industry Improvement Act 2005* (BCII Act) which received Royal Assent on 12 September 2005. The

Government also introduced the *Building and Construction Industry Improvement (Consequential and Transitional) Act 2005.*

The BCII Act:

- establishes the Office of the Australian Building and Construction Commissioner (ABCC), an independent statutory agency tasked with enforcing workplace relations law on building sites;
- uses the purchasing power of the Australian Government to drive occupational health and safety (OHS) improvements in the industry through the Office of the Federal Safety Commissioner (FSC) and Australian Government OHS accreditation scheme;
- prohibits and penalises unlawful industrial action; and
- provides a means of referring matters to other agencies and bodies such as the Australian Federal Police (AFP) and State police, Australian Taxation Office (ATO) and the Australian Competition and Consumer Commission (ACCC).

The Australian Government's response to the specific recommendations in the Majority Report and Australian Democrats' Report is set out below.

MAJORITY REPORT RECOMMENDATIONS

Recommendation 1:

The committee majority recommends that the Building and Construction Industry Improvement Bill be opposed by the Senate.

Response:

The Australian Government rejects this recommendation. The Australian Government is committed to reforming the building and construction industry.

The Royal Commission made significant findings of lawlessness in the industry, providing an unassailable case for reforming the building industry. The Royal Commission made 212 recommendations to improve the building and construction industry.

The *Building and Construction Industry Improvement Act 2005* (BCII Act) received Royal Assent on 12 September 2005. Unlawful industrial action provisions of the BCII Act took effect from 9 March 2005. The BCII Act:

- establishes the ABCC, an independent statutory agency tasked with enforcing workplace relations law on building sites;
- addresses unacceptable safety performance through the work of the FSC;
- provides sanctions for unlawful industrial action; and
- provides a means of referring matters to other agencies and bodies such as the AFP and State police, ATO and the ACCC.

Recommendation 2:

The committee majority recommends that the increased powers for royal commissions, recommended in the final report of the Cole Royal Commission, be resisted in the Senate should amending legislation be introduced.

Response:

The Government will take into account the views expressed by the Senate Committee when considering any proposals for amendment of the *Royal Commissions Act 1902*.

Recommendation 3:

The committee majority recommends, in view of its concerns regarding natural justice, that the Senate refer to its Legal and Constitutional Affairs Committee the question of whether amendments should be made to the Royal Commissions Act 1902, to ensure that procedures of royal commissions accord with principles of natural justice and give due protection of the reputations of people whose prosecution is recommended but against whom no charges are laid.

Response:

The Government will take into account the views expressed by the Senate Committee when considering proposals to amend the *Royal Commissions Act 1902*. Any additional views expressed by the Senate Legal and Constitutional Affairs Committee would also be considered by the Government at that time.

Recommendation 4:

The committee majority recommends that the Government promote cultural change throughout the industry by encouraging states to institute tripartite industry councils at state level. The Victorian model could be used as an exemplar. Associated with this, the committee majority also recommends the establishment of an overarching tripartite national body, working to a ministerial council, to implement a broad program of agreed reform in the building and construction industry.

Response:

The Australian Government strongly disagrees with this recommendation.

The Royal Commission found this model ineffective in the past in facilitating the cultural and structural changes needed to reform the building and construction industry. In his final report, Commissioner Cole cited the need for a separate body, that 'if the culture in the building and construction industry is to change ... there needs to be an independent properly resourced entity which will vigorously uphold the law.'

The assertion that the Victorian building and construction industry model could be used as an exemplar is not reflected in a better workplace relations environment, as indicated by Australian Bureau of Statistics industrial disputes data. In 2004, the Victorian construction industry recorded 338 working days lost per thousand employees (WDL/1000E), compared to 224 WDL/1000E for the national construction industry; and 46 WDL/1000E for all industries nationwide.

Recommendation 5:

The committee majority recommends that corporations law be amended to enable more effective prosecution of perpetrators of phoenix companies; and that in association with this, the Government work with state governments to negotiate their legislating for stringent registration laws applying to partnerships and trusts.

