



**Electrical Trades Union of Australia**

*Proud to be Union*

## SUBMISSION

Senate Education and Employment Committee

**Fair Work Amendment (Corrupting Benefits) Bill  
2017**

April 2017



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The Electrical Trades Union (ETU) is the Electrical, Energy and Services Division of the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU). The ETU represents approximately 65,000 workers electrical and electronics workers around the country and the CEPU as a whole represents approximately 100,000 workers nationally, making us one of the largest trade unions in Australia.

We thank the Committee for the opportunity to make submissions in relation to its current examination of the *Fair Work Amendment (Corrupting Benefits) Bill 2017* (the Bill).

The Bill seeks to:

- make it a criminal offence to give a registered organisation, or a person associated with a registered organisation a corrupting benefit;
- make it a criminal offence to receive or solicit a corrupting benefit;
- make it a criminal offence for a national system employer other than an employee organisation to provide, offer or promise to provide any cash or in kind payment, other than certain legitimate payments to an employee organisation or its prohibited beneficiaries;
- make it a criminal offence to solicit, receive, obtain or agree or obtain any such prohibited payment;
- require bargaining representatives for a proposed enterprise agreement (employers, employer organisations, and unions) to disclose financial benefits that the bargaining representative, or a person or body reasonably connected with it, would or could reasonably be expected to derive because of a term of the proposed agreement. Failure to comply with these requirements can give rise to civil remedies, but will not preclude the approval of the enterprise agreement.



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The ETU individually and the union movement broadly, through the ACTU, reject any corrupt behaviour. We are committed to the best possible standards of governance and ethical conduct of officials and members.

In 2012 the ACTU commissioned a report<sup>1</sup> by former federal court judge Justice Madgwick to improve governance within unions. Since that time, the ETU and other affiliates, have been implementing improved governance practices and systems in line with the recommendations of the Madgwick report, including running approved training for union officials on governance and management practices, with over 5000 union officials/delegates being trained.

It has to be said that this was underway well before the government's Heydon royal commission. These actions have delivered results, with the most recent FWC reports show that unions have achieved almost perfect compliance reporting, despite the fact that by international standards unions in Australia currently operate under a higher level of regulation than most corporations.

In fact, at the May 2015 ACTU Congress the entire union movement unanimously supported the establishment of an independent national corruption watch dog to ensure that all Australian institutions, government, corporate, financial, sporting and large membership based were able to be corruption free<sup>2</sup>.

Our commitment to improving governance means we are open to discussions on reporting, transparency, training, conduct of elections and conduct of officials. The appropriate vehicle for consultation on changes to industrial relations is the National Workplace Relations Consultative Committee and the Federal Committee on

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<sup>1</sup> <http://www.actu.org.au/our-work/publications/other-publications/governance-panel-report-independent-panel-on-best-practice-for-union-governance>

<sup>2</sup> <http://www.actu.org.au/our-work/actu-congress/actu-congress-2015/congress-policy-resolutions/resolutions/national-icac-and-transparency-in-campaign-donations-final-resolution>



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Industrial Relations neither of which have been presented with a draft bill for consideration by the Turnbull Government.

Any serious attempts to improve governance should include all stakeholders, unions, business representative groups, the government, the opposition and the cross bench, in that way ensuring a genuine set of improvements and avoid any ideological bias.

## Establishment of a National Anti-Corruption Body

Corruption is not acceptable in any part of our society whether it is in politics, business, community organisations, or sport. Unfortunately, despite the existence of laws and standards, corruption still takes place in most large industries, yet there are no plans from the government to single out any other industry buy establishing a specialist investigatory bodies that has broad and practically unfettered powers.

This lays bare the very deliberate and targeted agenda against unions and workers in the construction industry that these Bills give effect to.

On 3 February 2016, the Senator Wong made a speech to the Senate calling for a national integrity or anticorruption agency in Australia.

In the speech the Senator revealed, worryingly, that Australia's international reputation for being relatively corruption free is waning—dropping from a global ranking of the seventh least corrupt nation 20 years ago to the 13th, ranking behind countries like Canada, New Zealand and Singapore in the Transparency International Australia 2015 corruption perceptions index.

In contrast, Hong Kong has been able to reverse its reputation as a corrupt society by introducing an Independent Commission Against Corruption and is now regarded as one of the most corruption free societies in the world.



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Yet here in Australia, while the Turnbull government tries to establish an agency whose purpose is to attack and weaken its political opponents, the government itself is providing the strongest case for the establishment of a national anti-corruption agency through the recent scandals of the former Minister for Human Services and the former Victorian Liberal Party Director.

Stuart Robert, the now disgraced former Minister for Human Services was forced to resign after it was revealed he, in conjunction with a major Liberal party donor, used his Ministerial position and taxpayer funds to further his personal interests – twice. Once in China<sup>3</sup> and once in Australia<sup>4</sup>.

In addition, former Victorian Liberal Party Director Damien Mantach has pleaded guilty to defrauding the Liberal Party of almost \$ 1.5 million<sup>5</sup>.

While we are quick to point out that it is well established that all political parties have these issues, both at a state and federal level, these two examples are particularly pertinent because they are a) recent, and b) relate to the Turnbull Government – who are on one instance trying to justify the legislation currently before the Committee on the basis of widespread corruption and malfeasance in the unions, yet will seemingly brush off instances of serious political corruption and fraud.

The Bill before the Committee will do nothing to stamp out such corruption.

Such a position is untenable and hypocritical.

This is exactly the kind of behaviour that demands the establishment of a national anti-corruption agency.

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<sup>3</sup> <http://www.9news.com.au/national/2016/02/12/12/24/stuart-robert-axed-as-minister>

<sup>4</sup> <http://www.abc.net.au/news/2016-02-16/stuart-robert-to-pay-back-1600-spent-on-gold-mine-trip/7174504>

<sup>5</sup> <http://www.theage.com.au/victoria/former-liberal-state-director-damien-mantach-pleads-guilty-to-15m-fraud-20160217-gmw6a8.html>.



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The Bill will impinge on several human rights, such as the right to freedom of association, the right to freedom of opinion and expression and the right to take part in public affairs and elections, right to organise and collective bargaining and the right to the presumption of innocence.

We would be happy to make further representations to the Committee on this matter when it conducts Hearings.

This Bill is not in the best interests of the nation. It is part of a politically motivated ideological government agenda against unions.

***We recommend the establishment of a National Anti-Corruption body that has jurisdiction over the public and private sectors, as well as parliamentarians and urge the Committee to reject the Bill in its entirety.***