

CHAPTER 1

Introduction and background

Referral

1.1 On 19 March 2015, the Hon. Christopher Pyne, MP, Minister for Education and Training, introduced the Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2] (the bill) in the House of Representatives.¹

1.2 On 14 May 2015, pursuant to a report of the Senate Standing Committee for Selection of Bills, the Senate referred the provisions of the Bill to the Education and Employment Legislation Committee (the committee) for inquiry and report by 11 August 2015.²

History of the bill

1.3 On 14 November 2013, the Fair Work (Registered Organisations) Amendment Bill 2013 (the first bill) was referred to the committee for inquiry and report.³ The report, tabled in December 2013, was supportive of the first bill and recommended its passage subject to four other recommendations in relation to certain provisions.⁴ The government subsequently tabled amendments giving effect to those recommendations; however, the bill and the proposed amendments were negatived in the Senate.

1.4 On 19 June 2014, the first bill was re-introduced as the Fair Work (Registered Organisations) Amendment Bill 2014 (the second bill). The second bill was not re-drafted to incorporate the proposed amendments, but they were tabled alongside it. The second bill passed the House of Representatives but was again negatived in the Senate.

1.5 The current bill has been re-drafted to incorporate the proposed amendments, but is otherwise identical to the first and second bills.

Scope and conduct of the inquiry

1.6 Details of the inquiry were made available on the committee's website. The committee also advertised the inquiry in *The Australian* and wrote to key stakeholder groups, organisations and individuals to invite submissions. The committee received 11 submissions as detailed in Appendix 1. No public hearings were held.

1 *Votes and Proceedings*, No. 107, 19 March 2015, p. 1211.

2 *Journals of the Senate*, No. 94, 14 May 2015, pp 2598–2599.

3 *Journals of the Senate*, No. 94, 14 May 2015, pp 2598–2599.

4 Senate Education and Employment Legislation Committee, *Fair Work (Registered Organisations) Amendment Bill 2013 [Provisions]*, December 2013.

1.7 The substance of the bill was examined in detail in the committee's report on the first bill. This report focuses only on the subsequent amendments to that bill and should be read concurrently with the previous report.

Overview of the bill

1.8 The bill, which is comprised of two schedules, seeks to amend the *Fair Work Act 2009* (Fair Work Act) and the *Fair Work (Registered Organisations) Act 2009* (RO Act) to improve the governance and oversight of registered organisations following widely publicised misconduct by Health Services Union officials.⁵

1.9 A registered organisation is an employee or employer association registered by the Fair Work Commission under the RO Act. Registration grants an association certain rights and privileges in representing its members' interests; in exchange, the organisation must comply with various conditions and obligations. There are currently 112 registered organisations in Australia, of which 66 represent employers and 46 represent employees.

Schedule 1

1.10 Part 1 of Schedule 1 establishes the Registered Organisations Commission (the Commission), an independent statutory authority to monitor and regulate registered organisations. The Commission is to be headed by the Registered Organisations Commissioner (the Commissioner), whose functions and powers are based on those of the General Manager of the Fair Work Commission as well as those set out in the *Australian Securities and Investments Commission Act 2001*.⁶ Part 1 sets out the terms and conditions of the Commissioner's appointment and provides for staff from the Office of the Fair Work Ombudsman to assist the Commissioner as directed.

1.11 Part 2 of Schedule 1 consists of the necessary consequential, transitional and savings provisions.

Schedule 2

1.12 Part 1 of Schedule 2 alters the reporting and disclosure obligations of registered organisations and their officers, increases the civil penalties for non-compliance and introduces new criminal offences for the most serious contraventions. The obligations and penalties are largely analogous to what is imposed on companies and their directors under the *Corporations Act 2001* (the Corporations Act).⁷

1.13 Part 2 of Schedule 2 consists of the necessary consequential, transitional and savings provisions.

5 Explanatory memorandum, *Fair Work (Registered Organisations) Amendment Bill 2014* [No. 2], p. i.

6 Explanatory memorandum, *Fair Work (Registered Organisations) Amendment Bill 2014* [No. 2], pp. i, 2 and 11.

7 Explanatory memorandum, *Fair Work (Registered Organisations) Amendment Bill 2014* [No. 2], p. ii.

Financial impact statement

1.14 There is no budgetary cost to the government.⁸

1.15 The Regulatory Impact Statement estimates the compliance cost for each registered organisation to be about \$1 275 per year on average.⁹

Consideration of the bill by other committees

1.16 The Committee notes that the provisions of this Bill and its predecessor have previously been referred to the Senate Standing Committee on the Scrutiny of Bills and the Parliamentary Joint Committee on Human Rights. The Committee sees no need to revisit the deliberations of those two committees in this report, but notes those reports and the government's previous responses.

Acknowledgement

1.17 The committee thanks the organisations that contributed to the inquiry by preparing written submissions.

8 Explanatory memorandum, *Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2]*, p. xviii.

9 Explanatory memorandum, *Fair Work (Registered Organisations) Amendment Bill 2014 [No. 2]*, p. xxvi.

