

From: S22
To: [ENRIGHT,Chris](#)
Subject: RE: EI Bill S22 Bill summaries of Senate submissions [SEC=UNCLASSIFIED]
Date: Tuesday, 17 September 2019 5:44:19 PM

Hi Chris,

Here is a very rough summary of the themes from the EI Bill submissions. Apologies but we don't seem to have one for S22

- Scope of grounds and designated findings – potential offences against designated laws are broad in range. At the minor end, they can capture inconsequential or inadvertent contraventions. This stands out when the penalties under the Bill are considered severe. This goes to a lack of faith that the Courts would find that the proposed sanction is unjust. Some grounds have no relation to the ability of an officer to perform their duty.
- Double punishment – disqualifying an officer for one of the conditions of the fit and proper test amounts to double punishment
- Standing – Standing is too broad. This leaves the system open to abuse by bad actors who want to engage in lawfare with unions which would tie up union resources. Giving individual members standing opens the possibility of people using the laws to settle internal disputes.
- International law – The Bill contravenes ILO Convention No. 87.
- The bill is still retrospective – The matters identified vary from submission to submission
- The bill still puts the onus of proof on officers and ROs
- Too much responsibility is placed on officers in relation to their members and their organisation – Officers can be punished for things they had no functional control over, such as members taking industrial action or another officer engaging in corrupt behaviour.
- Scope of deregistration is too broad – An entire union can be deregistered if one of its branches provides grounds
- Lack of corporate comparators – Most of the functions of the bill don't have a direct Corporations Act comparator. A salient example is employees and unions not having standing to wind up a company or disqualify a company director. Another example is the public interest test for amalgamations taking into account legal compliance.
- Unpaid officers will be discouraged – Union members who volunteer for the Committee of Management or other such position will be discouraged by the penalties they may potentially incur for some of the abovementioned issues.

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From: S22
Sent: Tuesday, 17 September 2019 3:57 PM
To: ENRIGHT,Chris <xxxxx.xxxxxx@xxx.xxx.xx>
Subject: EI Bill S22 Bill summaries of Senate submissions [SEC=UNCLASSIFIED]

Hi Chris,

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Attached are the summaries of the EI S22 Bill Senate submissions that we've completed to

date.

Below are a list of summaries not included.

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Ensuring Integrity Bill summaries not included in the table:

Australian Council of Trade Unions

Construction Forestry Maritime Mining & Energy Union

International Trade Union Confederation

Professor Bradon Ellem

Victorian Trades Hall Council

Public Services International

United Voice

Queensland Government

Australian Nursing and Midwifery Federation

Australian Nursing and Midwifery Federation NSW Branch

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A list of themes for you is still on my list.

Kind regards,

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