



23 October 2019

Senator James McGrath
Chair Education & Employment
Legislation Committee

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

Dear Chair,

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

I refer to the above and to the questions on notice:

- A. issued on 2 October 2019; and
- B. issued on 4 October 2019.

Questions on Notice: 2 October 2019

Question 1

1. The Electrical Trades Union of Australia is a Division of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia ("the CEPU"). The CEPU comprises a National Council and the Divisions, with some further seventeen branches. Each branch and division is autonomous, pursuant to rules and the *Fair Work (Registered Organisations) Act 2009*. In total, there are twenty-one reporting units within the CEPU.
2. As a registered organisation, all financial reports of the CEPU, including those of the ETU, are lodged with the Registered Organisations Commission, and published on its website.
3. The annual budget of the ETU for the financial year ending 31 December 2019¹ is -\$296,772.37. This budget is separate and distinct from the budgets of other Divisions and the various Branches.
4. Please advise should the Committee wish further details of the ETU's, ETU branches', or CEPU's financial affairs. In such circumstance, it would be appreciated if the Committee could specify the applicable time period (i.e. is the Committee seeking a forecast of revenue and expenditure for the current financial year or the actual results from some prior period).

¹ Excluding its branches

Question 2

5. As noted above, the ETU is a Division of CEPU.
6. In its most recent financial reports, lodged with the Registered Organisations Commission, records the value of the ETU's assets² at \$5,520,393. Again, this is separate to assets owned by other reporting units within the CEPU.
7. Please advise should the Committee wish further details of the ETU's, ETU branches', or CEPU's financial affairs. In such circumstance, it would again be appreciated if the Committee could specify the applicable time period.

Question 3

8. At present, the ETU, including its various branches, has approximately 62,000 members.

Question 4

9. The Divisional Office currently employs fifteen employees.

Question 5

10. All membership fees are collected by the various branches of the ETU and, in the case of New South Wales, by the counterpart state union.
11. Membership fees are set at varying rates, dependent upon the member's location and job classification.
12. For a licensed electrician, membership fees vary from \$620.00 to \$676.80 (exc. GST) based on 2018/19 year.

Question 6

13. All offices of the ETU are directly elected by the membership, save for:
 - a. executive and certain honorary positions, which are elected by and from the membership of the Council; and
 - b. casual vacancies arising more than 12 months after the most recent election, which are appointments instead.
14. In addition, in some Branches various numbers of organisers will be elected. These positions are not officers within the meaning of the *Fair Work (Registered Organisations) Act 2009*.
15. All elections are conducted by the Australian Electoral Commission. The declarations of election are lodged with the Registered Organisations Commission and published on its website.
16. Elections were most recently held in 2019. There were contested elections in both the South Australian and Tasmanian branches. The election reports for each are published on the website of the Registered Organisations Commission. In the South Australian election, for the five positions of organiser³ there 700 members who voted. In the Tasmanian election for two positions of State Councillor Communications Section there were 142 members who voted.

² Excluding its branches

³ Note that the position of organiser is not an officer.

17. There are approximately two hundred and twenty elected offices across the ETU and its Branches. Of these, seventeen are paid positions.
18. With respect to the question of “How much is each position paid in salary”, the ETU requests that the Committee advises whether this inquiry refers to:
 - a. elected officers;
 - b. elected positions;
 - c. all positions within the ETU; or
 - d. some other meaning.
19. With respect to the question of “What benefits in kind are associated with each position”, the ETU requests that the Committee particularizes what is meant by the term “benefits in kind”
20. I note that the ETU, and each of its Branches, already report the details of the five highest earners to the Registered Organisations Commission, including both remuneration and non-cash benefits.

Question 7

21. The ETU requests further particularization of this question.
22. To the extent that it refers to counterpart state unions, the ETU has counterpart state unions in each of Queensland, New South Wales and Western Australia.
23. As separate bodies corporate, the ETU does not – and cannot – maintain details of the financial affairs of these other bodies. Accordingly, the balance of this question should properly be put to those organisations.

Question 8

24. As detailed at the Hobart hearing, the true problem is the legal grey area in which unions are forced to operate, particularly in the spaces of health and safety and in right of entry.
25. This legal ambiguity means that unions and employees are routinely forced to operate with extreme uncertainty over precise legal rights.

Question 9

26. As noted, the ETU is an organisation registered pursuant to the *Fair Work (Registered Organisations) Act 2009*. As such an organisation, the Act in no way empowers or authorises a registered organisation to monitor the behaviour of another organisation.

Question 10

27. The ETU requests further particularisation of this question.

Question 11

28. The ETU fundamentally respects the principles of democratic control, built into all unions and the *Fair Work (Registered Organisations) Act 2009*. The ETU strongly believes in the rights of union members to determine who and how their union is governed.

Question 12

29. If passed, the Ensuring Integrity bill is grossly distorted in its application between unions and employer associations.
30. First, members of unions are necessarily natural persons, whereas members of employer associations are, in overwhelming numbers, incorporated. A contravention of industrial law by a company *does not* preclude a director of that company from holding office in the relevant employer association. This use of the corporate veil immediately changes the relative application of the Bill.
31. Further, the action of members of an employer association *are not* deemed to be the actions of the employer association itself. This is in sharp distinction to the situation with unions, where the conduct of members is routinely deemed to be the conduct of the union itself – irrespective of whether there is involvement by any officer or paid employee of the union.
32. Finally, the question creates a false equivalency. The role of employer associations in day-to-day industrial relations is increasingly limited. In truth, unions for the most part negotiate directly with employers. In no way does the Ensuring Integrity bill capture the conduct of employers.

Question 13

33. As has been repeatedly identified, the unfairness arising from this aspect of the Bill is not with the choice of forum, but with rules imposed on Court in exercising its functions.

Question 14

34. The question is built on a false presumption. First, the Bill applies to offences irrespective of whether the police, prosecutors, regulators or courts have identified them as “serious”.
35. Plainly, for criminal offences with a maximum period of imprisonment of five years or more, the Bill does not maintain the position. This is a dramatic expansion on the status quo.
36. For the avoidance of doubt, this provision will automatically disqualify certain whistleblowers and political activists and will seriously and unfairly impact a wide cross-section of the community, not least – as detailed in the ETU’s written submissions – Aboriginal Australia.

Question 15

37. As has been repeatedly identified, the unfairness arising from this aspect of the Bill is not with the choice of forum, but with rules imposed on Fair Work Commission in exercising its functions.

I take this opportunity to again thank the Committee for its consideration of this matter.

Please do not hesitate to contact me if I can be of any further assistance to the Committee.

Yours faithfully,

Michael Wright
Assistant Secretary
Electrical Trades Union of Australia