Response:

On 12 October 2005, the Government announced an integrated package of reforms to improve the operation of Australia's insolvency laws. The package proposes a number of reforms, including the establishment of a fund to finance preliminary investigations of 'assetless' companies to curb fraudulent phoenix activity.

The Government will allocate $23 million over four years to establish an 'assetless administration' fund and complementary enforcement programme by the Australian Securities and Investments Commission (ASIC). The fund will finance preliminary investigations by expert liquidators of companies, selected by ASIC, that have been left insolvent with little or no assets.

Implementation of the Assetless Administration Fund will commence immediately, with applications for funding by liquidators being accepted from early 2006 when the fund becomes operational.

To support the assetless administration fund, it is also proposed that the privilege against exposure to a penalty be abrogated in proceedings where ASIC is seeking disqualification or banning orders and no other penalty. This would restore the longstanding interpretation of the applicability of the privilege, which was overturned by the High Court of Australia in the 2004 Rich case (Rich v Australian Securities and Investments Commission (2004) 209 ALR 271). This will allow ASIC to move quickly to disqualify directors engaged in phoenix activity, to protect creditors and legitimate competitors.

In addition, administrators' reports will be required to include 'any other matter material to the creditors' decision'. This would assist in ensuring that creditors, when making their decision at the second meeting, are made aware of matters such as a right of recovery against the director(s) of the company for insolvent trading.

Exposure draft legislation will be prepared in consultation with industry groups. It is anticipated that legislation will be circulated for public comment in early 2006 and a bill introduced later that year.

The Government has also implemented a number of the Royal Commission's recommendations regarding phoenix company activity, including:

- an increase from 10 to 20 years to the maximum period of disqualification of persons from managing corporations for insolvency and non-payment of debts implements recommendations from the Royal Commission and will offer investors greater protection from those who operate fraudulent phoenix companies; and

- a working party established by the Government to closely examine privacy issues that have been raised by the Royal Commission regarding greater information sharing between ASIC, the ATO and State and Territory revenue authorities.

Recommendation 6:

The committee majority recommends that in view of the impending abolition of the National Occupational Health and Safety Commission, state construction industry councils, whose establishment is recommended in this report, be asked to give priority to continuing the development of national safety codes for the construction industry.

Response:

In October 2005 the National Occupational Health and Safety Commission (NOHSC) was replaced by a new advisory body - the Australian Safety and Compensation Council (ASCC). The ASCC will continue the work on a national approach to OHS and establish a national approach to workers' compensation. Although the ASCC is an advisory body, it will retain the power, through legislation, to develop and declare national OHS standards and codes of practice.

At its April 2005 meeting, NOHSC declared the *National Standard for Construction Work* [NOHSC:1016 (2005)]. This national standard is intended to be adopted by the Australian, state and territory governments in their OHS legislation. The Workplace Relations Ministers' Council (WRMC) endorsed the declaration of the standard and agreed to an implementation timeframe of two years for commercial construction and three years for the housing sector.

The implementation of the *National Standard for Construction Work* will be supported by a series of national codes of practice that provide further guidance in achieving the standard. ASCC is currently developing national codes of practice for:

- the prevention of falls in construction work: this work is being drafted as two codes, one for general construction work, and one specific to housing construction;
- construction induction training; and
- tilt-up concrete construction work.

In addition to the construction industry-specific codes, ASCC is also responsible for a number of other national standards, codes of practice and guidance materials which contribute to improving safety in the construction industry.

These include:

- national standard for certification of users and operators of industrial equipment (under review);
- national standard for plant (under review);
- national standard and code of practice for workplace chemicals (under review);

- national codes of practice for labelling (under review) and safety data sheets;
- national standard and code of practice for noise;
- national standard for manual tasks, and code of practice for manual tasks relating to prevention of workplace musculoskeletal disorders;
- asbestos prohibition, codes of practice; for the management and control, and the safe removal, of asbestos, and guidance on atmospheric measurement of asbestos;
- Silica National Exposure Standard (recently revised); and
- revised national exposure standards for three forms of crystalline silica.

