

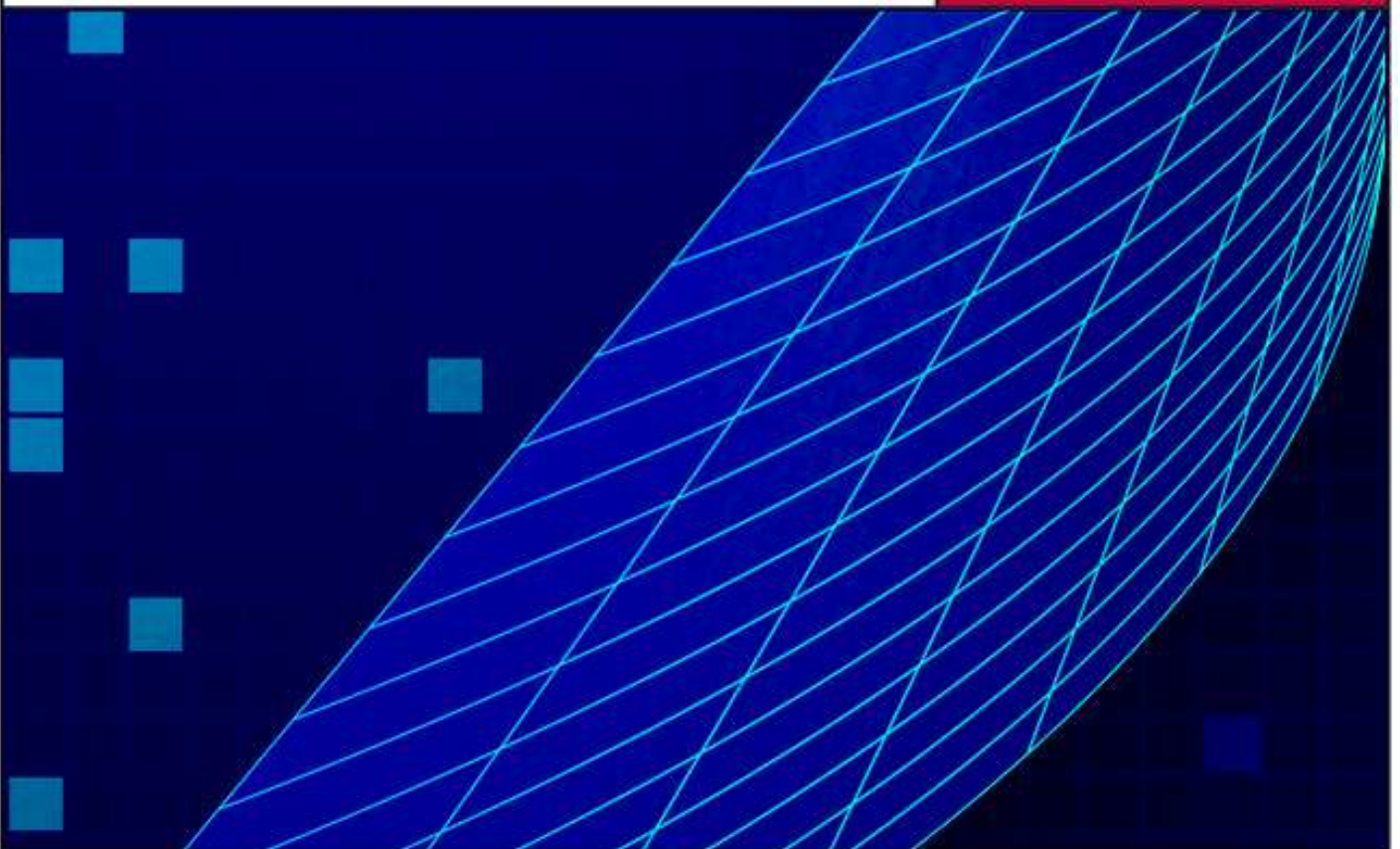
**SUBMISSION TO THE SENATE EDUCATION,
EMPLOYMENT AND WORKPLACE
RELATIONS LEGISLATION COMMITTEE**



**FAIR WORK (REGISTERED ORGANISATIONS)
AMENDMENT (TOWARDS TRANSPARENCY) BILL 2012**



13 February 2013



FAIR WORK (REGISTERED ORGANISATIONS) AMENDMENT (TOWARDS TRANSPARENCY) BILL 2012

Introduction

Registered organisations of employers and employees play a very important role in Australia, both in representing their members' interests and in contributing to vital community objectives such as the need to maintain a productive, flexible and fair workplace relations system.

