

## Transport Workers' Union of Australia Queensland Branch



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Research Director  
Finance and Administration Committee  
Parliament House  
George Street  
Brisbane Qld 4000

By email: [FAC@parliament.qld.gov.au](mailto:FAC@parliament.qld.gov.au)

Dear Research Director

### Re: Submission on the Industrial Relations Bill 2016

1. We refer to the above. The Transport Workers' Union of Australia, Union of Employees (Queensland Branch) [**"the TWU"**] seeks to make a submission on the Bill.
2. The TWU welcomes the end of the oppressive regime in s.557A to 557Z in the current *Industrial Relations Act 1999* (Q.). The TWU makes no criticism of obligations of good financial management and disclose. However, this legislative regime was not designed for either purpose. It was designed to impose time consuming tasks and obligations on registered organisations for political purposes.
3. The TWU found maintaining the endless series of end of year and mid year disclosures and registers time consuming, particularly when the TWU operates financially and administratively through its federal branch structure, not its State registered union.
4. Thus, like many registered organisations, the TWU had a series of disclosures and registers it was required to publish that involved amounts of "0\$". The TWU notes there were several other registered organisations with similar disclosures. The situation was, with respect, farcical.
5. Like many other registered organisations however, the TWU seeks to maintain its State based registration, even though operating administratively, financially and industrially through its federally registered Branch. It has members in local government that can only be represented in the State system.
6. The TWU submits that the experience with the 557A-557Z regime agitates the following questions: to what extent, if any, should the State continue to regulate registered organisations? Moreover, to what extent should the State exempt registered organisations from State legislative obligations if they have a federal counterpart body that is complying with the federal legislative regime?



7. Obviously, registered organisations owe their corporate existence to the legislation. But much has happened in the sphere of industrial relations since 1999. With minor exceptions, the State of Queensland has ceded its powers over industrial relations to the Commonwealth<sup>1</sup>.
8. State registered organisations have been able to become “transitionally recognized associations” under the federal legislation for several years now, allowing them to operate under the federal legislative regime.
9. Whilst that recognition will end on 1 January 2017, some State registered organisations are able to apply for full registration as a “registered organization” under the *Fair Work (Registered Organisations) Act 2009* (Cth.). In the process, traditional hurdles such as the “conveniently belong” test have been removed.
10. All of these developments signify a fundamental shift towards the federal system of regulation. Yet with respect, the Bill does not fully reflect these developments.
11. For example, when the *Industrial Relations Act 1999* (Q.) was first made 17 years ago, the concept of a “counterpart federal body”<sup>2</sup> was introduced. As was the consequential possibility of a State registered organization gaining exemptions from keeping membership and officer records<sup>3</sup>, conducting elections<sup>4</sup> and undertaking accounting and audit returns<sup>5</sup> - all on the basis that a counterpart federal body had discharged these obligations under the federal legislative regime.
12. The current Bill reintroduces these provisions. The change is welcome, however in 17 years much has happened on the industrial landscape and more can be done to prevent employer and employee organisations from fulfilling two legislative regimes.
13. For example, ss.745-747 requires a State registered organization under the Bill to prepare (and hold for 7 years) an annual register of the total remuneration of the highest paid 5 officers of the State registered organization. Yet the provision broadly mirrors the requirements of s148A of the *Fair Work (Registered Organisations) Act 2009* (Cth.).
14. It is an example of duplication and if the State registered organization does not pay its officers from the State registered Union’s accounts, or it has no accounts, the record required to be held will, like the current s.557 regime, be a series of sheets with names and the ridiculous entry “\$0” recorded next to such names.
15. It does not appear that s.600 of the Bill will relieve an organization in these circumstances if any of the 5 highest paid officers also “have a role in managing the affairs or controlling the finances of the organization”.
16. It is this provision- Section 600- of the Bill that the TWU submits should be altered. The provision should not be based on whether the exemption sought will exempt a branch or officer that has a role in managing the affairs or controlling the finances of the organization or branch.

<sup>1</sup> *Fair Work (Commonwealth Powers) and Other Provisions Act 2009* (Q.)

<sup>2</sup> s.411

<sup>3</sup> s.582

<sup>4</sup> s.580

<sup>5</sup> s.590

17. The test should simply be whether the organization, branch or officer has satisfactorily fulfilled substantially similar requirements for and on behalf of the counterpart federal body.

18. A general obligation to notify the Registrar of any material change in respect of matters in which any exemption has been granted can be built into the section also.

The TWU would be happy to answer any questions about this submission or clarify any aspects of it. Please do not hesitate to contact Lee Norris of this office in that regard.

Yours truly

Peter Biagini  
State Secretary  
Transport Workers' Union of Australia,  
Union of Employees (Queensland Branch)