



26 June 2015

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

Dear Committee Secretary

Fair Work (Registered Organisations) Amendment Bill 2014 [No.2]

The Senate Standing Committee on Education and Employment (**Senate Committee**) has invited interested parties to make submissions in relation to the *Fair Work (Registered Organisations) Amendment Bill 2015 [No.2] (the Bill)*.

The Chamber of Commerce and Industry WA (**CCIWA**) welcomes the opportunity to make submissions to the Senate Committee. CCIWA is the leading business association in Western Australia, and with over 9,000 members is one of the largest organisations of its kind in Australia.

CCIWA agrees that the proposed amendments to the *Fair Work (Registered Organisations) Act 2009 (RO Act)* are required to ensure better governance of registered organisations. Further, we believe that the regulation of registered organisations needs to recognise the requirement of such organisations to act in the best interests of their members. This is especially important given the level of trust that members place in these organisations, particularly in the case of trade unions where employees are limited in their ability to choose the organisation that represents them.

As highlighted in the Explanatory Memorandum to the Bill, registered organisations manage significant financial resources on behalf of their members and there is a high member and community expectation that the management of those resources will be undertaken in a responsible, transparent and accountable manner.

CCIWA submits that it is therefore appropriate that members of registered organisations have at least the same protections as those afforded to shareholders. In fact, members of registered organisations have more at stake. Their representative organisation serves a purpose that is broader than just providing a return on investment. Such organisations primarily exist to provide advocacy and representation for their members in industrial relations matters and more broadly.

The need for further regulation of governance of registered organisations has been highlighted in the recent proceedings of the *Royal Commission Inquiry into Trade Union Governance and Corruption*. Evidence of alleged trade union corruption and poor governance is clear, with it becoming increasingly apparent that the current regulatory framework is not sufficient to deter unions from acting against the best interests of their members.

The statutory rights afforded to registered organisations through the RO Act and *Fair Work Act 2009* (Cth) further strengthen the need to ensure the good governance of such organisations. In particular, employee organisations are afforded the right to enter the premises of employers. Such statutory rights are normally limited to government appointed inspectors and police officers whose behaviour is highly regulated and monitored.

However, there are numerous examples of union right of entry breaches, which often lead to industrial disputation. The behaviour, attitude and conduct of many union officials when exercising right of entry is indicative of the ineffectiveness of current regulation and financial penalties. It is not reflective of the behaviour that would be expected of a person or body who has the privilege of certain statutory rights as a result of their registration.

CCIWA therefore supports the Bill and its alignment of the obligations and accountabilities of registered organisations with those placed on corporations through the *Corporations Act 2001*. It is also necessary to have in place appropriate penalties, both civil and criminal, to act as an effective deterrent against registered organisations failing to comply with their responsibilities and disclosure requirements.

Further, civil and criminal penalties are only effective in deterring behaviour where they can be enforced. Given the limited ability for members of registered organisations to take their own action, CCIWA believes the establishment of the Registered Organisations Commission as the primary monitoring and enforcement body is essential. This is vital to ensuring that breaches of the RO Act can be pursued through investigation and litigation where necessary. A significant limitation of the current system is that not only does the Fair Work Commission (FWC) have limited enforcement powers resulting in no significant deterrent for non-compliance, but the multiple duties of the FWC Registry means that it is not able to provide sufficient focus on this matter. A dedicated body is therefore necessary.

Lastly, CCIWA welcomes the Government's recognition of the concerns raised by various interested parties in the Senate Committee's inquiry into the *Fair Work (Registered Organisations) Amendment Bill 2013*. These concerns have been addressed in the Bill, primarily through:

- Providing that only disclosing officers, whose duties relate to financial management of the organisation, are required to disclose material personal interests;

- Removing the requirement on officers to disclose the material personal interests of their relatives;
- Requiring that disclosure only needs to be made to the organisation's committee of management, rather than the broader membership base;
- The introduction of several exceptions to the requirement for officers to disclose their material personal interests; and
- Providing the ability for financial officers with relevant experience to apply for an exemption from the approved governance training.

CCIWA therefore believes that the Bill in its current form provides the regulation required to ensure better governance of registered organisations, and would operate to protect the interests of their members.

Thank you for the opportunity to provide this submission. If you require any further information please do not hesitate to contact Paul Moss, IR Policy Manager,

Yours sincerely

Deidre Willmott
Chief Executive Officer