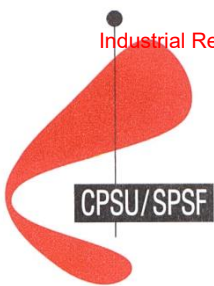


Industrial Relations and Other Legislation Amendment Bill 2022

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8 July 2022

Chair

Education, Employment and Training Committee

Queensland Parliament

By Email: EETC@parliament.qld.gov.au

Dear Chair,

Re: Inquiry into the Industrial Relations and Other Legislation Amendment Bill 2022

The Community and Public Sector Union represents over 120,000 members who work for State and Federal public services and also a number of privatised public services. We have members working in all states and territories in hundreds of occupations.

We welcome the Inquiry into the industrial framework in Queensland. We endorse the position of the Queensland Council of Unions.

We wanted to demonstrate the mischief that the current Queensland industrial framework in operating with the legislation for Associations plays, not just for Queensland Industrial Relations but also across the country.

Our affiliates branches have had to manage in the last few years of the pandemic competing interests of members, in particular:

- a) Negotiating and consulting over work health and safety aspects of a global pandemic in a manner that reduces our member's risks to infections
- b) Negotiating with the employers to ensure that critical services are maintained, are safe and that workers can be kept in employment
- c) Supporting members maintain employment by negotiating with employers as to the implementation of health orders and workplace risk assessments and mandates, workplace flexibility measures and how this affects member's capacity to continue employment dependent on the member's employment status, the member's medical capacity to or their choice to comply with these health directions.

The Branches of the CPSU have employed expertise utilising member's funds in the form of in house health and safety expertise, experienced industrial relations practitioners, as well as utilising specialist labour law firms and Legal Counsel to provide advice on how to support members with the above competing interests. A number of disputes were also conducted to ensure that the implementation of these provisions were fair and reasonable.

The Queensland Mischief

A number of the branches reported a small but vocal group of members who refused to take the advice of our officials who were dealing with the employers on a daily basis. The branches reported that these members had refused to engage locally with management or their union support and that the members had sought advice from registered Associations (not registered unions) domiciled in Queensland.

The members appeared to be from agencies dealing with law enforcement, custodial services health, schools, and child protection where some of the workplace safety measures were more restrictive often due to the inability to socially distance.

As an example, NSW does not have provisions for unregistered associations to lodge an industrial dispute. The NSW Branch was written to by a NSW law firm that had collected, we were told through one of the Queensland Associations, a long list of members and former members who they wished to lodge a dispute on their behalf. The Queensland Association we were told would speak to the worker over the phone.

They had no standing and could not lodge the dispute. Despite knowledge by most industrial practitioners and lawyers in NSW of the inability to lodge a dispute without being a registered organisation or employer, the workers on the list provided to the State Branch were levied a significant fee. The law firm undertaking this action, also had questionable separation from the employer, having advised the government on internal party preselection issues in the past.

In discussions with some of these affected members, they were being provided with incorrect advice with regard to their prospects of success unaware of recent decisions or the circumstances at these workplaces.

The net result of the actions of this mischief is that a number of workers were led down a path whereby they were:

- Were unable to access medical contraindication exemptions.
- Not able to get workplace adjustments made or access to leave whilst they remained unable to make the choice regarding compliance with the pandemic safety requirements.
- They were not able to negotiate delays to disciplinary action whilst they were making this choice or choice of future vaccines.
- Many were terminated after leaving their union, thereby then having to self-represent as the cost of the fees for provided lawyers being prohibitive.
- Most did not have success even when the matter was called due to simple jurisdictional issues.
- Many workers lost decades of experience and their financial security because they were given poor advice.
- Many employers would work with the state branch and expend significant resources on making arrangements to support the worker maintaining employment, only to have these ignored by the workers as they shift from the union to the other advice.
- Many employers also lost the skills and experience that these workers had.

Similar concerns had been raised in other state branches by members attracted to the advice that this mischief charading as legitimate organisations has provided.

There are separate rules regarding the Registration of organisations in the Commonwealth.

The NSW system tends to avoid the problem of Queensland through the registration process and limitations to access to most industrial processes and remedies. *Section 218 Criteria for registration of the Industrial Relations Act 1996 (NSW)* provides a similar regime but slightly more robust regime to the Queensland registration regime.

Does such a Registration regime encourage lack of representation or poor representation?

Registered unions all have democratic processes that would ensure poor representation is met with poor electoral fate of the incumbent. On the contrary there are no democratic mechanisms, nor tribunals that can deal with poor representation of non-registered associations.

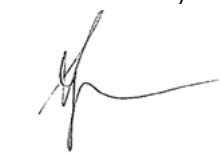
Unions being registered means that they can participate in the workplace disputes and processes and WHS processes enabling greater opportunity to get a better result for the member and also that they are regulated to work in the interest of members.

In industrial systems such as NSW, there has been exceptions, whereby, when the HSU was under administration and unable to be representing their members effectively. The NSW Parliament allowed the formation of a rival union for paramedics. Since the establishment of the rival paramedics union, the HSU has restored democratic control, improved their management of the union under new leadership, that has seen the HSU grow to be the predominant representative of paramedics by numbers, by industrial activity and results for members in NSW.

This system of union registration is not implemented to stop new or poorly unionised industries from organising and collective bargaining, and accessing freedom of association rights. However, freedom of association should not be extended to those entities seeking to operate in an unregulated manner, where there is no scrutiny over transparency or evidence that the organisation is operating in the interests of its members.

We commend the submission of the Queensland Council of Unions and implore your government to improve the registered organisation provisions.

Yours faithfully



Shay Deguara
For Tom Lynch
A/Federal Secretary