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29 August 2019

Committee Secretary
Senate Education and Employment Committees
PO Box 6100
Parliament House
Canberra ACT 2600

Via email: eec.sen@aph.gov.au

ENSURING INTEGRITY BILL SUBMISSION

A. INTRODUCTION

1. The South Australian branch of the CPSU (SPSF Group) has members who work in the South Australian State Public Service. Our members work to keep our communities safe, protect our unique environment, educate our children, heal us when we are sick and plan for our future. We have represented State Public Service employees in South Australia since 1885.
2. We make this supplementary submission to the one made by our Federal Office of the SPSF Group to highlight the concerns of a small Branch on the effect this Bill will have on our ability to continue to represent State Public Service employees in South Australia.
3. We are a democratic, transparent and accountable organization. We are member led and governed by a Committee of Management (Branch Council) elected from our membership.
4. The Committee should be aware that apart from our elected Branch Secretary and Assistant Branch Secretary, the Committee of Management of the Branch (Council) are all honorary officials. They stand for office and participate once elected, for no other motivation than to act in the interests of members. They dutifully, and with due diligence, apply themselves to their functions under the rules.
5. This Bill continues a pattern of compliance that is based on a false analogy between company directors and honorary officials of a Union Committee of Management. Company Directors are usually paid significant sitting fees to compensate for their responsibilities and liabilities.
6. A more relevant comparison for an honorary union official would be the Committee of Management of a local surf club or football club. Volunteering of this type is at the heart of many of our most loved institutions and greatly adds to the social capital of our Nation.
7. It is already difficult to encourage members to stand for election to honorary officer roles. Changes to governance and compliance obligations in recent years along with the risk of civil and criminal prosecutions and fines is a strong disincentive. The Ensuring Integrity Bill will worsen this situation.

B. UNDERSTANDING THE ROLE AND COMMITMENT OF OUR HONORARY OFFICIALS

8. The Committee of Management of the South Australian branch is known as the Council. The Council comprises the officers and councillors elected by the members. There are nine officers who are members of the branch Executive. The President, five Vice Presidents, Branch Secretary, Assistant Branch Secretary and Treasurer. The Council is made up of the members of the branch Executive, plus an additional twelve Councillors.
9. The Council meets monthly up to three hours and between meetings of Council, the Officers meet as an Executive Committee monthly for up to three hours. Some of the officers are also elected to roles in the Federated union and therefore required to attend meetings interstate quarterly.
10. The only paid officials are the full time roles of Branch Secretary and Assistant Branch Secretary. All other roles are honorary. Some employers allow elected officials to attend official meetings in paid time, but most honorary officials work additional hours to cover their periods of absence to undertake their honorary function. Their roles also require them to attend and participate in union activities which may be held at night or on weekends.
11. Honorary officials are required to undertake training in union governance and compliance and make regular disclosures regarding remuneration, payments to related parties or declared person and personal interests.
12. These are onerous and time-consuming roles that are in most cases performed in addition to full-time work.
13. As a Branch that represents around 11,000 members, we have 54 staff and run a lean administration. Like all unions we face a huge compliance obligation that is constantly changing and very technical in nature.

C. LOW HURDLE FOR ACTION

14. We are concerned that the trigger for some of the serious processes under this Bill including disqualification of an officer, placing the union into administration, deregistration or the prevention of an amalgamation can be for relatively low level breaches.

15. Liability attaches to a “designated finding” of a breach of any civil penalty provisions under the *Fair Work Act 2009* or *Fair Work (Registered Organisations) Act 2009*. Some of the civil penalty provisions in these Acts are disproportionately high considering real world consequences of the breaches, such as:

- failure to provide the AEC with a declaration that the membership register is maintained in accordance with the Fair Work Act;
- a failure to provide a statement of membership on request of a member within 28 days;
- late filing of financial or other records;
- officer changing office and is unable to complete the required financial training within six months;
- the contravention of an award or agreement;
- contravention of a bargaining order;
- failure to return a right of entry permit on expiry;
- failure to give 24 hours’ notice of exercise of a State or Territory WHS right of entry.

