



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

WORKPLACE RELATIONS AMENDMENT (REGISTRATION AND ACCOUNTABILITY OF ORGANISATIONS) BILL 2002

WORKPLACE RELATIONS LEGISLATION AMENDMENT (REGISTRATION AND ACCOUNTABILITY OF ORGANISATIONS) (CONSEQUENTIAL PROVISIONS) BILL 2002

Second Reading

SPEECH

Tuesday, 15 October 2002

BY AUTHORITY OF THE SENATE

SPEECH

Date Tuesday, 15 October 2002
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Questioner
Speaker Abetz, Sen Eric

Source Senate
Proof No
Responder
Question No.

Senator ABETZ (Tasmania—Special Minister of State) (3.54 pm)—I table revised explanatory memoranda relating to each of the bills and move:

That these bills be now read a second time.

I seek leave to have the second reading speeches incorporated in *Hansard*.

Leave granted.

The speeches read as follows—

WORKPLACE RELATIONS AMENDMENT (REGISTRATION AND ACCOUNTABILITY OF ORGANISATIONS) BILL 2002

Trade unions and employer organisations are able to seek and obtain registration under the Workplace Relations Act 1996. The statute confers not only substantial rights and privileges, but also significant responsibilities on bodies that are granted registration.

These rules, currently contained in parts IX and X of the Workplace Relations Act, constitute a significant proportion of the Act. The regulation of the internal affairs of organisations was not substantially amended by either the coalition's 1996 reforms, nor by Labor's 1993 amending act. It is necessary to go back to the recommendations of the Hancock committee in 1984-85 and the subsequent 1988 Hawke government legislation to identify any significant amendments to these statutory provisions. Indeed, some of the current regulatory provisions have remained unaltered for decades.

Over time, the workplace and the workplace relations system have both undergone significant change. Yet the regulatory provisions associated with registered organisations have not been modernised to reflect new requirements of the system, nor contemporary circumstances of employers and employees who may join, or be eligible to join, unions and employer associations. The Workplace Relations (Registration and Accountability of Organisations) Bill 2002 (the principal bill) and the accompanying Workplace Relations (Registration and Accountability of Organisations) (Consequential Provisions) Bill 2002 will address that deficiency.

The principal bill proposes mostly technical, but nonetheless important, amendments to the provisions concerning the internal administration of registered organisations in a manner that modernises them for the first time in years—particularly in relation to disclosure, democratic control, and accountability. In so doing, the principal bill gives effect to the coalition's long-held commitment, reiterated in our 2001 workplace relations election policy, to improve the statutory provisions governing registered industrial organisations.

The content of the principal bill is substantially similar to the Workplace Relations (Registered Organisations) Bill 2001, which was passed by the House of Representatives and was before the Senate when Parliament was prorogued for the federal election last year. That Bill was developed over a considerable period, with the government actively consulting on its provisions to minimise areas of difference, whilst making meaningful improvements to the regulatory regime.

This consultation process was extensive. In October 1999, the former Minister for Employment, Workplace Relations and Small Business, Peter Reith, issued a public discussion paper outlining policy proposals for legislative change. An exposure draft bill was publicly released in December 1999 and the submissions received resulted in significant revisions to the exposure draft. Continuing this approach, the government accepted a number of opposition amendments to the 2001 bill in the House of Representatives. The effect of those amendments generally was to retain the status quo in areas where policy differences remained evident.

The Government has maintained this bipartisan approach with this Bill. The Government a significant number of amendments in the House of Representatives to address concerns of the Opposition, and agreed to other

amendments proposed by the Opposition. These amendments included amendments to establish a Registration and Accountability of Organisations Schedule to the Workplace Relations Act rather than a stand alone Act as was originally envisaged. As a consequence, the name of the Bill has changed from the Workplace Relations (Registration and Accountability of Organisations) Bill to the Workplace Relations Amendment (Registration and Accountability of Organisations) Bill.

These bills do not seek to impact on the broader debate about the role and nature of industrial organisations. They are presented to this parliament on the basis that the existing regulation surrounding the registration, reporting and accountability of industrial organisations should be modernised to reflect contemporary standards of governance whatever view one might take about their basic role.

