

2022-2024

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

**FAIR WORK (REGISTERED ORGANISATIONS) AMENDMENT (PROTECTING
VULNERABLE WORKERS) BILL 2024**

EXPLANATORY MEMORANDUM

(Circulated by authority of Senator Lambie)

FAIR WORK (REGISTERED ORGANISATIONS) AMENDMENT (PROTECTING VULNERABLE WORKERS) BILL 2024

OUTLINE

The Fair Work (Registered Organisations) Amendment (Protecting Vulnerable Workers) Bill 2024 (**the Bill**) amends the *Fair Work (Registered Organisations) Act 2009* to enable vulnerable workers within the Manufacturing Division to de-merge from the Construction, Forestry and Maritime Employees Union (**CFMEU**).

The Bill adds Schedule 3 to the *Fair Work (Registered Organisations) Act 2009* to enable the Manufacturing Division within the CFMEU, which includes the Textile, Clothing and Footwear Sector, to hold a secret ballot to de-merge from the CFMEU. The application must be made before 1 September 2024.

The Textile, Clothing and Footwear Sector includes many female workers from non-English speaking backgrounds who have been subject to exploitation, underpayment and unsafe working conditions within CFMEU offices.

The Bill provides an opportunity for vulnerable workers in the Textile, Clothing and Footwear Sector to de-merge from the CFMEU. The Bill is expected to empower vulnerable workers in the Textile, Clothing and Footwear Sector to take more control over their livelihoods.

NOTES ON CLAUSES

Clause 1: Short Title

1. This is a formal provision specifying the short title of the Bill.

Clause 2: Commencement

2. The Bill's provisions are to commence the day after the Act receives Royal Assent.

Clause 3: Schedules

3. Each Act specified in a Schedule to this Act is amended or repealed as is set out in the applicable items in the Schedule. Any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

4. Schedule 1 adds Schedule 3 at the end of the *Fair Work (Registered Organisations) Act 2009* to enable applications for withdrawal from the CFMEU.

Fair Work (Registered Organisations) Act 2009

Item 1 – After section 5C

5. This item inserts section 5D which is a consequential amendment to give effect to Schedule 3.

Item 2 – At the end of the Act

6. This item adds Schedule 3—Applications for withdrawal from the CFMEU.
7. Clause 1 of Schedule 3 defines the following terms:

CFMEU means the Construction, Forestry and Maritime Employees Union and any successors;

Manufacturing Division means the Manufacturing Division as defined in the Rules of the CFMEU;

new organisation means the organisation that is registered pursuant to section 110 of the old Act as a result of the withdrawal of the Manufacturing Division from the CFMEU;

old Act means the *Fair Work (Registered Organisations) Act 2009*, as in force before the commencement of Part 13 of the *Fair Work Legislation Amendment (Closing Loopholes No. 2) Act 2024*;

old Regulations means the *Fair Work (Registered Organisations) Regulations 2009*, as in force immediately before the commencement of Part 13 of Schedule 1 to the *Fair Work Legislation Amendment (Closing Loopholes No. 2) Act 2024*.

8. Clause 2 of Schedule 3 provides for applications for withdrawal from the CFMEU.
9. Subclause 2(1) provides that an application may be made to the Fair Work Commission for a secret ballot to be held to decide whether the Manufacturing Division should withdraw from the CFMEU.
10. Subclause 2(2) clarifies that Part 3 of Chapter 3 of the old Act and old Regulations, as defined in clause 1, continue to apply in relation to the application. The application must be made before 1 September 2024 and the application is treated as an application pursuant to section 94 of the old Act.
11. Subclause 2(3) provides that certain provisions of the old Act do not apply in respect of an application made under subclause (1).
12. Subclause 2(4) provides that eligibility rules of the new organisation must reflect certain rules of the CFMEU as at 2 December 2023 and that eligibility rules of the CFMEU must not overlap with the eligibility rules of the new organisation.
13. Subclause 2(5) provides that the Fair Work Commission must not, after the

withdrawal from amalgamation takes effect and before 1 January 2034, consent to an alteration of the eligibility rules of CFMEU if the Fair Work Commission is satisfied that the alteration to the eligibility rules would result in an overlap between the eligibility rules of the CFMEU and the new organisation and the new organisation has raised an objection to the alteration with the Fair Work Commission.

14. Subclause 2(6) provides that if the application seeks, pursuant to subsection 100(3) of the old Act, that the Fair Work Commission make orders that the vote of the constituent members be done in whole or in part by attendance ballot, the Fair Work Commission must make the orders.
15. Subclause 2(7) clarifies that a reference to amalgamated organisation in the old Act and the old Regulations means the CFMEU.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Fair Work (Registered Organisations) Amendment (Protecting Vulnerable Workers) Bill 2024

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Bill

The Bill adds Schedule 3 to the Fair Work (Registered Organisations) Act 2009 to enable the Manufacturing Division to de-merge from the CFMEU.

The Bill enables the Manufacturing Division within the CFMEU, which includes the Textile, Clothing and Footwear Sector, to hold a secret ballot to demerge from the CFMEU.

The Textile, Clothing and Footwear Sector includes many female workers from non-English speaking backgrounds who have been subject to exploitation, underpayment and unsafe working conditions within CFMEU offices.

The Bill provides an opportunity for vulnerable workers in the Textile, Clothing and Footwear Sector to demerge from the CFMEU and therefore empowers workers to take more control of their livelihood.

Human rights implications

This Bill does not engage any of the applicable rights or freedoms.

Conclusion

This Bill is compatible with human rights as it does not raise any human rights issues.

Senator Jacqui Lambie