D. THE EFFECT OF THIS BILL ON HONORARY OFFICIALS

16. The serious consequences for these low-level civil penalty provisions will further discourage volunteers from nominating to election for offices in the Union.
17. The Bill will take the compliance responsibilities of honorary Committee of Management members way beyond those of Company Directors under the Corporations Law.
18. The consequences of breaches of civil penalty provisions are not proportional with the conduct. These disproportional consequences are paired with the ability (unknown in the Corporations Law) for persons with little connection with the union (as a person with a “sufficient interest”) to bring these proceedings. The governance responsibilities of volunteer officers to ensure compliance will be too great.
19. We are at a tipping point where the onerous compliance burdens on volunteers begin to outweigh the service benefits of volunteering.
20. The Committee should think seriously about the work our volunteer Committee of Management officers perform. The governance responsibilities under the existing law are already extreme. If this Bill becomes law, it will reduce the range of people who are willing to take up these roles which is bad for democracy.

Yours sincerely

Neville Kitchin
General Secretary



Community & Public Sector Union
Civil Service Association of WA

Community & Public Sector Union SPSF Group, WA Branch, Civil Service Association of WA (Inc.)

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Ensuring Integrity Bill WA Branch Submission

A. INTRODUCTION

1. The Western Australian Branch of the CPSU (SPSF Group) has members who work in the Western Australian State Service, in government owned businesses and in some parts of the private sector. Our members work to keep our communities safe, protect our unique environment, educate our children, heal us when we are sick and plan for our future. We have represented State Service employees in Western Australia since 1901.
2. We make this supplementary submission to the one made by our Federal Office of the SPSF Group to highlight the concerns of the Branch on the effect this Bill will have on our ability to continue to represent State Service employees in Western Australia.
3. We are a democratic, transparent and accountable organization. We are member led and governed by Branch Council elected from our membership.
4. We advise the Committee that our elected Branch Secretary and Branch Assistant Secretary hold full time paid positions, the President, two Vice Presidents and the Treasurer receive a small honorarium, and the remainder of the members of the Branch Council are volunteers. They stand for office and participate once elected, for no other motivation than to act in the interests of members. They dutifully, and with due diligence, apply themselves to their functions under the rules.
5. Comparing the role of a volunteer official of a Branch Council [or one receiving a small honorarium] with the role of a Company Director is ridiculous. Company Directors are usually paid handsome sitting fees to compensate for their responsibilities. This Bill continues a pattern of compliance that is based on a false analogy between company directors and union officers.
6. A more relevant comparison for a volunteer honorary union official [or one receiving a small honorarium] would be the Committee of Management of a local surf club or football club. Volunteering of this type is at the heart of many of our most loved institutions and greatly adds to the social capital of our Nation.
7. It is already difficult to encourage members to stand for election to official roles. Changes to governance and compliance obligations in recent years along with the risk of civil and criminal prosecutions and fines is a strong disincentive. The Ensuring Integrity Bill will worsen this situation.



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B. UNDERSTANDING THE ROLE AND COMMITMENT OF OUR OFFICIALS

8. The ruling body of the Western Australian Branch is known as the Branch Council. Currently, the Council comprises the officers and councilors elected by the members. There are six officers (President, two Vice Presidents, Branch Secretary, Branch Assistant Secretary and Treasurer), and sixteen Councillors.
9. The Council meets monthly, and between meetings of Council the Officers meet as an Executive Committee, monthly for about three hours. Some of the officers are also elected to roles in the Federated union and therefore required to attend meetings interstate quarterly.
10. The Branch Secretary and Branch Assistant Secretary are the only full time paid officials. The President, two Vice Presidents and the Treasurer receive a small honorarium. All other office holders roles are volunteers. Some employers allow elected officials to attend official meetings in paid time, but most officials work additional hours to cover their periods of absence to undertake their functions. Their roles also require them to attend and participate in union activities often held at night or on weekends.
11. All office holders are required to undertake training in union governance and compliance and make regular disclosures regarding remuneration, payments to related parties or declared person and personal interests.
12. These are onerous and time-consuming roles that are in most cases performed in addition to full-time work.
13. As a Branch that represents around 12,500 members, we run a very lean administration. We have a significant degree of single person dependency. Like all unions we face a huge compliance obligation that is constantly changing and very technical in nature. It is therefore very easy for us to miss a reporting deadline or to make some other minor technical breach that have the potential to breach a civil penalty provisions under the *Fair Work Act 2009* or *Fair Work (Registered Organisations) Act 2009*.

