

Lawyers fear IRC is review's real target

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BARRISTERS fear the NSW government is rushing ahead with plans to restructure the state's tribunals because it is motivated by a political desire to bring down the Industrial Relations Commission.

Leading administrative law specialist Mark Robinson SC said before the government attempted to reform the present system, it needed to conduct a comprehensive survey of the tribunals that existed in NSW.

Mr Robinson said it was not known how many tribunals or quasi-judicial bodies there were in the state, let alone how to accommodate them in any restructure. On one lawyer's count, they could number more than 50.

The lawyer, who did not wish to be named, said the situation was a "complete mess". No one knew how many tribunals there were, how much money was spent running them or how well they did their job, he said.

Mr Robinson said while he was in favour of rationalising those

existing bodies, members of the legal profession were concerned the government was rushing reforms without doing the necessary groundwork.

"There is a fear that the pretext for the amalgamation of tribunals ... might be to annihilate the last vestiges of an icon of the unions and possibly the Labor Party, namely the Industrial Relations Commission," Mr Robinson said.

An 11-page issues paper released last month presented three high-level options for reform but contained limited analysis of the

existing system. One option was to establish a new super-tribunal, modelled on the Victorian Civil and Administrative Tribunal, an amalgamation of many existing tribunals and boards.

This could involve scrapping the IRC. A division of the new super-tribunal could handle industrial disputes, while a new division of the Supreme Court could absorb the IRC's judges.

The issues paper said the IRC would lose half its workload when new national occupational health and safety laws were introduced

next year, which could lead to IRC judges being "severely under-utilised".

The IRC lost much of its jurisdiction with the introduction of the Fair Work Act.

Mr Robinson said the government needed to allocate proper funding for any new tribunal, provide for legal representation for litigants, and give it an appropriate status and quality staff.

Barrister Ingmar Taylor, who represents unions and business clients in the IRC, said some lawyers believed the government

"would not be unhappy" to further limit the IRC's role. "My own view is that it would be a crying shame for a proud body with a significant history, over 100 years old, to be effectively disbanded by becoming a subdivision of an administrative tribunal," Mr Taylor said.

He said it would instead be preferable for the government to fold other bodies that handled employment and disciplinary matters into the IRC to ensure it had a sufficient workload. This is one option the government has put on the table.

Public Service Association of NSW general secretary John Cahill said the union was preparing a submission to the review but was not necessarily opposed to the IRC being subsumed by a larger super-tribunal. "As long as all its current powers are retained, it wouldn't really matter," he said.

NSW Attorney-General Greg Smith said the review was aimed at delivering the best tribunal system for NSW. "It is not intended as anything other than a blueprint for an efficient system of administrative law," he said.