

# QUEENSLAND GOVERNMENT RESPONSE TO RECOMMENDATIONS OF THE LEGAL AFFAIRS AND COMMUNITY SAFETY COMMITTEE REPORT ON THE INQUIRY INTO THE INDUSTRIAL RELATIONS (TRANSPARENCY AND ACCOUNTABILITY OF INDUSTRIAL ORGANISATIONS) AND OTHER ACTS AMENDMENT BILL 2013

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## **Recommendation 1**

The Committee recommends the Industrial Relations (Transparency and Accountability of Industrial Organisations) and Other Acts Amendment Bill 2013 be passed.

**Response:** The recommendation is accepted.

## **Recommendation 2**

The Committee recommends the Bill be amended to ensure there is no requirement for industrial organisations to prepare initial registers of interests of officers or initial disclosure statements for the period 1 July 2012 to 30 June 2013.

**Response:** Partially accepted. The Bill will be amended to remove the requirements for organisations to prepare an initial disclosure statement covering the period from 1 July 2012 – 30 June 2013 with the exception of remuneration reporting for the highly 10 remunerated officers.

## **Recommendation 3**

The Committee recommends the Bill be amended to ensure the requirement to prepare registers of interests for officers should be limited to only those officers who are elected and are paid more than \$10,000 per year.

**Response:** Partially accepted. The Bill will be amended that the definition of an officer be limited to the president, vice president, secretary or assistant secretary, and members of the management committee.

## **Recommendation 4**

The Committee recommends the Bill be amended to limit the requirement for preparation of registers of interests to officers (as amended by recommendation 3) and recognised spouses only. There should be no requirement for registers to be prepared for any children or other dependent persons.

**Response:** Accepted. The obligation for disclosure by a relative of an officer will only extend to the officer's spouse.

## **Recommendation 5**

The Committee recommends the Bill be amended to remove the requirement for the registers of interests for officers to be made publicly available. Instead, the Committee recommends the registers need only be made available to the members of the organisation and provided to the Queensland Industrial Relations Commission.

**Response:** Partially accepted. The Bill will be amended so that the contents of the register will not be required to be made public. Officers will lodge their disclosure statements with the Industrial Registrar. In addition there will be an exemption for those officers who do comply with a substantially similar law about disclosure of material personal interests where that information is already publicly available (e.g. local government councillors).

### **Recommendation 6**

The Committee recommends that the Bill be amended to ensure:

- an official is only a 'highly paid official' if the official's earnings exceed a High Income Threshold to be set out in Regulations; and
- the obligation on organisations to disclose the details of 'highly paid officials' be:
  - for organisations that have less than 10 'highly paid officials' in a financial year – all highly paid officials; or
  - for organisations that have more than 10 'highly paid officials' in a financial year, the ten most highly paid officials.

### **Recommendation 7**

The Committee recommends the Bill be amended to ensure that the requirement to disclose information on 'highly paid officials' (as amended) is limited to disclosure to the members of the organisation and to the Queensland Industrial Relations Commission.

**Response:** Recommendations 6 and 7 are partially accepted. The Bill will be amended to exclude employees from the remuneration disclosure obligations. The information will remain publicly available.

### **Recommendation 8**

The Committee recommends the provisions requiring organisations to include details of procurement spending over \$5,000 in financial disclosure statements be removed from the Bill.

**Response:** Partially accepted.

In response to this recommendation and the concerns of stakeholders, the Bill will be amended to remove the requirement for a public register of procurement spending. Instead, an officer of the organisation's decision-making body will be required to declare a conflict of interest where there is a relationship between the supplier and the officer. Although not consistent with the committee's recommendation, these amendments address the Committee's concern about regulatory (red-tape) burden whilst maintaining the objective of ensuring the accountability of officers with the capability to influence the expenditure of industrial organisations and will provide transparency to their dealings with suppliers.

### **Recommendation 9**

The Committee recommends the threshold dollar amount required to trigger an expenditure ballot under section 553D be reviewed.

In determining a suitable figure, the Attorney-General and Minister for Justice should have regard to the following:

- the anticipated costs for organisations to hold a ballot;
- the potential for organisations to hold multiple ballots within the same financial year; and
- the costs of likely expenditure to be incurred on political objects.

### **Recommendation 10**

The Committee recommends the Attorney-General and Minister for Justice review the requirement in section 553D(4)(b) for at least 50% of the members on the roll of voters for the ballot to have voted before the spending can be authorised.

### **Recommendation 11**

The Committee recommends the Bill be amended to:

- provide for contestability in the conduct of expenditure ballots and allow for approved organisations other than the Electoral Commission Queensland (ECQ) to conduct expenditure ballots;

- authorise the Queensland Industrial Relations Commission (or another appropriate independent body) to decide whether third party organisations are eligible to conduct expenditure ballots; and
- set out detailed eligibility criteria (either in the Act or in Regulations) which must be met by third party organisations in order to be eligible to conduct expenditure ballots.

The eligibility criteria should address the conditions that a person must meet and the factors that the Queensland Industrial Relations Commission (or other appropriate independent third party) must take into account to determine whether a person is a fit and proper person to conduct an expenditure ballot.

**Response:** Recommendations 9, 10 and 11 are partially accepted.

In response to these recommendations and the submissions of stakeholders, the Bill be amended to remove the requirement for the ECQ to conduct the ballot. Ballots may be conducted by the organisation or a third party. A ballot must include all members of an organisation with a successful ballot requiring a majority of the votes returned i.e. the requirement for the return of at least 50% of the members balloted is removed. Political campaign expenditure will be payment to a political party or a candidate, donations to a third party to conduct a political campaign, and expenditure on public advertising which includes public opinion polling, television, radio, electronic and print advertising, bill boards, and letterbox drops. Activity within the organisation's own membership (i.e. not extending beyond its members) does not require a ballot. Organisations will remain obligated to provide public disclosure on the outcome of the expenditure ballot and the particulars will be set out in Regulation which will be put to the Governor-in-Council upon the passage of the Bill. It is not proposed to change the threshold for a ballot.

#### **Recommendation 12**

The Committee recommends the Attorney-General and Minister for Justice accept the recommendations of the Finance and Administration Committee in relation to the definition of 'worker'. As such, the Committee recommends that the definition of 'worker' in the Workers' Compensation and Rehabilitation Act 2003 remain unchanged and the relevant provisions in the Bill relating to the amendment of that Act be removed.

**Response:** Not supported.

The application of the tests in the existing definition of worker have caused significant confusion around when an employer is required to hold a policy of insurance to cover a "worker" for a work-related injury. It is noted the Housing Industry Association and the Master Builders Queensland, while preferring a definition of worker based on GST transactions, consider the definition of worker in the Bill to provide much greater clarity on who is, and who is not a worker than the existing definition and support it.