

Senate Standing Committee on Education and Employment

QUESTIONS ON NOTICE Budget Estimates 2016 - 2017

Amended Question on Notice

Agency - Fair Work Commission

Department of Employment Question No. EMSQ16-000805

Senator McKenzie, Bridget asked on 06 May 2016 on proof Hansard page 76

Question

FWC - Union restrictions on legal representation

CHAIR: I understand other unions have similar restrictions on legal representation in their rules. Which unions have that restriction?

Mr Enright: I would have to take that on notice.

Answer

In addition to the CFMEU's Rule 26A, there are a number of other unions (registered as organisations of employees) that have rules that appear to limit whether or not members can be represented by an external legal representative during internal proceedings.

Based on a review of the rules of federally registered organisations of employees, the following employee organisations have rules explicitly restricting legal representation:

- The Australian Maritime Officers' Union (AMOU), at Rule 87;
- CPSU, the Community and Public Sector Union (CPSU), at Chapter B, PSU Group Rules, Rule 5.19;
- Media, Entertainment and Arts Alliance (MEAA), at Rule 73;
- Police Federation of Australia (PFA) Queensland Branch, at Rule 78.

The following employee organisations have rules that allow legal representation with permission:

- The Australian Workers' Union (AWU), at Rule 19;
- "Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as the Australian Manufacturing Workers' Union (AMWU), at Rule 13;
- Health Services Union (HSU), at Rule 28.

In a number of cases, organisations rules are silent on the issue of legal representation.

It is likely that some organisations' rules, while silent on the issue of legal representation, read in their entirety operate so as to affect the involvement of legal practitioners in disciplinary procedures or other matters. For example, rule 69(10) of the Australian Rail, Tram and Bus Industry Union (ARTBIU) rules specifies that *'no person shall be present at the hearing of the charge other than the person charged, the person laying the charge, the members of the National Executive or the Branch Executive, as the case may be, and any*

witnesses called, provided that any witnesses called may only be present while such witness' evidence is being taken'.

It would be an unreasonable diversion of resources to analyse the rules of every registered organisation to assess whether, considered in their entirety, they restrict legal representation.