



Victoria Government Gazette

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By Authority of Victorian Government Printer

**ELIZABETH THE SECOND, BY THE GRACE OF GOD
QUEEN OF AUSTRALIA AND HER OTHER REALMS AND TERRITORIES,
HEAD OF THE COMMONWEALTH:**

To The Honourable John Dyson Heydon AC QC

GREETINGS:

WHEREAS the Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Council and under the *Constitution of the Commonwealth of Australia*, the **Royal Commissions Act 1902** (Cth) and every other enabling power, has by Letters Patent appointed you to be a Commission of inquiry to inquire into, and report upon, certain matters relating to trade union governance and corruption.

AND the Governor-General has declared that you are authorised to conduct that inquiry in combination with any inquiry into the same matter, or a matter related to that matter, that it is directed or authorised to conduct by any Commission issued, or under any order or appointment made, by any of the Governors of the States or the Government of any Territory.

AND the Governor of the State of Victoria, in the Commonwealth of Australia, by and with the advice of the Executive Council, has deemed it expedient that a Commission should issue to you in the terms set out below.

NOW THEREFORE the Governor of the State of Victoria, in the Commonwealth of Australia, by and with the advice of the Executive Council and acting pursuant to section 88B of the **Constitution Act 1975** and all other enabling powers, appoints and constitutes you to be Our Commissioner.

FOR THE PURPOSE OF inquiring into the following matters:

- (a) the governance arrangements of separate entities established by employee associations or their officers (*relevant entities*), with particular regard to:
 - (i) the financial management of relevant entities; and
 - (ii) the adequacy of existing laws as they relate to relevant entities with respect to:
 - (A) the integrity of financial management; and
 - (B) the accountability of officers of employee associations to their members in respect of the use of funds or other assets in relation to relevant entities; and
 - (iii) whether relevant entities are used, or have been used, for any form of unlawful purpose; and
 - (iv) the use of funds solicited in the name of relevant entities, for the purpose of furthering the interests of:
 - (A) an employee association; or
 - (B) an officer of an employee association; or
 - (C) a member of an employee association; or
 - (D) any other person or organisation;
- (b) without limiting the matters in paragraph (a), activities relating to the establishment or operation of any relevant entity as it relates to the following employee associations or any of their branches:
 - (i) The Australian Workers Union;
 - (ii) the Construction Forestry Mining and Energy Union;
 - (iii) the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia;
 - (iv) the Health Services Union;
 - (v) the Transport Workers Union of Australia;

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- (c) without also limiting the matters in paragraph (a), activities of any other person or organisation in respect of which you consider that there are credible allegations of involvement in activities mentioned in paragraph (b);
- (d) the circumstances in which funds are, or have been, sought from any third parties and paid to relevant entities;
- (e) the extent to which persons represented by employee associations:
 - (i) are protected from any adverse effects or negative consequences arising from matters associated with, or related to, the existence of relevant entities or activities relating to their establishment or operation; or
 - (ii) are informed of those matters; or
 - (iii) are able to influence or exercise control over those matters; or
 - (iv) have the opportunity to hold officers of the association accountable for wrongdoing in relation to those matters;
- (f) any conduct in relation to a relevant entity which may amount to a breach of any law, regulation or professional standard by any officer of an employee association who holds, or held, a position of responsibility in relation to the entity;
- (g) any conduct which may amount to a breach of any law, regulation or professional standard by any officer of an employee association in order to:
 - (i) procure an advantage for the officer or another person or organisation; or
 - (ii) cause a detriment to a person or organisation;
- (h) any bribe, secret commission or other unlawful payment or benefit arising from contracts, arrangements or understandings between an employee association, or an officer of an employee association, and any other party;
- (i) the participation of any person or organisation (other than an employee association or an officer of an employee association) in a matter mentioned in paragraphs (a) to (h);
- (j) the adequacy and effectiveness of existing systems of regulation and law enforcement in dealing with matters mentioned in paragraphs (a) to (i) and, in particular, the means of redress available to employee associations and their members who suffer a detriment as a result of such a matter;
- (k) any matter reasonably incidental to a matter mentioned in paragraphs (a) to (j).

AND WE direct you to make any recommendations arising out of your inquiry that you consider appropriate.

AND WE declare that you are authorised to conduct your inquiry into any matter under these Our Letters Patent in combination with any inquiry into the same matter, or a matter related to that matter, that you are directed or authorised to conduct by any Commission issued, or under any order or appointment made, by the Governor-General of the Commonwealth or the Governor of any other State or by the Government of any Territory.

AND WE give and grant you full power and authority to inquire of and concerning any matter under these Our Letters Patent by all other lawful ways and means whatsoever, including by receiving evidence, either upon oath or affirmation, or otherwise.

AND WE declare that in these Our Letters Patent:

employee association means:

- (a) an employee organisation as defined in section 12 of the **Fair Work Act 2009** (Cth); or
- (b) any other association of employees that is, or was at any time, registered or recognised as such an association (however described) under the **Fair Work (Registered Organisations) Act 2009** (Cth) or any other Commonwealth law; or
- (c) a recognised State-registered association, or a transitionally recognised association, as defined in section 6 of the **Fair Work (Registered Organisations) Act 2009** (Cth), if the association is, or was at any time, entitled to represent the industrial interests of employees under an industrial law as defined in section 12 of the **Fair Work Act 2009** (Cth); or

- (d) any other association of employees that is, or was at any time, registered or recognised as such an association (however described) under a State or Territory law or instrument that is a State or Territory industrial law as defined in subsection 26(2) of the **Fair Work Act 2009** (Cth).

law means a law of the Commonwealth or of a State or Territory.

office, in relation to an employee association, means:

- (a) an office as defined in section 12 of the **Fair Work Act 2009** (Cth); or
(b) an office within the ordinary meaning of that term.

officer, of an employee association, means a person who is, or was at any time:

- (a) the holder of an office in the association; or
(b) an employee of the association; or
(c) a delegate or other representative of the association.

organisation includes any of the following:

- (a) an employee association;
(b) a corporate entity;
(c) an association, whether incorporated or not.

separate entity means an entity that is, or was at any time:

- (a) a fund, organisation, account or other financial arrangement; and
(b) established for, or purportedly for, an industrial purpose or the welfare of members of an employee association; and
(c) a separate legal entity from any employee association;

whether or not the entity is, or has at any time been, covered by the financial reporting obligations to which an employee association is, or was at any time, subject under the **Fair Work (Registered Organisations) Act 2009** (Cth).

AND WE:

- (l) require you to begin your inquiry as soon as practicable; and
(m) require you to make your inquiry as expeditiously as possible; and
(n) authorise you to submit to Our Governor any interim report that you consider appropriate; and
(o) require you to submit to Our Governor a report of the results of your inquiry, and your recommendations, not later than 31 December 2014.

IN TESTIMONY WHEREOF WE have caused these Our Letters to be made Patent and the Seal of the State to be hereunder affixed.

WITNESS His Excellency the Honourable Alex Chernov,
Companion of the Order of Australia, one of
Her Majesty's Counsel, Governor of the State
of Victoria in the Commonwealth of Australia at
Melbourne this 15th day of April Two thousand
and fourteen.

(L.S.)

ALEX CHERNOV
By His Excellency's Command
THE HON. DR DENIS NAPHTINE MP
Premier of Victoria

Entered on the record by me in the Register of Patents Book No. 45 Page No. 123 on the 16th day of April 2014.

ANDREW TONGUE
Secretary, Department of Premier and Cabinet

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