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A new watchdog with ASIC-based powers will enforce more onerous disclosure and accountability requirements on registered organisations, which will also face tougher penalties - including jail terms - under one of two IR bills introduced today by the Abbott Government.

The [Fair Work \(Registered Organisations\) Amendment Bill 2013](#) establishes the new Registered Organisations Commission, which will replace the Fair Work Commission as the registered organisations regulator from "early" next year, with the new laws on disclosure and accountability to take effect on July 1, 2014.

According to the bill's [explanatory memorandum](#), the ROC will have investigation and information-gathering powers modelled on those of ASIC.

The government will appoint a Registered Organisations Commissioner to head up the agency, which Employment Minister Eric Abetz separately said would also occur in the new year.

The timetable, however, depends on the bill getting through the Senate, which the Labor and Greens together control until July 1 next year.

According to the bill's EM, it will also

- **amend** the disclosure requirements for officers' personal interests and related voting and decision-making rights, and change existing grounds for disqualification and ineligibility for office;
- **strengthen** financial accounting, disclosure and transparency obligations under the RO Act via rule change requirements, making them enforceable as civil remedy provisions; and
- **increase** civil penalties and introduce criminal offences for serious breaches of officers' duties as well as new offences involving the conduct of RO Act investigations.

The new watchdog

Manager of government business in the House of Representatives Christopher Pyne, representing Senator Abetz, introduced the bill into parliament this morning, saying in his [second reading speech](#) that it gave the new Commission the power to undertake legal proceedings and refer possible criminal offences to the Director of Public Prosecutions or law enforcement agencies.

According to Pyne, the Government will establish the agency within the Office of the Fair Work Ombudsman, but the Commissioner will exercise his or her functions independently.

The Minister will have the power to give the Commissioner directions of a general nature but they "must be in writing and are a disallowable instrument".

"For the avoidance of any doubt, I want to be absolutely clear that the Minister will

not have any powers to give directions as to a particular matter of investigation."

Pyne says the Commissioner will be required to appear before Senate Estimates, and produce an annual report to the Minister on its activities.

Amendments modelled on corporations law

The amendments on disclosure and reporting obligations, criminal offences for serious breaches of officers' duties, and increased civil penalties "broadly mirror those that apply to companies and their directors under the Corporations Act 2001", according to the EM.

Persons convicted of particular offences will not be eligible to be an officer of an organisation or to stand for elections.

According to Pyne, the maximum penalty for civil breaches will increase to 1200 penalty units for an individual or 6000 for a body corporate, compared to the current maximum for individuals of 60 penalty units.

Less serious breaches will attract a maximum civil penalty of 100 penalty units for an individual and 500 for a body corporate.

Pyne says the criminal penalties will apply for serious breaches of officers' duties as well as offences involving the conduct of RO Act investigations, with the maximum penalties in these areas set at 2000 penalty units or five years jail or both.

"Broadly, these offences relate to officers and employees of registered organisations who fail to exercise their powers or discharge duties in good faith and for a proper purpose.

"It also applies where an officer uses their position to gain advantage for themselves or someone else, or uses information gained while an officer or employee to gain an advantage for themselves or someone else," he says.

Criminal sanctions will also apply where an officer doesn't comply with the Commissioner's new investigation powers.

Pyne says that some registered organisations "have indicated concern that the new penalties will mean that they will have difficulty persuading people to take on official responsibilities. The government does not agree."

ROs have to disclose top five earners

Under the bill, registered organisations will have to disclose remuneration for their top five officers in the head office and any branches.

Also, officers will be required to disclose their material personal interests to all members.

"This means disclosing the personal interests of officers and their relatives, and

declaring any payments made to persons or entities in which an officer has declared an interest," Pyne says.

The bill requires the ROs to provide a summary of this information to members in an 'officer and related party disclosure statement' and lodge it with the regulator.

Pyne acknowledges that the Corporations Law only requires company directors to disclose conflicts of interest to their fellow directors, but says the government "believes that officers of registered organisations should be required to disclose such matters to members, as they are elected by members to represent their interests".

"Members deserve to know who is in control of their money and where any conflicts might exist," he says.

The bill also provides for information sharing with the FWC "to the extent that is required for both organisations to do their job effectively and efficiently".

Government points to HSU to justify changes

Pyne drew heavily on the HSU scandal to justify the new legislation, saying a "more robust compliance regime will deter wrongdoing and promote first class governance of registered organisations".

He says the government rejected calls from registered organisations to delay implementing the bill, believing "there is no time to lose in implementing these important safeguards for the operation of registered organisations and their members".

"The only people who have anything to fear by these amendments are those who do the wrong thing."

Parliament has referred the bill to the Senate Education and Employment Legislation Committee for an inquiry, with a December 2 report back.

The Government also this morning introduced its construction sector IR bill, which restores the ABCC and enhances its previous powers (see [Related Article](#)).

[Fair Work \(Registered Organisations\) Amendment Bill 2013](#)

[Explanatory Memorandum](#)

[Second reaching speech by the Leader of the House of Representatives, Christopher Pyne, November 14, 2013](#)