CONTRACTING INDUSTRY REDUNDANCY TRUST

ABN 18 414 343 407
PO Box 42, 8 McIlwraith Street
Everton Park, 4053, Brisbane

Committee Secretary
Senate Education and Employment Legislation Committee
PO Box 6100
Parliament House Canberra ACT 2600

eec.sen@aph.gov.au

26 August 2019

Dear Committee Secretary

Re: Fair Work Laws Amendment (Proper Use of Worker Benefits) Bill 2019

Please accept the attached submission to the Senate Education and Employment Legislation Committee Inquiry into the Fair Work Laws Amendment (Proper Use of Worker Benefits) Bill 2019.

This submission is made on behalf of Contracting Industry Redundancy Trust.

Yours faithfully,

Kirby Leeke
Company Secretary
CIRT (Qld) Pty Ltd

Level 1,
8 McIlwraith Street
EVERTON PARK, QLD, 4053

The Education and Employment Legislation Committee

Submission to the Inquiry into the Fair Work Laws Amendment (Proper Use of Worker Benefits) Bill 2019

26 August 2019

1. Part 1 Clause 15 (new section 293Q (1))

This Clause states that the Commissioner **may** publish …. One or more model policies. We believe that it should be a **requirement** for the Commissioner to publish model policies such that organisations can ensure that their policies are broadly compliant with what the Commissioner considers is appropriate.

Further, Part 2 Clause 17(1) specifies that this section 239N commences after 'the end of 6 months starting on the day this item commences'. We believe commencement date should be 6 months from the date the Commissioner publishes the model policies, and likewise, any future amendment to the model policies should allow organisations 6 months from the publishing of amendments to the model policies to be implemented by the organisation.

See also point 2 below.

2. Part 2 Clause 17(1)

This clause only allows 6 months for the implementation from the date of its commencement.

Depending on any changes that may become necessary to comply with the Commissioners model policies, some of these changes will require changes to computer software, and will almost certainly require additional time for programming, testing and implementation.

Further, amendments will almost certainly need to be made to the trust deed under which the fund operates, and these will need to be drafted by solicitors, approved by Directors and then submitted to a General Meeting of the fund. With additional requirements of 30 days before a General Meeting can be called etc., and allowing the Commissioner 40 days to consider the application, it is quite conceivable that the funds will not get their constitutions changed, submitted and approved by the Commissioner within the 6 month period to allow the fund to be registered (or continue to be registered).

Depending on the nature of the model rules, we suggest that this time period may need to be increased to 12 months.

3. Additional Clause 329LG Training Requirements

Subclause 1 requires that 'each officer and staff member of the fund whose duties include duties that relate to the financial management of the fund' undertake training that 'covers those duties'. As every director effectively is responsible for the financial management of the fund, are we trying to limit the directors for the trustee company to being accountants?

We consider that it would be more appropriate for any Board to ensure that an appropriate range of skill sets (including financial management) be present on the Board, and not require every director to have financial management training.

4. Training and Welfare Payments

We welcome the inclusion of the ability of Funds to use fund income for the purposes of 'training or welfare payments' as provided by *s329LD(2).*

We are concerned by the requirement in *s329LD(2)(d)* that every payment in relation to training and welfare services must be approved by an independent director *s329LD9(2) (d)* and *(e)*.

We are further concerned that under *s329LF(3)(g)*, the Annual Report must disclose details of "each individual payment" in regard to training or welfare payments including 'the person or persons to whom the individual payments were made'. We suggest that this is onerous, and potential a breach of privacy legislation. By way of example, we made over 400 payments in the last year to individuals, and almost all of those payments were under $2,000.

We suggest that only payments over a minimum cap of say $5,000 for any one person in any one year be applied.

5. General Drafting Problems

We have identified a number of drafting issues, but due to the limited time available to review the legislation, and make submissions, we can only make general observations, but there are a number of items that we are sure were not intended in the legislation. An example of this would be Item 20 in Section 329LA which states:-

'The Operator:

(a) On request, give a copy of the constitution of the fund to any contributor to the fund; and
(b) Gives a copy of the constitution to each person who the operator knows may become a fund member; and
(c) Ensures that each fund member has a copy of the constitution or has access to the constitution on the website of the fund (if any)'

Subclause (b) is virtually impossible to comply with, and has no timeframe when a person may become a member. Technically, any electrician in Queensland and Northern Territory may become a fund member, but we certainly do not have contact addresses for all those possible fund members.

We believe clauses (b) and (c) should be redrafted to require the constitution to be available on a public website (ie no login required) as sufficient availability.

6. Donation to Registered Charities.

We have raised this matter before in a couple of places, but we fail to see why the amendments proposed do not permit donations/payments to a registered charity (defined in Section 12) or deductible gift recipient.

We believe an additional subclause (e) should be added to section 329LD(1) to include registered charities and deductible gift recipients.