



**Submission to the Senate Education and
Employment Legislation Committee Inquiry
into Fair Work (Registered Organisations)
Amendment Bill 2014**



FINANCE SECTOR UNION

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Committee Secretary
Senate Education and Employment Committees
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Committee Secretary,

Please find enclosed the FSU's submission to this inquiry.

For further information, please contact me.

Yours faithfully,

A handwritten signature in black ink that reads 'Geoff Derrick'.

Geoff Derrick
National Assistant Secretary
Finance Sector Union of Australia

The Finance Sector Union of Australia (FSU), an employee organisation, represents over 32,000 members across the country who work in banking, insurance, credit unions, superannuation, financial planning and finance companies.

The FSU supports a regulatory and legislative framework that oversees and promotes the operation of accountable, democratic and effective registered organisations such as unions, which are governed by rank and file members.

The FSU welcomes the opportunity to make a submission to this inquiry and in response submits that the Bill should be rejected in its entirety. The Union believes that the legislative and regulatory regime in which the Fair Work Commission (FWC) currently operates is effective and does not warrant being changed.

The Fair Work Commission's effectiveness as regulator of registered organisations is demonstrated by the investigation of the Health Services Union (HSU), for example. The penalties and fines against the relevant HSU officials in accordance with various applicable civil and criminal laws further demonstrates that there are other effective measures in place in respect to the regulation of unions that is in addition to the regulatory function that is carried out by the Fair Work Commission.

The FSU further believes that the amendments introduced by the *Fair Work (Registered Organisations) Amendment Act 2012*, following the HSU investigation, more than adequately addressed the concerns about the regulation of unions, which is evidenced by the more stringent compliance and disclosure requirements and increased penalties for breaches that were inserted into the *Fair Work (Registered Organisations) Act*.

The current Bill however seeks to unnecessarily "take things further" by creating a new regulator and regulatory regime; to impose unprecedented regulation of registered organisations (that is, unions) that is overbearing and punitive; and to expose unpaid, volunteer members to significant civil and criminal penalties as though they were company directors when they are not.

In addition to the following reasons provided in support of the FSU's objection to the Bill, the FSU adopts and supports the submission made by the Australian Council of Trade Unions (ACTU) to this inquiry.

1. Creation of Registered Organisations Commission and Registered Organisations Commissioner

It is unnecessary to take the regulatory function away from the Fair Work Commission and create a new regulator and regulatory regime when the current framework has proven to be more than effective in the regulation of registered organisations.

The investigative powers that would be given to a Registered Organisations Commissioner, which have been modelled on those exercised by ASIC in accordance with the *Australian Securities and Investments Commission Act 2001*, would allow the Commissioner to exercise coercive, monitoring powers to investigate unions as though they were corporations, when they are not.

As demonstrated by successful prosecutions by the General Manager, Fair Work Commission, the current regulatory regime is effective and does not need to be changed.

2. Increased disclosure requirements

Unions are already required to publish their accounts and financial returns each year under union rules as required by the Act.

The disclosure requirements that currently apply to unions under the Act are nearly identical to those contained in the Bill, with the exception that the Bill provides for both civil and criminal penalties to apply for breaches of the disclosure requirements.

The increased civil and criminal penalties are not only onerous but are unnecessary as currently, under the Act, any breaches relating to non-disclosure can be, and are being, successfully pursued by the FWC.

In any event, the rate of compliance with reporting and disclosure requirements among unions has statistically increased greatly following the HSU investigation, which has been

in the absence of any liability for heavy civil or criminal penalties which are being proposed to be introduced by the Bill.

As the current disclosure and reporting requirements are sufficient and effective, there is similarly no need for the introduction of any increased civil and criminal penalties for any breaches.

The significant civil and criminal penalties would apply to unions as though they were corporations, but as unions are not corporations they should not be treated and regulated in the same way as corporations.

3. Increased civil penalties and criminal liability

As a union, the FSU is a democratic organisation governed by both elected officials and volunteer members, for the benefit of members.

Rank and file members are elected into honorary official positions at the FSU and are involved with, and participate in, the governance of the Union, which is exemplified by National Conference.

National Conference is the highest level of decision making within the Union and is attended by paid elected officials and a delegation of volunteer members. National Conference consists of the National President, National Secretary, National Assistant Secretary and the members of each Local Executive. Of these 38 delegates only the National Secretary and National Assistant Secretary are paid officials the rest are volunteer honorary officials that have been elected by members to represent their interests.

Volunteer members who act as honorary officials and participate in decision making within the Union should not be treated in the same way as paid company directors, or be subject or liable in the same way as company directors, for civil and criminal penalties for performing their valuable and vital role within the Union. Some of these volunteers are part-time employees on low incomes who give up their time to be involved in their union.

The FSU strongly urges the Committee to recommend that the Bill be voted down because the potential for members to be liable for significant civil and criminal penalties would discourage active participation by members in union governance, this would in turn diminish the democratic nature of unions and unionism.



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