C. LOW HURDLE FOR ACTION

14. We are concerned that the trigger for some of the serious processes under this Bill including disqualification of an official, placing the union into administration, deregistration or the prevention of an amalgamation can be for relatively low level breaches.

Liability attaches to a “designated finding” of a breach of any civil penalty provisions under the *Fair Work Act 2009* or *Fair Work (Registered Organisations) Act 2009*. Some



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of the civil penalty provisions in these Acts are for low level activity that have almost no real world consequence such as:

- failure to provide the AEC with a declaration that the membership register is maintained in accordance with the Fair Work Act;
- A failure to provide a statement of membership on request of a member within 28 days;
- Late filing of financial or other records;
- Officer changing office and is unable to complete the required financial training within six months;
- The contravention of an award or agreement;
- Contravention of a bargaining order;
- Failure to return a right of entry permit on expiry;
- Failure to give 24 hours' notice of exercise of a State or Territory WHS right of entry.

D. THE EFFECT OF THIS BILL ON VOLUNTEER OFFICIALS AND THOSE RECEIVING SMALL HONORARIUMS

15. The serious consequences for these low-level civil penalty provisions will further discourage volunteers from nominating to election for offices in the Union.
16. The Bill will take the compliance responsibilities of Council and the Committee of Management members way beyond those of Company Directors under the Corporations Law.
17. The consequences of breaches of civil penalty provisions are not proportional with the conduct. These disproportional consequences are paired with the ability (unknown in the Corporations Law) for persons with little connection with the union (as a person with a "sufficient interest") to bring these proceedings. The governance responsibilities of volunteer officers to ensure compliance will be too great.
18. We are at a tipping point where the onerous compliance burdens on volunteers begin to outweigh the service benefits of volunteering.
19. The Committee should think seriously about the work our volunteers perform. The governance responsibilities under the existing law are already extreme. If this Bill becomes law, it will reduce the range of people who are willing to take up these roles which is bad for democracy and civil society.

CONTACT

Rikki Hendon
Branch Secretary

**FAIR WORK (REGISTERED ORGANISATIONS) AMENDMENT
(ENSURING INTEGRITY) BILL 2019**

Submission by the West Australian Prison Officers' Union



INTRODUCTION

1. The WA Prison Officers' Union (WAPOU) covers Prison Officers in all prisons in Western Australia, including those employed by the Department of Justice, Serco and Sodexo. Our members work to keep our communities safe, and contribute to the rehabilitation of prisoners in their custody, with a view to enabling them to go on to be productive members of society. We have represented Prison Officers since 1934.
2. We make this supplementary submission to that made by our Federal Office of the SPSF Group, to highlight the concerns of a small Branch on the effect this Bill will have on our ability to continue to represent Prison Officers in Western Australia.
3. We are a democratic, transparent and accountable organisation. We are member led and governed by a Committee of Management elected from our membership.
4. The Committee should be aware that apart from our elected Secretary and Assistant Secretary, the members of the Committee of Management are all honorary officials. They stand for office and participate once elected, for no other motivation than to act in the interests of members. They dutifully, and with due diligence, apply themselves to their functions under the rules.
5. Comparing the role of an honorary official of a Committee of Management with the role of a Company Director is ridiculous. Company Directors are usually paid handsome sitting fees to compensate for their responsibilities. This Bill continues a pattern of compliance that is based on a false analogy between company directors and union officers.
6. A more relevant comparison for an honorary union official would be the Committee of Management of a local surf club or football club. Volunteering of this type is at the heart of many of our most loved institutions and greatly adds to the social capital of our Nation.
7. It is already difficult to encourage members to stand for election to honorary officer roles. Changes to governance and compliance obligations in recent years along with the risk of civil and criminal prosecutions and fines is a strong disincentive. The Ensuring Integrity Bill will worsen this situation.

A. UNDERSTANDING THE ROLE AND COMMITMENT OF OUR HONORARY OFFICIALS

8. The Committee of Management of WAPOU is known as the State Council. The State Council comprises the officers of the Executive Committee and delegates elected by the members. There are eight officers (the President, Vice President, Branch Secretary, Assistant Branch Secretary, Treasurer and three additional Executive officers) and up to 36 delegates representing members from numerous worksites throughout Western Australia, including prisons, the training academy, drug detection unit and special operations group.

