



**Community and Public Sector Union**

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State Public Services Federation

• Victorian Branch

Submission of the CPSU/SPSF Group Victorian Branch to the Senate  
Education and Employment Committee, Inquiry into the *Fair Work  
(Registered Organisations) Amendment (Ensuring Integrity) Bill 2019*.

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## **1. INTRODUCTION**

- 1.1** The Victorian Branch of the CPSU (SPSF Group) has members who work in the Victorian public service, public sector authorities and businesses, and public and private sector correctional services. Our members provide a wide range of duties and services on behalf of the community. We have represented public service/sector employees in Victoria since 1885. As at 30 June 2018 the Victorian Branch represents around 13,532 members, we have 47.35 EFT employees<sup>1</sup>. With a turnover of less than \$10m we are considered a small business by the Australian Taxation Office.
- 1.2** This submission is supplementary to the one made by our Federal Office of the SPSF Group to highlight the concerns of a Branch on the effect this Bill will have on our ability to continue to represent public service/sector employees in Victoria.
- 1.3** We are a democratic, transparent and accountable organization. We are member led and governed by a Committee of Management elected from our membership. This committee, apart from our elected Secretary and Assistant Secretary, are all honorary officials. They stand for office and participate once elected, for no other motivation than to act in the interests of members. They dutifully, and with due diligence, apply themselves to their functions under the rules.
- 1.4** An honorary official of a Union Committee of Management is not comparable with the role of a Company Director. Company Directors are usually paid sitting fees to compensate for their responsibilities. This Bill continues a pattern of compliance that is based on a false analogy between company directors and union officers.
- 1.5** A more relevant comparison for an honorary union official would be the Committee of Management of a local surf club or football club. Volunteering of this type is at the heart of many of our most loved institutions and greatly adds to the social capital of our Nation.
- 1.6** It is already difficult to encourage members to stand for election to honorary officer roles. Changes to governance and compliance obligations in recent years along with the risk of civil and criminal prosecutions and fines is a strong disincentive. The Ensuring Integrity Bill will worsen this situation.

## **2. UNDERSTANDING THE ROLE AND COMMITMENT OF OUR HONORARY OFFICIALS**

- 2.1** The Committee of Management of the Victorian Branch is known as the Victorian Branch Council (VBC). The VBC comprises the officers and councilors elected by the members every 4 years. There are 5 officers (President, two Vice Presidents, Branch Secretary, Assistant Branch Secretary,) and 18 Councilors.
- 2.2** The occupations of members on the VBC include employees of Museum Victoria, worker, Victoria police, Child protection worker, prison officers, water authorities, administrative and policy officers from a number of Victorian government departments and agencies.
- 2.3** The VBC meets once a month. Between meetings of VBC the Officers meets monthly prior to the VBC meeting or as required to manage the union. A number of officers also hold elected roles in the CPSU/SPSF Group as members of the Federal Executive

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<sup>1</sup> Community and Public Sector Union SPSF Group Victorian Branch, Annual Financial Report for the year ended 30 June 2018. Accessible at [https://roc.gov.au/find-a-registered-organisation/cpsu/cpsu-the-community-and-public-sector-union?dfaction=search&df926\\_1=Financial%20reports](https://roc.gov.au/find-a-registered-organisation/cpsu/cpsu-the-community-and-public-sector-union?dfaction=search&df926_1=Financial%20reports)

or Federal Council. The CPSU/SPSF Group holds its meetings in various states at least quarterly.

- 2.4** CPSU/SPSF Group Victorian Branch rules registered with the Fair Work Commission and the Registered Organisations Commission provide that the Branch Secretary and Assistant Branch Secretary are paid full time officials. All other roles are honorary. Some employers allow elected officials to attend official meetings in paid time, but most honorary officials work additional hours to cover their periods of absence to undertake their honorary function. Their roles also require them to attend and participate in union activities often held at night or on weekends.
- 2.5** All union officers, including honorary officials are required to undertake training in union governance and compliance and make regular disclosures regarding remuneration, payments to related parties or declared person and personal interests.
- 2.6** These are onerous and time-consuming roles that are in most cases performed in addition to full-time work.
- 2.7** Like all unions we face a huge compliance obligation that is constantly changing and very technical in nature. It is therefore very easy for us to miss a reporting deadline or to make some other minor technical breach that have the potential to breach a civil penalty provisions under the *Fair Work Act 2009* or *Fair Work (Registered Organisations) Act 2009*.

### **3. LOW HURDLE FOR ACTION**

- 3.1** We are concerned that the trigger for some of the serious processes under this Bill including disqualification of an officer, placing the union into administration, deregistration or the prevention of an amalgamation can be for relatively low level breaches.
- 3.2** Liability attaches to a “designated finding” of a breach of any civil penalty provisions under the *Fair Work Act 2009* or *Fair Work (Registered Organisations) Act 2009*. Some of the civil penalty provisions in these Acts are for low level activity that have almost no real world consequence such as:
- failure to provide the AEC with a declaration that the membership register is maintained in accordance with the Fair Work Act;
  - A failure to provide a statement of membership on request of a member within 28 days;
  - Late filing of financial or other records;
  - Officer changing office and is unable to complete the required financial training within six months;
  - The contravention of an award or agreement;
  - Contravention of a bargaining order;
  - Failure to return a right of entry permit on expiry;
  - Failure to give 24 hours’ notice of exercise of a State or Territory WHS right of entry.

### **4. THE EFFECT OF THIS BILL ON HONORARY OFFICIALS**

- 4.1** The serious consequences for these low-level civil penalty provisions will further discourage volunteers from nominating to election for offices in the Union.
- 4.2** The Bill will take the compliance responsibilities of honorary Committee of Management members way beyond those of Company Directors under the Corporations Law.

- 4.3** The consequences of breaches of civil penalty provisions are not proportional with the conduct. These disproportional consequences are paired with the ability (unknown in the Corporations Law) for persons with little connection with the union (as a person with a “sufficient interest”) to bring these proceedings. The governance responsibilities of volunteer officers to ensure compliance will be too great.
- 4.4** We are concerned that volunteer honorary officials will begin to seriously consider whether their service outweighs the benefits of volunteering.
- 4.5** The Committee should think seriously about the work our volunteer Committee of Management officers perform. The governance responsibilities under the existing law are already extreme. If this Bill becomes law, it will reduce the range of people who are willing to take up these roles which is bad for democracy