

Queensland Government Submission to
The Senate Standing Committee on Education and
Employment

Fair Work (Registered Organisations)
Amendment Bill 2013

17 January 2014

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Introduction

On 14 November 2013, the Federal Government introduced the **Fair Work (Registered Organisations) Amendment Bill 2013** (the Bill) into Parliament. The Bill aims to:

1. Establish the Registered Organisations Commission (ROC) to monitor and regulate registered industrial organisations with enhanced investigation and information gathering powers;
2. Strengthen the financial accountability and disclosure obligations of registered organisations and their officers, and changing the grounds for disqualification and ineligibility for office; and
3. Increase civil penalties and introduce criminal penalties for serious breaches of officers' duties as well as new offences relating to the conduct of investigations under the *Fair Work (Registered Organisations) Act 2009* (ROA).

On 9 December 2013 the Senate determined that the following matter be referred to the Education and Employment References Committee for inquiry and report by the last sitting day in March 2014 (27 March 2014):

'The provisions of the Fair Work (Registered Organisations) Amendment Bill 2013, with particular reference to:

- *the potential impact of the amendments to interfere with the ongoing operation of registered organisations in Australia; and*
- *the potential of the amendments to impede the ability of employees of registered organisations to carry out their duties.'*

The Senate Standing Committee has invited submissions from interested parties in relation to this inquiry and the Queensland Government welcomes the opportunity to provide commentary and feedback on the Bill.

The Queensland Government supports the Federal Government's move towards making registered organisations and officials within such organisations more accountable to their membership. The measures included in the Bill are similar to measures introduced last year by the Queensland Government in relation to Queensland registered industrial organisations.

Queensland's enhanced Transparency and Accountability measures for organisations

In 2013 the Queensland Government introduced a range of amendments to Chapter 12 of its *Industrial Relations Act 1999* (IRA) aimed at strengthening the accountability and transparency of industrial organisations registered in Queensland. In order to reassure members of industrial organisations that their rights and interests are being protected and furthered by those officials responsible for leading and financially managing such organisations, the changes to the IRA included:

1. more stringent financial reporting obligations

2. requirements for the maintenance and disclosure of up-to-date registers for certain expenditure, including:
 - remuneration of the organisation's 10 most highly paid officials and employees;
 - gifts and benefits (received and given by officials and employees);
 - political objects funding and the outcome of expenditure ballots;
 - credit card and cab charge account spending; and
 - loans, grants and donations of more than \$1000.
3. the balloting of members to approve expenditure on political objects of \$10,000 or more in a financial year
4. enhanced mandatory governance and financial management training for officers
5. strengthened audit and complaint investigation processes
6. increased civil penalties and the introduction of criminal penalties for offences relating to officers' duties to act honestly, in good faith and for a proper purpose, to exercise reasonable care and diligence in the performance of their role and to disclose material personal interests and absent themselves from management decisions on such matters.

The Committee will note that the changes made to the IRA mean that officers of incorporated associations that are industrial organisations have duties to act in good faith, honestly and for a proper purpose, and to absent themselves from votes on matters in which they have material personal interests. This is contrary to the statement in Appendix A of the Bills Digest noting that there are no requirements in the Queensland jurisdiction for officers or committee members of incorporated associations to act in good faith or disclose personal interests¹.

Similar to the Federal Bill, the above IRA provisions also introduce criminal penalties for non-compliance with a number of the obligations placed upon officers in industrial organisations. Under the IRA, criminal sanctions are available if an officer fails to:

- act honestly, and in good faith in the best interests of the organisation, and for a proper purpose (s 527 IRA);
- exercise the degree of care and diligence that a reasonable person in the officer's position would be reasonably expected to exercise (s 528 IRA);
- disclose by written notice the nature of a material personal interest in a matter involving the organisations' financial management or procurement activities (s 529(2) IRA);
- exclude themselves from a vote, at an annual general or management committee meeting, on a matter in which they have a material personal interest (s 529(3)(a) IRA); or
- exclude themselves from an annual general or management committee meeting during consideration of a matter in which they have a material personal interest (s 529(3)(b) IRA).

¹http://parlinfo.aph.gov.au/parlInfo/download/legislation/billsdgs/2880484/upload_binary/2880484.pdf;fileType=application%2Fpdf#search=%22r5126%22 page 33

The Queensland Government considers that the importance of these obligations justifies the introduction of criminal sanctions. The threat of such should provide a meaningful deterrent against dishonesty and a realistic foundation for an improved standard of operation for all registered organisations.

Since the introduction of the enhanced transparency and accountability obligations, an audit of registered organisations has indicated a satisfactory level of compliance with the financial reporting and disclosure obligations.

Conclusion

The Queensland Government supports the strong stance being taken by the Federal Government to enhance the accountability and transparency of registered organisations and bring officers of such organisations into line with modern business practices concerning organisational governance.