



# ***Fair Work (Registered Organisations) Amendment Bill 2014***

Submission to the Senate Education and  
Employment  
Legislation Committee

September, 2016

The Queensland Nurses' Union (QNU) thanks the Senate Education and Employment Legislation Committee (the Committee) for providing the opportunity to comment on the *Fair Work (Registered Organisations) Bill 2014* (the Bill).

The QNU - the union for nurses and midwives - is the principal health union in Queensland. Nurses and midwives are the largest occupational group in Queensland Health and one of the largest across the Queensland government. The QNU covers all categories of workers that make up the nursing workforce in Queensland including registered nurses, registered midwives, enrolled nurses and assistants in nursing who are employed in the public, private and not-for-profit health sectors including aged care.

Our 54,000 members work across a variety of settings from single person operations to large health and non-health institutions, and in a full range of classifications from entry level trainees to senior management. The vast majority of nurses in Queensland are members of the QNU.

The QNU represents the *industrial* and *professional* interests of our members through our education programs, research, representations and other activities. Thus, as always, our concerns also go to the possible impact that this restrictive legislation will have on the ability of Queensland's nurses and midwives to ensure that Queenslanders receive the safe, quality public health care they deserve.

We ask the Committee to read our submission in conjunction with that of our peak bodies the Australian Nursing and Midwifery Federation and the Australian Council of Trade Unions.

## **Purpose of the Bill**

In 2014, the QNU made a submission to the Committee's original inquiry where we outlined our opposition to the bill. Our reasons for this remain the same. We note the Senate twice rejected this bill and the *Building and Construction Industry (Improving Productivity) Bill 2013* thus providing a trigger for the July 2 double dissolution federal election. Rather than accepting that rejection of these bills reflected prevailing views but not their own, the coalition brought on the double dissolution of the parliament. Both of these bills seek to impose another level of regulation on to industrial parties when this landscape already abounds with legislation, and tribunals.

This same government whose political mantra consistently focuses on 'innovation and growth' has just requested the Productivity Commission undertake an inquiry into productivity while at the same time returning to the small-minded bill the Senate consistently rejected during the previous parliamentary term. Apparently the Registered

Organisations Commission and all it entails will somehow fit into the innovation and growth agenda by unnecessarily involving the industrial parties in more regulation. It is hard to find any semblance of productivity enhancement in such an outdated approach to industrial relations.

As a trade union registered in both the state and federal jurisdictions we are already subject to rigorous scrutiny and controls. It would appear the federal government remains committed to demonising and marginalising trade unions and discouraging union membership through its relentless determination to enact these bills.

All registered organisations act to further and protect members' interests. In Queensland they are required to keep a range of financial records to be independently audited, presented to a meeting of members and filed with the respective industrial tribunals charged with the registration of industrial organisations. As a registered organisation, the QNU has always diligently complied with these reporting requirements.

There have been few irregularities in Queensland associated with registered organisations. Interestingly, the most notable exception was the allegations against a former director of an employer association - the Queensland Retail traders and Shopkeepers Association (Fraser, 2013; Retailbiz 2013).

The federal government now seeks to subject federally registered organisations to two levels of regulation. The Registered Organisations Commissioner established under the Bill will have greater investigative powers than those available to the General Manager of the Fair Work Commission (including coercive powers). The Bill also modifies disclosure requirements, includes higher penalties for civil contraventions and introduces criminal offences in respect to officer's duties which are modeled on those contained in the *Corporations Act 2001*.

We remind the Committee that unions are not-for-profit organisations that operate to defend and protect the workplace rights of their members. Unions are only accountable to their members. They are not corporations subject to the profit motive of shareholders and their governing bodies are not boards. The QNU council is comprised of nurses and midwives who volunteer their own time and efforts to the effective governance and operation of the union.

In our view, the provisions of the *Fair Work (Registered Organisations) Amendment Act 2012* which tripled the penalties for breaches, introduced new financial management standards and mandated formal training for officers with financial responsibilities was a reasonable means of ensuring accountability in union governance.

## Accounting and Audit

Organisations are subject to reporting and audit requirements in accordance with international accounting standards and at a specific level of materiality that is appropriate for the organisation's size and risk. Standards apply to the wider not-for-profit sector, private and public companies and have been developed by international authorities under a conceptual framework that embodies the sound principles of governance, risk management and stewardship.

This Bill introduces criminal offences for not co-operating with expanded investigative powers and includes criminal duties provisions applicable to officers and employees modelled on the *Corporations Act 2001*. The Australian Securities and Investment Commission powers appear to form the basis of these aggressive controls. The investigative framework will capture individuals outside the existing or previous union management and they can be subject to coercive powers as a first level of investigation following an inquiry.

This will subject not-for-profit trade unions to the reporting and investigative standards of public companies. To put this in context, public companies are able to raise billions of dollars every day in international capital markets facilitated by the level of investor and regulator confidence in these standards. It is completely excessive for a federal government to regulate small, not-for-profit entities under disclosure principles similar to public companies.

## Conclusion

As was the case with the preceding bills, the QNU cannot support such unnecessary measures to curtail the important work undertaken by unions. Representatives of the QNU and Council members can elaborate further at a public hearing should the Committee offer us this opportunity.

The QNU recommends the Committee:

- does not proceed with this Bill. The 2012 amendments to the *Fair Work Act 2009* in respect to registered organisations are sufficient. There is no need for another regulatory body, higher penalties and more severe reporting requirements.

## References

Fraser, K (2013) 'Driscoll 'wrongly sold off assets' of the QRTSA, Queensland Industrial Relations Commission told', *Courier Mail*, 13 April retrieved from <http://www.couriermail.com.au/news/queensland/driscoll-broke-rules-with-sale-of-qrtsa-assets-queensland-industrial-relations-commission-qirc-told/story-e6freoof-1226619428882>

Retailbiz (2013) *QRTSA collapses, NRA offers help* 19 April retrieved from <http://www.retailbiz.com.au/2013/04/19/article/QRTSA-collapses-NRA-offers-help/OSKZXAMQLW.html>)