



**Treasurer
Minister for
Industrial Relations**

NSW IR No: 14DOC005

07 FEB 2014

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

Dear Secretary

Thank you for the opportunity to make a submission on behalf of the NSW Government regarding the provisions of the Fair Work (Registered Organisations) Amendment Bill 2013.

The proposed Bill

As you would be aware, the Bill establishes a new independent body, the Registered Organisations Commission, within the Fair Work Commission to monitor and regulate registered organisations. It also amends requirements for officers' disclosure of material personal interests, strengthens existing financial accounting and disclosure obligations (backed by civil penalty sanctions), provides for increases to a range of penalties and provides for new criminal offences for serious breaches of officers' duties.

In his second reading speech for the Bill of 14 November 2013, the Hon. Minister Christopher Pyne MP noted that:

The bill introduces a suite of legislative measures designed to see governance of registered organizations lifted to a consistently high standard across the board. A more robust compliance regime will deter wrongdoing and promote first-class governance of registered organisations.

On 2 December 2013, the Senate Education and Employment Legislation Committee reported on the Bill. The Committee's recommendations included:

- narrowing the obligation to disclose material personal interests of an officer's relatives and require only those officers whose duties relate to the financial management of the organisation to make such disclosures (consistent with the *Corporations Act 2001 (Cth)*);
- that the obligation to disclose every payment is to be reduced with disclosure limited only to payments above a certain threshold; and
- that the Commissioner be given the capacity to grant exemptions from the training requirements where significant knowledge of the Bill's financial obligations can be demonstrated in an individual case.

The NSW Government position

NSW is a significant partner in the national workplace relations system and accordingly welcomes and supports the timely reforms included in the Fair Work (Registered Organisations) Amendment Bill 2013. NSW also supports the specified recommendations of the Committee set out above.

The NSW Government is strongly committed to actions that ensure accountability and transparency in the governance of registered organisations and thereby help safeguard the interests of their members.

The community is entitled to expect a regulatory framework that will help ensure the appropriate and prudent management of members' funds and deter the kind of widely reported abuses and breaches of trust that have occurred in the recent past.

NSW Government initiatives

The NSW Government has already taken steps to improve the internal governance of registered organisations' assets to provide greater protection for members.

The *Industrial Relations Amendment (Industrial Organisations) Act 2012* (NSW) was introduced to address situations where gross misconduct by elected officials is alleged or suspected, or where there is other dysfunction apparent in the internal operation of a registered organisation. It provides for powers to investigate such allegations, to vacate existing elected offices and hold fresh elections, and to appoint an administrator in the event that an organisation ceases to function effectively.

Importantly, the legislation includes express powers to investigate the internal affairs of unions to determine whether officers of a State organisation of employers or employees have contravened conduct requirements under the *Industrial Relations Act 1996* (NSW). These requirements are backed up by criminal penalties for officers who act dishonestly to deceive or defraud members (or the organisation), or who make improper use of their position for personal profit.

Protecting the interests of members or potential members of industrial organisations was also a key driver for the passage of the *Industrial Relations Amendment (Industrial Representation) Act 2012* which gives certain workers greater choice in relation to the industrial organisation they wish to join.

Thank you again for the opportunity to present the position and views of the NSW Government.

Yours sincerely

MIKE BAIRD MP