The Senate Committee is well aware of the important role that registered organisations play, for example in analysing the impacts of proposed legislative amendments, writing detailed submissions and appearing at public hearings.

Overwhelmingly the officials and staff of registered organisations of employers and employees are dedicated and ethical people who work very hard for the benefit of their members, their industries and the broader community. For example, the Chief Executives and other senior executives of large and small Ai Group Member companies who sit on Ai Group's National Executive and State Branch Councils give up a great deal of their time for no remuneration.

It is important that legislation governing registered organisations remains balanced and appropriate and that inappropriate and/or unlawful conduct within one organisation is not used as an excuse to impose unfair laws or an excessive compliance burden upon all registered organisations.

Ai Group's predecessor organisations were first registered in the NSW industrial relations system in 1901 and federally in 1926. We have maintained continuous registration ever since.

The terms of the *Fair Work (Registered Organisations) Act 2009* were agreed upon between the then Coalition Government and the ALP Opposition a decade ago.

Up to 30 June 2009 the provisions were contained within a schedule to the *Workplace Relations Act 1996*. From 1 July 2009, the *Workplace Relations Act 1996* was amended to change its name to the *Fair Work (Registered Organisations) Act 2009* and all former provisions of the Act, other than the provisions dealing with the regulation of registered organisations, were removed.

Recent changes to the *Fair Work (Registered Organisations) Act 2009*

The *Fair Work (Registered Organisations) Act 2009* was recently amended through the *Fair Work (Registered Organisations) Act 2012*. The amending act received Royal Assent on 29 June 2012. Ai Group supported the amendments given the deficiencies highlighted by the Fair Work Commission's (FWC's) investigations into the Health Services Union.

The *Fair Work (Registered Organisations) Act 2012* is in two Parts. Part 1 operates from Royal Assent and is already in operation. Part 2 commences from a date to be proclaimed or 29 June 2013. It appears that Part 2 will operate from 29 June 2013 given than an earlier date has not yet been proclaimed and registered organisations will need the period up to 29 June 2013 to amend their rules to ensure compliance with the legislation.

Part 1 of the legislation includes provisions dealing with the following matters:

- Empowering the General Manager of the FWC to approve training for officers of organisations;
- Implementing higher penalties for breaches of the *Fair Work (Registered Organisations) Act 2009*;

- Expanding the powers of the General Manager of the FWC in relation to the investigation of suspected breaches of the Act; and
- Enabling the General Manager of the FWC to approve registered organisation rule changes during the transition period (ie. the period between Part 1 commencing operation and Part 2 commencing operation).

Part 2 of the legislation includes provisions which require that the rules of a registered organisation:

- Provide for the disclosure of remuneration, as well as pecuniary and financial interests of officers of the organisation; and
- Require that approved training be provided to officers of the organisation whose duties relate to the financial management of the organisation.

Ai Group's position on the *Fair Work (Registered Organisations) Amendment (Towards Transparency) Bill 2012*

Ai Group supports the objectives of the *Fair Work (Registered Organisations) Amendment (Towards Transparency) Bill 2012* as set out in the Explanatory Memorandum. That is:

- To increase financial transparency and accountability;
- To ensure that members of registered organisations are protected and that the conduct and actions of officers and employees of registered organisations are in the best interests of their members;
- To ensure that there is a strong deterrent in place to prevent a recurrence of the kinds of wrongdoing found by the FWC in its reports into the Health Services Union.

These objectives appear to be the same as the objectives of the *Fair Work (Registered Organisations) Act 2012*, which in large part will not be operative until 29 June 2013.

Ai Group and other registered organisations are currently devoting substantial resources to amending their rules and associated arrangements to ensure compliance with the new legislation.

Ai Group regards the *Fair Work (Registered Organisations) Amendment (Towards Transparency) Bill 2012* as premature, when the *Fair Work (Registered Organisations) Act 2012* has not yet been fully implemented.

Accordingly, we recommend that the Bill not be passed at this stage. The effectiveness of the *Fair Work (Registered Organisations) Act 2012* needs to be monitored. If it becomes apparent that the legislative amendments passed by Parliament last year are inadequate, further amendments should be made to the legislation to address the problems.