9. The State Council meets monthly, and between meetings of Council the officers elected to the Executive meet monthly as a Committee, for the best part of a day. Some of the officers are at times required to represent WAPOU at meetings of the Federated union, by monthly teleconference, and quarterly meetings, involving interstate travel.
10. The only paid officials are the Branch Secretary and Assistant Branch Secretary. All other roles are honorary. Some employers allow elected officials to attend official meetings in paid time, but most honorary officials work additional hours to cover their periods of absence to prepare for, and undertake their honorary function. Their roles also require them to attend and participate in union activities often held at night or on weekends.
11. Honorary officials are required to undertake training in union governance and compliance and make regular disclosures regarding remuneration, payments to related parties or declared person and personal interests.
12. These are onerous and time-consuming roles, performed in addition to full-time work. Given the staffing pressures in prisons in Western Australia, officers are regularly undertaking this work on top of working additional hours to ensure the safe running of prisons. Most Prison Officers in Western Australia work twelve hour shifts. This is demanding work in dangerous environments, with consequently high levels of stress and health issues. This context makes the contribution of elected officials particularly notable, to the extent they are going above and beyond for the welfare of their colleagues.
13. As a small Union that represents under 3000 members, we have 9 staff and run a very lean administration. We have a significant degree of single person dependency. Like all unions we face a huge compliance obligation that is constantly changing and very technical in nature. It is therefore very easy for us to miss a reporting deadline or to make some other minor technical breach that has the potential to breach civil penalty provisions under the *Fair Work Act 2009* or *Fair Work (Registered Organisations) Act 2009*.

B. LOW HURDLE FOR ACTION

14. We are concerned that the trigger for some of the serious processes under this Bill including disqualification of an officer, placing the union into administration, deregistration or the prevention of an amalgamation, can be for relatively low level breaches.

Liability attaches to a “designated finding” of a breach of any civil penalty provisions under the *Fair Work Act 2009* or *Fair Work (Registered Organisations) Act 2009*. Some of the civil penalty provisions in these Acts are for low level activity and have almost no real world consequence such as:

- Failure to provide the AEC with a declaration that the membership register is maintained in accordance with the Fair Work Act;
- Failure to provide a statement of membership on request of a member within 28 days;
- Late filing of financial or other records;

- An Officer changing office being unable to complete the required financial training within six months;
- The contravention of an award or agreement;
- Contravention of a bargaining order;
- Failure to return a right of entry permit on expiry;
- Failure to give 24 hours' notice of exercise of a State or Territory WHS right of entry.

C. THE EFFECT OF THIS BILL ON HONORARY OFFICIALS

15. The serious consequences for these low-level civil penalty provisions will further discourage volunteers from nominating to election for offices in the Union.
16. The proposed legislation equates the most serious of crimes with the most trivial breaches, which do not imply malice, intent, or any moral or ethical shortcoming. The inappropriate pairing of these matters creates a perceived threat for the average union member, when considering the implications of performing an honorary role. A perception their inadvertent, individual actions or inaction could lead to dire consequences for themselves or their union, creates a significant barrier to participation – eroding their rights, their capacity to represent fellow workers, and trust in the fairness of the system.
17. The Bill will take the compliance responsibilities of honorary Committee of Management members way beyond those of Company Directors under the Corporations Law.
18. The consequences of breaches of civil penalty provisions are not proportional with the conduct. These disproportional consequences are paired with the ability (unknown in the Corporations Law) for persons with little connection with the union (such as a person with a “sufficient interest”) to bring these proceedings. The governance responsibilities of volunteer officers to ensure compliance will be too great.
19. We are at a tipping point where the onerous compliance burdens on volunteers begin to outweigh the service benefits of volunteering.
20. The Committee should think seriously about the work our volunteer Committee of Management officers perform. The governance responsibilities under the existing law are already extreme. If this Bill becomes law, it will reduce the range of people who are willing to take up these roles which is bad for democracy.

D. CONCLUSION

21. The Bill represents a drastic shift which, if it becomes law, would see great damage done to Freedom of Association in Australia, and would relegate this country to the unsavoury company of oppressive regimes we ordinarily distance ourselves from. The implications of the Bill enshrine an anti-worker, anti-freedom sentiment that is out of step with community values.