Following declaration of the national codes of practice for falls, construction induction training and tilt-up concrete construction work, WRMC will be asked to endorse the codes of practice. It is expected that the Australian, state and territory governments will adopt these codes of practice into their occupational health and safety legislation, and thereby move towards a nationally consistent regulatory framework for health and safety in the construction industry.

DEMOCRAT REPORT RECOMMENDATIONS

Recommendation 1: Right of Entry

Applicants for right of entry permits to be required to demonstrate a knowledge of the rights and obligations associated with the permit;

- **The Registry be requested to develop, in consultation with union and employer bodies, a code of practice governing the right of entry;**
- **Implement a two tiered approach where on serious industrial issues or where there is dispute about the right of entry, an independent third party, such as an inspector, is called to arbitrate the matter;**
- **Increase penalties to right of entry provisions under the WR Act 1996, to act as a deterrent.**

Response:

The right of entry provisions of the BCII Bill 2003 are not included in the BCII Act 2005.

The Government has introduced a single, more effective right of entry regime under the *Workplace Relations Amendment (Work Choices) Act 2005.*

These amendments to the WR Act include:

- providing for tighter requirements for granting an entry permit, including the introduction of a 'fit and proper person' test;
- requiring a union official to provide the employer with particulars of the breach that is intended to be investigated;
- allowing for entry permits to be suspended or limited by the Australian Industrial Relations Commission (AIRC) as an alternative to outright revocation for less serious instances of improper behaviour; and
- limiting occurrence of systematic abuse of right of entry laws by enabling the AIRC to revoke or suspend all permits that may have been issued to an organisation if the AIRC is satisfied that an organisation, or one of its officials, has engaged in such conduct. Given the gravity of this sanction, only the President of the AIRC, a Presidential Member nominated by the President or the Full Bench will be able to exercise this power.

With respect to increased penalties, the *Workplace Relations Amendment (Codifying Contempt Offences) Act 2004* increased the penalty provisions relating to right of entry.

Recommendation 2: Secret Ballots

- **Require trade unions to have within their rules secret ballot provisions which the members can activate when the members think it appropriate**

Response:

The secret ballot provisions of the BCII Bill 2003 are not included in the BCII Act 2005.

Secret ballots have been introduced under the *Workplace Relations Amendment (Work Choices) Act 2005*.

This amendment to the WR Act requires a secret ballot be conducted before protected industrial action can be taken. Employees or their union(s) will apply to the AIRC for a secret ballot order.

An application for a secret ballot will only be able to be made:

- after the expiry of the existing agreement;
- if a bargaining period has been notified to the AIRC; and
- the proposed industrial action is not for the purpose of supporting or advancing claims to include prohibited content in the proposed agreement.

The Australian Electoral Commission and other authorised ballot agents (which may be unions but in that case the appointment of an authorised independent advisor will be required) will conduct the secret ballots. The Australian Government will cover 80% of the cost of the ballot. The other 20% must be covered by either the employees or their union(s) who made the application for the ballot.

Recommendation 3: Dispute mechanisms

- **Amend the WRA to require all agreements to provide effective dispute resolution mechanisms, which allow the AIRC to arbitrate disputes.**

Response:

The Australian Government does not accept this recommendation.

The Australian Government believes employers and employees should resolve workplace disputes themselves. To support greater flexibility and choice for workplace dispute resolution the *Workplace Relations Amendment (Work Choices) Act 2005* introduces new dispute resolution processes, and clarifies roles and responsibilities for the participants in dispute resolution processes.

Among the key reforms, the amendments to the WR Act provides for a model dispute resolution process for use when a workplace agreement is lodged without specific dispute resolution arrangements. The model dispute resolution process also applies in relation to awards and particular statutory entitlements.