If the proposed amendments are assessed on their merits, these bills should be positively received by registered organisations. Sensible measures, such as those proposed in these bills, are capable of increasing the confidence employers, employees, members and prospective members have in the administration of these organisations and influencing decisions they make about the benefits that membership may offer.

I now turn to the major provisions of the Workplace Relations Amendment (Registration and Accountability of Organisations) Bill.

This bill provides a stronger focus on disclosure to members in ways consistent with modern accounting and auditing practices and enhances transparency and accountability in a manner broadly consistent with Corporations law.

The bill establishes statutory fiduciary duties for officers and employees of organisations modelled on duties applicable to company directors under Corporations law. These provisions will provide members of organisations with increased protection against financial mismanagement. This protection is appropriate, given that officials of registered organisations are entrusted with substantial funds on behalf of their members.

The bill makes significant changes to the enforcement arrangements for financial accounting, auditing and reporting obligations. Under the Workplace Relations Act, breach of most financial requirements is a criminal offence. This bill would replace many of these offences with civil penalty provisions and allow the Industrial Registrar to apply to the Federal Court for penalties.

The bill makes a number of other minor but important changes, including the requirement for non-discriminatory rules of organisations, scope for the creation of model rules for the conduct of elections, the obligation to review membership lists to ascertain and remove long-term unfinancial members, the rights of members to accurate information about resignation from membership, the conduct of elections and ballots, the adoption of Australian accounting standards, improved access by members to financial records and disclosure to members of moneys paid to employers where automatic membership payroll deductions are made.

In addition, the bill will move to the Registration and Accountability of Organisations Schedule the bulk of the provisions dealing with withdrawal from amalgamations that are currently contained in the workplace relations regulations.

The creation of a separate Schedule to the Workplace Relations Act, to deal solely with registered organisations (along with the removal of the existing regulatory provisions of parts IX and X of that Act) will make the Workplace Relations Act a more useable and relevant document across the work force.

The Workplace Relations (Registration and Accountability of Organisations) (Consequential Provisions) Bill contains transitional and saving provisions designed to ensure a smooth transition from the current regulation of registered organisations under the Workplace Relations Act to the proposed Registration and Accountability of Organisations Schedule.

Orders, injunctions, declarations, decisions, determinations, exemptions or permissions that are operating before the commencement of the proposed Schedule will continue in force as if they had been made under the corresponding provisions of the new Schedule. An organisation that was registered under the Workplace Relations Act would be taken to be registered under the proposed new Schedule. Existing rules of organisations would be preserved and continue in force as if they had been certified under the new Schedule. Organisations would have six months from the commencement of the new Schedule to update their rules (if necessary) to bring them into conformity with the new legislative requirements, with the Industrial Registrar able to grant extensions

of time in appropriate cases. Organisations would have up to 12 months from the commencement of the new Schedule to remove from their register of members persons who had been unfinancial for more than 24 months. In general, amended financial and reporting obligations would apply from the first full financial year after the commencement of the new Schedule or the gazettal of new reporting requirements. The consequential provisions bill also provides that the Federal Court would have the jurisdiction to hear and determine issues that may arise in the application of the new Schedule to particular transitional matters.

The consequential provisions bill is a necessary technical measure that complements the objectives of the principal bill and, in conjunction with that bill, will provide the legal framework around which registered organisations can update and upgrade their administrative and reporting practices, in order to become more accountable, more competitive and better equipped to deal with the demands of their membership and the workplace relations system.

Australian workers are increasingly independent, educated and looking for solutions that meet their particular needs. It is important that industrial organisations become more competitive, open and accountable in their internal activities. This is especially so given the extensive rights the workplace relations system confers on them. These bills take some important steps to enable registered organisations to be relevant, modern, service-oriented bodies, in touch with their members and in touch with modern principles of governance.

I commend the bill to the Senate.

WORKPLACE RELATIONS LEGISLATION AMENDMENT (REGISTRATION AND ACCOUNTABILITY OF ORGANISATIONS) (CONSEQUENTIAL PROVISIONS) BILL 2002

The second reading speech for this bill was incorporated in the speech to the Workplace Relations Amendment (Registration and Accountability of Organisations) Bill 2002.

I commend the bill to the Senate.

Debate (on motion by **Senator Ludwig**) adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.