(Amendments to be moved by Senator Faruqi, on behalf of the Australian Greens, in committee of the whole)

(1) Schedule 1, item 1, page 3 (after line 9), insert:

1A Section 6 (definition of serious contravention)
Repeal the definition, substitute:

serious contravention, in relation to a contravention of a civil penalty provision by an organisation, a branch of an organisation or a person who is, or was, an officer or employee of an organisation or branch of an organisation, means a contravention that:
(a) is serious or materially prejudices:
(i) the interests of the organisation or branch, or members of the organisation or branch; or
(ii) the ability of the organisation or branch to pay its creditors; and
(b) is constituted by conduct that was part of a systematic pattern of conduct relating to one or more persons.

(2) Schedule 1, item 2, page 3 (lines 13 to 27), omit subsection 9C(1), substitute:

Designated findings

(1) A designated finding, in relation to a person, is:
(a) any conviction against the person for an offence against a designated law where a term of imprisonment is imposed on the person for the offence; or
(b) any order for the person to pay a pecuniary penalty for the serious contravention of a civil penalty provision if the pecuniary penalty ordered is 80% or more of the maximum penalty for that contravention.

(3) Schedule 1, item 11, page 8 (line 10) to page 9 (line 5), omit subsections 223(5) and (6).

[serious contravention]
[designated findings]
[not fit and proper]
(4) Schedule 1, item 17, page 12 (line 21), omit “after commencement;”, substitute “after commencement.”.

[consequential—not fit and proper]

(5) Schedule 1, item 17, page 12 (lines 22 to 26), omit paragraph (2)(d).

[not fit and proper]

(6) Schedule 1, item 17, page 12 (lines 27 to 29), omit subitem (3), substitute:

(3) For the purposes of paragraph 222(2)(b) of the Act as amended by this Schedule, in considering whether it would be unjust to disqualify a person from holding office in an organisation, the Court may:

(a) if matters relate to convictions, injunctions, orders, or findings against the person in a criminal or civil proceeding—only have regard to matters occurring after commencement; or

(b) otherwise—have regard to matters occurring before or after commencement.

[retrospectivity]

(7) Schedule 2, item 4, page 17 (line 1), after “having a record”, insert “within the last 3 years”.

[ground for cancellation]

(8) Schedule 2, item 4, page 17 (lines 25 to 27), omit paragraph 28D(a), substitute:

(a) the organisation is convicted within the last 3 years of an offence against a law of the Commonwealth or a State or Territory; and

[ground for cancellation]

(9) Schedule 2, item 4, page 18 (lines 3 and 4), omit “designated findings have been made”, substitute “3 designated findings or more have been made, in separate proceedings within the last 3 years,”.

[ground for cancellation]

(10) Schedule 2, item 11, page 25 (lines 20 to 22), omit subitem (2), substitute:

(2) For the purposes of subparagraph 28J(1)(b)(iv) and 28L(2)(b)(ii), and paragraph 28L(3)(b), of the Act, the Court may:

(a) if matters relate to:

(i) convictions, injunctions, orders that relate to the organisation; or

(ii) findings against the organisation in a criminal or civil proceeding;
only have regard to such matters occurring after commencement; or

(b) otherwise—have regard to matters occurring before or after commencement.

[retrospectivity]

(11) Schedule 3, item 4, page 27 (lines 17 to 26), omit subsection 323(1), substitute:

(1) The organisation, or a member of the organisation, may apply to the Federal Court for any one or more of the declarations set out in subsection (3), if the organisation or the member considers that circumstances mentioned in a paragraph of that subsection exist in relation to an organisation.

[dysfunctional]

(12) Schedule 3, item 4, page 28 (lines 14 to 20), omit paragraph 323(3)(d), substitute:
(d) that affairs of an organisation or a part of an organisation are being conducted in a manner that is contrary to the interests of the members of the organisation or part as a whole; [dysfunctional]

(13) Schedule 3, item 4, page 28 (lines 25 to 33), omit subsection 323(4). [dysfunctional]

(14) Schedule 3, item 6, page 33 (lines 25 to 27), to be opposed. [dysfunctional]

(15) Schedule 3, page 33 (after line 27), at the end of the Schedule, add:

7 Application of amendments

(1) In making a declaration under section 323 of the Fair Work (Registered Organisations) Act 2009 (the Act) as amended by this Schedule, the Federal Court may only have regard to circumstances that existed after commencement.

(2) Sections 323 of the Act, as in force immediately before commencement, continues in effect, after commencement and despite the amendments made by this Schedule, in relation to circumstances that existed before commencement.

(3) For the purposes of the operation of sections 323 of the Act as continued in effect by subitem (2), the amendments made by this Schedule are taken not to have been made.

(4) In this item:

commencement means the start of the day this item commences. [retrospectivity]

(16) Schedule 4, item 7, page 36 (line 24), after paragraph 72C(1)(a), insert:

(aa) a member of the existing organisations; [submissions]

(17) Schedule 4, item 7, page 36 (lines 33 to 36), omit paragraphs 72C(1)(e) and (f). [submissions]

(18) Schedule 4, item 7, page 38 (lines 1 to 28), omit section 72E, substitute:

72E Compliance record events

A compliance record event occurs for an organisation if:

(a) a designated finding within the meaning of paragraph 9C(1)(a) (criminal) is made against the organisation; or

(b) the organisation is found to be in contempt of court in relation to an order or injunction made under a designated law; or

(c) a person is found to be in contempt of court in relation to an order or injunction made under any law of the Commonwealth or a State or Territory, if the person:

(i) was an officer of the organisation at the time of the conduct to which the finding relates; and

(ii) engaged in the conduct in the course of (or purportedly in the course of) performing functions in relation to the organisation. [compliance record events]
(19) Schedule 4, item 13, page 40 (lines 13 to 15), omit subitem (3), substitute:

(3) To avoid doubt, a compliance record event (within the meaning of the *Fair Work (Registered Organisations) Act 2009*) is an event that occurred after this item commences.

[retrospectivity]