



**Submissions by  
Australian Nursing and Midwifery Federation  
New South Wales Branch**

***Fair Work Amendment (Registered Organisations)  
Amendment (Ensuring Integrity) Bill 2019***

**Senate Education and Employment  
Legislation Committee**

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50 O'Dea Ave  
Waterloo  
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## About the ANMF NSW Branch

The Australian Nursing and Midwifery Federation New South Wales Branch (ANMF NSW Branch) represents a membership of over 65,000 nurses and midwives in New South Wales.

We are a branch of the Australian Nursing and Midwifery Federation (ANMF) - Australia's largest national union and professional nursing and midwifery organisation who represent the professional, industrial and political interests of more than 275,000 nurses and midwives.

Through our work with members we aim to strengthen the contribution of nursing and midwifery to improving Australia's health and aged care systems, and the health of our national and global communities.

We are an organisation run by nurses and midwives and are committed to the principles of good governance including transparency, democracy and accountability. These are provided by the current regulation of Unions in Australia.

We already ensure integrity and certainly do not have a culture of lawlessness or dysfunction which requires combatting by any further regulation.

## Executive Summary

On behalf of our membership, the ANMF NSW Branch welcomes this opportunity to make submissions.

1. We support the submissions made by the ANMF, the ACTU, Unions NSW and other Unions.
2. The ANMF NSW Branch is strongly of the view that the *Fair Work Amendment (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019* should not be passed by the Parliament.
3. The ANMF NSW Branch submits that the Senate Committee strongly recommend the rejection of the *Fair Work Amendment (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019* in its entirety on the basis that sufficient regulation of registered organisations already exists.

## Why this Bill should not pass?

- Nurses and midwives should be able to continue to determine who represents them in office through democratic elections without interference from external authorities. It should be Union members who determine if those nominated for election are fit and proper persons.

- The Federal Court should not be able to de-register a Union if certain grounds are established. The discretion of the Court as currently exists should not be removed.
- An employer who is unhappy with enterprise bargaining negotiations should not be able to apply to the Federal Court to have the Union (bargaining representative) de-registered. This example works both ways in that a Union could apply for an employer organisation to be-deregistered.
- A Union claim for improvements for a particular classification of member in enterprise bargaining negotiations eg claim for an allowance for Nursing Assistants who administer medication in aged care facilities should be able to be made without fear of being contrary to the interests of other members.
- The number 1 issue for nurses and midwives is mandated minimum nurse to patient staffing for quality patient care in hospitals, aged care and other healthcare settings. Whilst the Union complies with requirements regarding protected action there are occasions whereby activity could be taken by nurses and midwives which could be used to argue for de-registration of their Union.

While these examples may appear drastic they are very real consequences of what could happen if the *Fair Work Amendment (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019* were to become law.

## **The Current Compliance Framework is Sufficient**

The current system of external and internal governance of Australian Unions is already sufficiently heavily regulated with non-compliance resulting in threat of fines and significant penalties.

There is no real justification to increase this level of regulation.

The Explanatory Memorandum cites that the Bill is a response to community concern and recommendations of the Commission into Trade Union Governance and Corruption. That Final Report was given to the Governor-General back in December 2015.

Since then, the Registered Organisations Commission (ROC) was established in 2017 to monitor and educate unions and has an increasingly heightened enforcement role.

This Union has co-operated with the ROC, attended their education sessions and complied with all requirements.

The ANMF NSW Branch as a branch of a federally registered organisation and the NSW Nurses and Midwives' Association (NSWNMA) as a registered organisation in the NSW industrial system, both comply with the different legal requirements to operate as such in both the Federal and State jurisdictions - noting that the ANMF NSW Branch is treated as a separate reporting body for ROC purposes.

Currently the day to day operations of registered organisations are very closely governed and scrutinised through a range of legislation by the Fair Work Commission (FWC), the ROC, the NSW Industrial Relations Commission (NSW IRC), the Australian Electoral Commission the NSW Electoral Commission, internal Union structures (eg 21 democratically elected Councillors) and rightly so, by our membership.

Furthermore at Federal and State levels we have governing sets of Rules which are approved by the FWC and the NSW IRC. These rules are to act in the best interests of our members and to ensure the proper conduct of office holders. For example, there are provisions for removal of office where circumstances exist such as gross neglect of duty in the conduct of office in Rule 11 of the ANMF Rules.

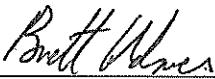
### ***Parliament's intention in enacting the Fair Work (Registered Organisations) Act 2009***

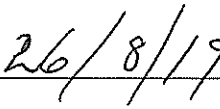
Section 5 of the *Fair Work (Registered Organisations) Act 2009* sets out Parliament's intention in enacting this Act. Section 5(3) lists the standards set out in the Act:

- “(a) ensure that employer and employee organisations registered under this Act are representative of and accountable to their members, and are able to operate effectively; and*
- (b) encourage members to participate in the affairs of organisations to which they belong; and*
- (c) encourage the efficient management of organisations and high standards of accountability of organisations to their members; and*
- (d) provide for the democratic functioning and control of organisations; and*
- (e) facilitate the registration of a diverse range of employer and employee organisations.”*

The ANMF NSW Branch submits that no further regulation is necessary or required and that the *Fair Work Amendment (Registered Organisations) Amendment (Ensuring Integrity) Bill 2019* should not be passed through Parliament to ensure that:

- the above standards are not subverted contrary to Parliamentary intentions and
- that nurses and midwives are able to pursue their legitimate concerns for patient safety, wages and conditions improvements and continue their democratic participation in their registered Union.

  
Brett Holmes  
Branch Secretary  
ANMF NSW Branch

  
Date