Under this model process, the disputing parties may agree that the AIRC should provide assistance in resolving a dispute. Alternatively, the parties may agree to use a private dispute resolution provider. If the parties are unable to agree about dispute resolution assistance within a reasonable timeframe, the AIRC would be the 'default' provider of dispute resolution assistance.

In addition, the parties may agree about whether it is appropriate for their particular dispute to be arbitrated. However the WR Act does not presume that arbitration is the best outcome. The WR Act accommodates other dispute resolution techniques like mediation or conciliation, as chosen by the parties to the dispute.

If the parties include specific dispute resolution arrangements in their workplace agreement, these arrangements may confer the dispute resolution powers on the AIRC. The parties may agree that it is appropriate for the AIRC to finally determine a dispute, but the WR Act does not require arbitration of disputes.

The focus of the new provisions in the WR Act is to encourage parties to attempt to resolve the dispute between themselves, either at the workplace level or with the assistance of a third party of their choice.

Recommendation 4: Agreement making

- **Reject provisions to ban pattern bargaining in the building and construction industry and instead amend the Workplace Relations Act to enable genuine project agreements to be reached and certified for major projects.**

Response:

The Government is committed to ensuring employees and employers have genuine choice in agreement making.

The BCII Act provides that project agreements are unenforceable, to the extent that they relate to building employees, unless certified under the WR Act. The BCII Act does, however, allow a transition period for project agreements created under State jurisdiction. The transition period is three years from the date the BCII Act commenced (i.e. 12 September 2005).

The WR Act allows multiple business agreements where two or more businesses are carrying on the same type of business and wish to offer their employees the same working conditions, such as franchises. Under the *Workplace Relations Amendment (Work Choices) Act 2005*, the OEA will assess and authorise each multiple business agreement, prior to lodgement, to ensure that it is not contrary to the public interest.

Recommendation 5: BCII Bills

- **Oppose the Building and Construction Industry Improvement Bills.**

Response:

See response Majority Report Recommendation 1.

Recommendation 6: Regulator

- **Oppose the creation of the Australian Building Industry Commissioner.**

- **Establish an independent National Workplace Relations Regulator.**

Response:

The Australian Government does not support these recommendations. The Government considers arrangements for the enforcement of workplace relations laws generally are adequate.

The Royal Commission found that the Australian building and construction industry is unique in that it is characterised by a failure to uphold the rule of law. To address this, the Royal Commission identified the need for a single, dedicated regulator to ensure industry participants operate within the law.

The BCII Act provides for the establishment of the ABCC which commenced operations on 1 October 2005. The ABCC enforces federal workplace relations laws on building sites with inspectors (ABC Inspectors) regularly and proactively visiting building sites to ensure the WR Act and the BCII Act are not being breached.

The ABCC also works with the building and construction industry to encourage, inform and advise industry participants on their rights and obligations under the workplace relations and building laws, the consequences of breaching the law and the benefits of abiding by the law.

The ABCC is tasked with:

- enforcing the provisions of the BCII Act and WR Act, including investigating reports of unlawful practices and behaviours;
- maintaining an active presence on construction worksites;
- providing advice and assistance on the application of the BCII Act, WR Act, and federal awards and agreements;
- acting promptly on unlawful industrial action, including seeking injunctions;
- commencing court proceedings in response to breaches of the BCII Act and the WR Act;
- providing representation where appropriate to employers and employees to promote enforcement of the law; and
- protecting employee entitlements, combating tax evasion and fraudulent phoenix companies by referring matters to other relevant agencies and bodies such as the AFP and State police, ATO and the ACCC. The ABCC has offices in major capital cities and these key offices service nearby regional areas.

Recommendation 7:

- **Merit based appointment provisions be included in any legislation created to establish a National Workplace Relations Regulator.**

Response:

The Australian Government does not support this recommendation as it does not support the recommendation for the establishment of a National Workplace Relations Regulator.

