



FSU Submission

FAIR WORK (REGISTERED ORGANISATIONS) AMENDMENT (ENSURING INTEGRITY) BILL 2017



FINANCE SECTOR UNION

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To: **Committee Secretary**
Senate Education and Employment Committees
PO Box 6100
Parliament House
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SUBJECT: FAIR WORK (REGISTERED ORGANISATIONS) AMENDMENT (ENSURING INTEGRITY) BILL 2017.

Dear Chair

I write as the National Secretary of the Finance Sector Union of Australia, and thank you for the opportunity to make a submission to your inquiry on the above bill.

Our white-collar union represents more than 30 000 bank workers in Australia's largest sector. Our members are predominantly female, and many bank employees work part time or as casuals.

As an industrial organisation, we are proud of our successes in negotiating better wages and conditions for members. Of course, these benefits flow on directly to non-members, and the broader economy. The committee will have noted Reserve Bank Governor Lowe's remarks earlier this year, which explicitly referred to the link between relative workplace bargaining strength and wage stagnation in some sectors.

Aside from campaigning for improved wages and conditions, we are also active in campaigning against domestic violence and for greater integrity in the banking sector. As a union, we see our role as advocating for those individuals and causes that reduce inequalities, and add value to the broader Australian community and social fabric.

Our members are committed to the provision of good banking services and an ethical industry, and we share community frustrations when examples of poor process and conduct are unveiled.

Importantly, it is worth noting that our members take industrial action extremely rarely.

Consistent with our values, we are deeply concerned about the Fair Work (Registered Organisations) Amendment Bill (Ensuring Integrity) 2017.

Our strong view is:

1. The bill is fundamentally anti – democratic;
2. The bill creates one set of rules for not-for-profit organisations, and another set of rules for the big end of town.

In sequence, we provide detailed concerns below.

ANTI- DEMOCRATIC NATURE OF THE BILL

The bill seeks to prescribe the way trade unions may operate, and interferes with the right of freedom of association. The United Nations Universal Declaration of Human Rights specifically recognises the rights of workers to establish, run and join unions, or other organised labour.

Further, the bill breaches the Freedom of Association and Protection of the Right to Organise Convention 1948 (No.87) (International Labour Organisation Convention 87), which provides for the rights of workers (and their employers) to draw up their own constitutions and rules, elect representatives, and organise their administration independently.

These principles are the basis of good democracies. Healthy democracies do not have to stifle dissent through military or legislative force.

Simply put, these provisions will have the impact of reducing Australia's international moral standing.

ONE SET OF RULES FOR NOT FOR PROFITS, ANOTHER SET OF RULES FOR THE BIG END OF TOWN

The Heydon inquiry into organised labour made multiple recommendations, largely based on the principal of applying the same, or similar, standards and expectation as those that apply to corporations, and which are set out in the Corporations Act.

This bill goes beyond the reaches of the Corporation Act. By way of example, provisions relating to the disqualification of an officer go well beyond the 'fit and proper' person test of the Corporations Act. An application for disqualification can be made by the Commissioner, the Minister or a 'person with sufficient interest'. There are no safeguards against frivolous or vexatious claims.

In addition, the grounds for disqualification provide for 'any event' being considered in which someone is a fit and proper person, effectively reversing the onus.

To be crystal clear that the bill goes beyond the provisions of the Corporations Act, penalties for a disqualified person continuing to hold office or influence a registered organisation are DOUBLE those provided for in the Corporations Act.

Additionally, standards for the cancellation of a registration of an organisation go far beyond the Corporations Act. In general, standing for an application to wind up a corporation lies with a creditor, a contributor, a director, liquidator or the regulator. Under this bill, the Minister or any person with a 'sufficient interest' can make an application.

Similarly, with regard putting an organisation into administration, (including the holding of elections) the bill empowers a court to consider matters that may be 'contrary to the interest of the members' or a part thereof. Unions, like any democratic organisation, are fora for the healthy contest of ideas. It is not unusual for groups of members to have differing views about matters, whilst still believing on the overall direction and values of the union. It is not appropriate that courts intervene in matters that are best left to be resolved by internal democratic processes.

With regards amalgamations of unions, the bill provides far more stringent standards in the proposed public interest test. The requirement to take into account compliance matters, without discretion, would create a situation in which penalties or obstruction of an amalgamation may be out of all measure to the compliance breaches.

All of these matters are concerning for the broader union movement. They would also apply to other registered organisations who may be unwittingly caught up on the bill. Australia is the only country in the world that has conciliation and arbitration embedded in its constitution.

The thrust of this bill seeks to turn back more than one hundred years of fairness and balance, and will directly impact the rights of ordinary workers to organise collectively.

To put it bluntly, from our perspective as a stakeholder in the financial services industry, it is absurd that our union (a not for profit) has a higher and more punitive set of standards than those that apply to Ian Narev of the Commonwealth Bank.

Yours sincerely

Ms Julia Angrisano
National Secretary
Finance Sector Union