In a time where positive changes in the realm of personal freedoms are being witnessed in marriage equality, assisted dying, and reproductive rights, this Bill marks a sharp departure from the widely held belief Australians enjoy freedoms comparable to those of similar advanced liberal democracies. Much like recent speculations Australia may be the world's most secretive democracy, following AFP raids on journalists and the stifling of media freedom, this Bill represents a further slide toward disturbing levels of state interference.

22. An inherent contradiction exists within the proposed legislation, on the one hand establishing 'the best interests of the members of the organisation as a whole' as a basis for a union successfully opposing its deregistration, while simultaneously proposing measures that irrefutably undermine the rights and interests of union members. Actively creating an environment that inhibits participation in elected positions, degrades democracy, threatens disproportionate sanctions in response to minor breaches, and invites a plethora of aggressive legal actions from employers, ministers, and 'sufficiently interested' parties, attacks not protects the best interests of union members. Tying up union resources in response to scatter-gun claims and applications, including a range of 'alternative remedies', will prevent workers' union dues being best deployed to serve their interests.
23. In the absence of evidence there is a need for these laws that cannot already be satisfied by the significant existing powers and criminal legislation, there can be no justification for such a dramatic infraction of the rights of ordinary working people.
24. We recommend the submissions of the CPSU (SPSF) to the Committee.



Community and Public Sector Union

CPSU (State Public Services Federation Tasmania) Inc. - CPSU (SPSF Group, Tasmanian Branch)

Submission of the CPSU/SPSF Group Tasmanian Branch to the Senate Education and Employment Committee, Inquiry into the *Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019.*

**Tom Lynch
Branch Secretary
CPSU (SPSF Group, Tasmanian Branch)
28 August 2019**

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Community and Public Sector Union

CPSU (State Public Services Federation Tasmania) Inc. - CPSU (SPSF Group, Tasmanian Branch)

ENSURING INTEGRITY BILL BRANCH TEMPLATE SUBMISSION

A. INTRODUCTION

1. The Tasmanian Branch of the CPSU (SPSF Group) has members who work in the Tasmanian State Service, in government owned businesses and at the University of Tasmania. Our members work to keep our communities safe, protect our unique environment, educate our children, heal us when we are sick and plan for our future. We have represented State Service employees in Tasmania since 1897.
2. We make this supplementary submission to the one made by our Federal Office of the SPSF Group to highlight the concerns of a small Branch on the effect this Bill will have on our ability to continue to represent State Service employees in Tasmania.
3. We are a democratic, transparent and accountable organization. We are member led and governed by a Committee of Management elected from our membership.
4. The Committee should be aware that apart from our elected Secretary and Assistant Secretary, the Committee of Management of the Branch are all honorary officials. They stand for office and participate once elected, for no other motivation than to act in the interests of members. They dutifully, and with due diligence, apply themselves to their functions under the rules.
5. Comparing the role of an honorary official of a Union Committee of Management with the role of a Company Director is ridiculous. Company Directors are usually paid handsome sitting fees to compensate for their responsibilities. This Bill continues a pattern of compliance that is based on a false analogy between company directors and union officers.
6. A more relevant comparison for an honorary union official would be the Committee of Management of a local surf club or football club. Volunteering of this type is at the heart of many of our most loved institutions and greatly adds to the social capital of our Nation.
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Community and Public Sector Union

CPSU (State Public Services Federation Tasmania) Inc. - CPSU (SPSF Group, Tasmanian Branch)

B. UNDERSTANDING THE ROLE AND COMMITMENT OF OUR HONORARY OFFICIALS

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9. The Council meets six weekly for a full day and between meetings of Council the Officers meet as an Executive Committee monthly for about three hours. Some of the officers are also elected to roles in the Federated union and therefore required to attend meetings interstate quarterly.
10. The only paid officials are the Branch Secretary and Assistant Branch Secretary. All other roles are honorary. Some employers allow elected officials to attend official meetings in paid time, but most honorary officials work additional hours to cover their periods of absence to undertake their honorary function. Their roles also require them to attend and participate in union activities often held at night or on weekends.
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D. THE EFFECT OF THIS BILL ON HONORARY OFFICIALS

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