Recommendation 8:

- **Increase penalty provisions 3 fold in the Workplace Relations Act to act as a deterrent to facilitate greater compliance.**

Response:

This recommendation has been implemented with the passage of the *Workplace Relations (Codifying Contempt Offences) Act 2004*.

Recommendation 9:

- **Provide the AIRC with powers to make 'good faith' bargaining orders;**

- **Increase the capacity for the AIRC to resolve disputes on its own motion and increased resources to ensure timely resolution of disputes;**

- **Remove limits on the subject matters on which the Australian Industrial Relations Commission can make determinations.**

Response:

The Government does not accept this recommendation.

The WR Act is based on the principle that employers and employees (and, where appropriate, unions) are in the best position to agree on appropriate terms and conditions of employment and the appropriate process for making agreements, provided the parties act lawfully. Similarly, employers and employees should be primarily responsible for settling any dispute that may arise in their workplace.

Enabling the AIRC to make orders in relation to good faith bargaining, or to resolve disputes at its own initiative, would generally be inconsistent with the principal object of the WR Act. Provided the parties agree, the AIRC may continue to assist through dispute resolution during collective bargaining, or in relation to the operation of an award, workplace agreement, or statutory entitlement that applies to their relationship. It will be up to the parties to decide the type and extent of assistance they need from the AIRC (or any other dispute resolution provider).

The AIRC will also continue to have an integral role supervising industrial action. The AIRC may prevent or stop unprotected industrial action, or protected industrial action that is threatening to endanger life, personal safety, health or welfare, or to cause significant economic damage.

Further, removing limits on the subject matters is contrary to the Government's commitment that the role of the award system is as a safety net of minimum wages and conditions.

Recommendation 10:

- **Insert Whistleblower provisions in the Workplace Relations Act 1996.**

Response:

This recommendation has been implemented with the passage of the *Workplace Relations (Codifying Contempt Offences) Act 2004.*

Recommendation 11:

- **The Government consider legislating a definition of employee into the Workplace Relations Act 1996.**

Response:

The Government considers that the current common law based definition of employee in the WR Act should remain, as it provides flexibility that cannot be gained from a statutory definition. This accords with the view that abandoning the common law in favour of a statutory definition will only serve to generate another area of litigation concerning who is and is not an employee. This would add further complexity to this area of the law.

Recommendation 12:

- **That the Building Industry Task Force play a more active role in pursuing under-payment of employee entitlements;**

- **That section 178, imposition and recovery of penalties of the WR Act 1996, relating to breaches of awards and agreement should be better enforced; and**

- **That section 178 of the WR Act 1996, should be increased three fold to act as a greater deterrent.**

Response:

The Australian Government does not support the view that there is inadequate enforcement of the recovery of employee entitlements.

The Government recognises that the majority of employers who breach their industrial obligations do so out of ignorance, rather than deliberately. The emphasis of the Department of Employment and Workplace Relations (DEWR) in dealing with these issues is therefore on voluntary compliance. Around 95 per cent of compliance cases with at least one identified breach were settled in 2003-04 without the need to litigate – the vast majority by voluntary compliance. Of the remaining five per cent, most were settled by small claims actions, with the residual being approved for prosecution by the Department. There is no monetary limit for investigating or prosecuting employers.

The Department also initiated an employee entitlements education and compliance campaign in the building and construction industry in June 2004 in New South Wales, Victoria and Western Australia. The education phase has been finalised. It included newspaper advertisements, letters to employer organisations and letters to 34,000 individual employers. The compliance phase entailed an inspection of the time and wages records of over 300 employers. Of those employers who were in breach of their award, agreement or the WR Act, the great majority were of a minor technical nature, relating to pay records and payslips. Where monetary breaches have been found, they have been minor. DEWR has followed-up these breaches, and only one employer to date has failed to voluntarily rectify the breach. Given most of the breaches can be attributed to poor record keeping, DEWR will run a national education campaign, in consultation with employer groups, on the keeping of records in the building and construction industry. In addition, record keeping information on WageNet will be enhanced.

