

**SUPPLEMENTARY SUBMISSION TO THE FAIR WORK AMENDMENT  
BILL INQUIRY  
BY THE MARITIME UNION OF AUSTRALIA  
RE: SUB-SECTION 176(3)**

1. This supplementary submission addresses the specific issue of the proposed amendment to sub-section 176(3) of the *Fair Work Act 2009* as foreshadowed in Schedule 4, Part 2.2 of the *Fair Work Amendment Bill 2012*.
2. This amendment prevents a union official from being a bargaining representative for an employee unless the union to which the official belongs is entitled to represent the industrial interests of the employee. This restriction traverses both the legislative object in s 3(e) of the Act relating to fairness and representation at work and the prevention of discrimination by recognising the right to freedom of association and the right to be represented; and the right for an employee to appoint a bargaining representative of their choice under s 176(1)(c).
3. A primary motivation for this amendment appears to stem from concern for potential industrial disharmony when unions recruit members who are eligible to join other unions.
4. The size and scope of the Australian work environment has necessitated co-operation between Australian unions, many of which recognise each other's officials and consent to officials of other unions acting as bargaining agents for their own members. For example the MUA has relationships with other unions which facilitate the organisation of otherwise distinct memberships in remote and offshore regions of the north and west of Australia. This is particularly important in the offshore oil and gas industry where right of entry for officials is constrained by transportation limits and costs. The proposed amendment would restrict this industrial co-operation and deny workers representational rights, even where there is consent by both unions.
5. The amending legislation should provide a mechanism for unions to apply to FWA for orders permitting the union and its officials to represent the industrial interests of employees not covered by the union's eligibility rule. Considerations to be taken into account by FWA would necessarily include the views of the each union, the relevant employees and the public interest.

Maritime Union of Australia  
20 November 2012