

Fair Work (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019
Education and Employment Legislation Committee
Questions on Notice
Unions Tasmania

1. What is the annual budget of Unions Tasmania or the registered organisation to which Unions Tasmania belongs?

Unions Tasmania is not a registered organisation, nor are we a member of one.

We are a small, not-for profit, incorporated as the Tasmanian Trades and Labor Council under the *Associations Incorporation Act 1964* (Tasmania).

Unions Tasmania's annual income according to our last audited comprehensive statement of accounts was \$593,839.23 for 2018-2019.

2. What is the total value of assets owned by Unions Tasmania or the registered organisation to which Unions Tasmania belongs?

At 30 June 2019, the total value of assets owned by Unions Tasmania was \$2,150,589.00. This is mostly due to the ownership of our building which houses our organisation.

3. How many members does Unions Tasmania have?

Unions Tasmania membership is comprised of affiliate unions. We have 24 affiliates.

4. How many staff does Unions Tasmania have?

4.25 FTE.

5. How much does membership of Unions Tasmania cost?

Affiliate unions pay a fee of \$7.11 per member.

6. What positions in Unions Tasmania are elected by members?

President
Secretary
Senior Vice President
Junior Vice President
Executive Members (4)
Indigenous Member
Indigenous Member (Alternate)

(a) Who conducts these elections?

Elections are conducted by a Returning Officer who is external to Unions Tasmania.

(b) How often are these elections held?

Every four years.

(c) When was the last election held?

For the position of Secretary, 2018. For other positions, 2016.

(d) How many candidates were there for each position at the last election?

For the election of Secretary in 2018, there was one candidate. For the election of Executive Members in 2016, there were 8 candidates.

(e) How many members voted for each position at the last election?

All affiliate members are entitled to nominate and vote for candidates in Unions Tasmania elections.

(f) How much is each position paid in salary?

All of the positions at Unions Tasmania are honorary positions with the exception of the Secretary who receives remuneration of \$134,647.00 per annum.

(g) What benefits in kind are associated with each position?

The Secretary is provided with a motor vehicle as part of their employment contract.

7. Does Unions Tasmania maintain any direct relationship with a state entity (such as an industrial association)?

No.

8. Do you think unions need to break the law in order to represent their members?

Australian unions are regulated by a complex and technical set of legal rules that cover their conduct in areas such as industrial action, right of entry and financial reporting. The *Ensuring Integrity* bill (the Bill) seeks to capture conduct already regulated under existing frameworks.

Unions Tasmania notes that much of the conduct captured by the Bill is lawful in most of the developed world.

It is a self-fulfilling prophecy therefore that when the law defines many aspects of normal union activity as prohibited, those who do not respect the role of unions are able to categorise legitimate union activity as unlawful.

Unions Tasmania further submits that this Bill is deeply flawed in large part because not all of the grounds that seek to disqualify officers and shut down unions require any law breaking at all.

9. What has your organisation done to reign in the law breaking behaviour of rogue organisations like the Construction Forestry Maritime Mining and Energy Union (CFMMEU)?

The objectives of Unions Tasmania are defined in the Rules of the Tasmanian Trades and Labour Council Inc. They give Unions Tasmania a remit that, in broad terms, relates to pursuing better wages, conditions and safety in Tasmanian workplaces. The Rules do not provide for the type of action this question implies.

10. Do you condemn the actions of John Setka?

Unions Tasmania members are focussed on the critical issues to Tasmanian workers. Our members are talking to us about wage theft, superannuation theft, insecure work, fair pay and safety at work. All of Tasmania's unions are working to address these issues.

We condemn the businesses that don't pay corporate tax, employers that put worker's lives at risk and employers who steal from workers.

11. Do you think John Setka should remain in his role with the CFMMEU?

Unions Tasmania respects the rights of members of unions to elect their leadership.

This is a fundamental right critical to union autonomy and democracy that is enshrined in international law.

Ensuring Integrity is not about one individual or one union.

Unions Tasmania has 24 affiliate members, all of whom will be adversely affected if the Bill becomes law.

12. Do you accept that the Ensuring Integrity bill applies equally to all registered organisation, both employer organisations and unions?

On paper, it appears as if they do but the reality will be very different.

The Bill will have a much greater effect on unions. Far fewer employer organisations are actually registered. Employer organisations in Tasmania such as the Tasmanian Chamber of Commerce and Industry, the Tasmanian Farmers and Graziers Employers Association and the Tasmanian Small Business Council are not Registered Organisations.

Importantly, the Bill does not apply equally to employers. Employers and their directors who break industrial or work health and safety laws, engage in superannuation and wage theft or put workers lives at risk, are not liable for the same consequences and penalties as unions would be under this Bill.

13. Do you agree that other than with respect to the commission of serious offences that will warrant automatic disqualification, the bill maintains the position in the existing Registered Organisations Act that only the Court has the power to disqualify a union official or de-register a union?

The Bill maintains the position in the existing Registered Organisations Act that only the court has the power to disqualify a union official or de-register a union but it does significantly expand the standing provisions especially as they relate to disqualification.

The Bill does not 'maintain the position' in respect of the way in which the Court's discretion is framed in deciding whether a disqualification order should be made (compare existing s 307A(1)(b) and (2) to proposed s 222(2)(b)). Under the Bill, a union officer will only be disqualified if the Court is satisfied it would not be 'unjust' to do so. The Bill tells the court that they must cancel the registration of an organisation unless the organisation themselves (not the applicant) can satisfy the Court that it would be unjust to do so.

Unions Tasmania points out that Courts are guided by the construction of legislation and the intention of the Parliament. This legislation sets such a low bar to establishing grounds that an order be made. A number of grounds require no prior judicial finding of unlawful conduct or require only one or two findings.

The Bill does not 'maintain the position' in respect of the way the Court's discretion is framed regarding a cancellation order either. Under the Bill a cancellation order will only be made if the organisation does not satisfy the Court that it would be unjust to cancel its registration, having regard to the matters in proposed s 28J(1)(b).

A defendant union risks spending money defending actions that are costly and time consuming. As the Fair Work jurisdiction is a 'no costs' jurisdiction, the chances of unions recovering legal costs is low, even in cases where an application against them has failed.

Union resources should be best spent in the furtherance of pursuing better pay, conditions and safety for members.

14. Do you agree that other than with respect to the commission of serious offences that will warrant automatic disqualification, the bill maintains the position that a union official will only be disqualified, or a union have its registration cancelled, if the court is satisfied it would not be 'unjust' to do so, taking into account all the relevant circumstances and nature of the conduct in question?

Refer to question 13.

15. Do you agree that the bill maintains the position in the current Registered Organisations Act that the Fair Work Commission alone is responsible for approving the amalgamation of organisations?

The Fair Work Commission's discretion in respect of amalgamations is very limited under the Bill. The Commission must decide the amalgamation is not in the public interest if any of the organisations have a record of not complying with the law or if the amalgamation is not in the public interest, having regard to the impact on employees or employers in the relevant industries.

The process for the public interest test is protracted, allows for third parties to interfere in the democratic processes of union members causing delay and involves a two-stage hearing process with broad notification and standing provisions.