

**SENATE STANDING COMMITTEE ON EDUCATION, EMPLOYMENT AND
WORKPLACE RELATIONS**

Inquiry into *Fair Work Bill 2008*

Question on Notice

Hearing, Perth, 29 January 2009

Minister for Commerce, WA Government

Question from Senator Collins at pages 17-18 of *Committee Hansard*,
29 January 2009:

In relation to the inspection of records issue and maintaining the status quo, if you could please submit what amendments should be considered. Can I ask you to look at that issue in terms of the other changes that are being proposed to the system, the role of unions within the new system and how you believe the status quo under Work Choices, as you have described it, could not be accommodated given the other changes that are proposed in the system ... The nub of the question is that there are some changes to issues around right of entry matters for unions that are a consequence of the changes to the system as we have moved fully under the corporations power and we will no longer have unions as parties to awards and agreements by a basis of interstatedness.

Answer

In relation to the Senator's question about amendments that should be considered to maintain the status quo, the WA Government's submission to the Committee¹ supports an amendment to clause 482 of the *Fair Work Bill 2008* (the Bill) to prevent unions from inspecting the records of non-members.

In the alternative, the WA Government supports the consent of non-members being required as a condition of inspection of records.

So far as right of entry for discussion purposes is concerned, under the current provisions of the *Workplace Relations Act 1996*, a union has a right of

¹ *Submission 16*, at paragraph 58, page 14. See also Attachment A to *Submission 16* at paragraph 8.

entry even where it has no members but the employees are covered by an award or agreement that binds the union.²

The proposed right of entry for discussion purposes under the Bill extends to any union that is entitled to represent the industrial interests of employees. There is no requirement that the union seeking to exercise right of entry be covered by an industrial instrument (modern award, enterprise agreement or workplace determination) that applies to the work of the employees.

The WA Government suggests an amendment to the Bill to maintain the link between industrial instrument coverage of employees and right of entry for discussion purposes by a union or unions covered by the industrial instrument.

While awards and agreements will no longer “bind” unions as they do under the current legislation, unions may be “covered” by industrial instruments. The amendment to clause 484 of the Bill, as proposed in the WA Government submission,³ would limit union right of entry for the purposes of holding discussions with employees to unions who are covered by the relevant industrial instrument.

² Section 760, *Workplace Relations Act 1996*.

³ *Submission 16*, at paragraph 60, page 14. See also Attachment A to *Submission 16* at paragraph 9.