In relation to the proposal to increase penalties, this was implemented with the passage of the *Workplace Relations (Codifying Contempt Offences) Act 2004.*

Recommendation 13:

- **Implement recommendations of the Parliamentary Joint Committee on Corporations and Financial Services into Australia's Insolvency Laws.**

Response:

The Government tabled its response to the Parliamentary Joint Committee on Corporations and Financial Services (PJC) inquiry *Corporate Insolvency Laws: a Stocktake* on 13 October 2005.

Further to the response to Majority Report Recommendation 5, the proposed 'assetless administration' fund and the proposed amendment to the requirements for administrators' reports implement PJC recommendations 28 and 17 respectively.

Recommendation 14:

- **No entity or individual may donate more than $100 000 per annum (in cash or kind) to political parties, independents or candidates, or to any person or entity on the understanding that it will be passed on to political parties, independents or candidates.**

- **Additional disclosure requirements to apply to Political Parties, Independents and Candidates:**
  - **Any donation of over $10 000 to a political party should be disclosed within a short period (at least quarterly) to the Electoral Commission who should publish it on their website so that it can be made public straight away, rather than leaving it until an annual return;**

  - **Professional fundraising must be subject to the same disclosure rules that apply in the Act to donations.**

- **The Commonwealth Electoral Act 1918 should specifically prohibit donations that have 'strings attached'.**

- **The Corporations, Workplace and other laws be amended so that either:**

  - **Shareholders of companies and members of registered organisations (or any other organisational body such as mutuals) must approve a political donations policy at least once every three years; or in the alternative**

  - **Shareholders of companies and members of registered organisations (or any other organisational body such as mutuals) must approve political donations proposals at the annual general meeting.**

- **Where the AEC conducts elections for registered and other organisations, the same provisions governing disclosure of donations for political organisations should apply.**

Response:

The Joint Standing Committee on Electoral Matters (JSCEM) is currently conducting an inquiry into the disclosure of donations to political parties and candidates. The Government will consider its response to that Committee's inquiry once it has been finalised and the report has been tabled.

Recommendation 15:

- **That the Commonwealth Electoral Act 1918 and the Workplace Relations Act be amended as appropriate to ensure democratic control remains vested in the members of political parties. Specifically with respect to registered organisations to:**

    - **Prohibit the affiliation, or maintenance of affiliation, of a federally or State registered employee or employer organisation with a political party unless a secret ballot of members authorising the affiliation has been held at least once in a federal electoral cycle;**

    - **Require a simple majority of members voting to approve affiliation to a political party, subject to a quorum requirement being met.**

Response:

The JSCEM is currently conducting an inquiry into the disclosure of donations to political parties and candidates. The Government will consider its response to that Committee's inquiry once it has been finalised and the report has been tabled.

Recommendation 16:

- **Establish a national unitary industrial relations system.**

Response:

The Australian Government believes that Australia will benefit from having a national unified industrial relations system. The concurrent regulation of workplace relations by Federal and State laws can make it difficult for industry participants to know their rights and obligations, and can lead to laws being disregarded or flouted. Progress towards a unified national system is vital to address these complexities and inefficiencies affecting both direct stakeholders and the economy at large and has been substantially addressed by the *Workplace Relations Amendment (Work Choices) Act 2005.*

The problems associated with multiple regulation by Federal and State laws of workplace relations matters, such as union right of entry, were recognised by the Cole Royal Commission. The Royal Commission recommended that entry and inspection provisions in building-specific federal legislation be implemented to the full extent of the Commonwealth's Constitutional power. To that end, the Government has introduced a single more effective right of entry regime under the *Workplace Relations Amendment (Work Choices) Act 2005* (see response to Democrat Recommendation 1).

These measures are consistent with the general approach the Government has so far taken to achieve a more unified national system. In the absence of agreement and referral of powers by the States, the Government has so far pursued its objectives through incremental legislative amendment reliant on a range of constitutional powers including the corporations power.