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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

As passed by both Houses

**Fair Work Amendment (Respect for
Emergency Services Volunteers) Bill
2016**

No. , 2016

**A Bill for an Act to amend the *Fair Work Act 2009*,
and for related purposes**

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Schedule 1—Amendments

Fair Work Act 2009

1 Section 12

Insert:

designated emergency management body: see subsections 195A(4) and (5).

objectionable emergency management term of an enterprise agreement: see section 195A.

volunteer of a designated emergency management body: see subsection 195A(6).

2 At the end of subsection 29(2)

Add:

Note: In addition, a term of an enterprise agreement could be an unlawful term and of no effect if it requires or permits a designated emergency management body to act other than in accordance with a State or Territory law and this affects or could affect the body's volunteers (see paragraphs 194(baa), 195A(1)(d) and 253(1)(b)).

3 After paragraph 194(b)

Insert:

(baa) an objectionable emergency management term; or

4 At the end of Subdivision D of Division 4 of Part 2-4

Add:

195A Meaning of *objectionable emergency management term*

Objectionable emergency management term

- (1) A term of an enterprise agreement is an *objectionable emergency management term* if an employer covered by the agreement is a designated emergency management body and the term has, or is likely to have, the effect of:

- 1 (a) restricting or limiting the body's ability to do any of the
2 following:
3 (i) engage or deploy its volunteers;
4 (ii) provide support or equipment to those volunteers;
5 (iii) manage its relationship with, or work with, any
6 recognised emergency management body in relation to
7 those volunteers;
8 (iv) otherwise manage its operations in relation to those
9 volunteers; or
10 (b) requiring the body to consult, or reach agreement with, any
11 other person or body before taking any action for the
12 purposes of doing anything mentioned in subparagraph (a)(i),
13 (ii), (iii) or (iv); or
14 (c) restricting or limiting the body's ability to recognise, value,
15 respect or promote the contribution of its volunteers to the
16 well-being and safety of the community; or
17 (d) requiring or permitting the body to act other than in
18 accordance with a law of a State or Territory, so far as the
19 law confers or imposes on the body a power, function or duty
20 that affects or could affect its volunteers.

21 (2) However, a term of an enterprise agreement is not an ***objectionable***
22 ***emergency management term*** if:

- 23 (a) both of the following apply:
24 (i) the term provides for the matters required by
25 subsections 205(1) and (1A) (which deal with terms
26 about consultation in enterprise agreements);
27 (ii) the term does not provide for any other matter that has,
28 or is likely to have, the effect referred to in
29 paragraph (1)(a), (b), (c) or (d) of this section; or
30 (b) the term is the model consultation term.

31 (3) Paragraphs (1)(a), (b), (c) and (d) do not limit each other.

32 ***Meaning of designated emergency management body***

33 (4) A body is a ***designated emergency management body*** if:
34 (a) either:

-
- 1 (i) the body is, or is a part of, a fire-fighting body or a State
2 Emergency Service of a State or Territory (however
3 described); or
4 (ii) the body is a recognised emergency management body
5 that is prescribed by the regulations for the purposes of
6 this subparagraph; and
7 (b) the body is, or is a part of a body that is, established for a
8 public purpose by or under a law of the Commonwealth, a
9 State or a Territory.

10 (5) However, a body is not a *designated emergency management*
11 *body* if the body is, or is a part of a body that is, prescribed by the
12 regulations for the purposes of this subsection.

13 *Meaning of volunteer of a designated emergency management*
14 *body*

- 15 (6) A person is a *volunteer* of a designated emergency management
16 body if:
17 (a) the person engages in activities with the body on a voluntary
18 basis (whether or not the person directly or indirectly takes or
19 agrees to take an honorarium, gratuity or similar payment
20 wholly or partly for engaging in the activity); and
21 (b) the person is a member of, or has a member-like association
22 with, the body.

23 *Limited application of subsection (1) for certain terms*

- 24 (7) If:
25 (a) a term of an enterprise agreement deals to any extent with the
26 following matters relating to provision of essential services
27 or to situations of emergency:
28 (i) directions to perform work (including to perform work
29 at a particular time or place, or in a particular way);
30 (ii) directions not to perform work (including not to perform
31 work at a particular time or place, or in a particular
32 way); and
33 (b) the application of subsection (1) in relation to the term would
34 (apart from this subsection) be beyond the Commonwealth's

1 legislative power to the extent that the term deals with those
2 matters;
3 then subsection (1) does not apply in relation to the term to that
4 extent.

5 Note: See paragraph (l) of the definition of *excluded subject matter* in
6 subsections 30A(1) and 30K(1).

7 **5 Subsection 205(2)**

8 After “a consultation term,”, insert “or if the consultation term is an
9 objectionable emergency management term,”.

10 **6 After section 254**

11 Insert:

12 **254A Entitlement for volunteer bodies to make submissions**

13 (1) A body covered by subsection (2) is entitled to make a submission
14 for consideration in relation to a matter before the FWC if:

- 15 (a) the matter arises under this Part; and
16 (b) the matter affects, or could affect, the volunteers of a
17 designated emergency management body.

18 (2) The bodies are as follows:

- 19 (a) a body corporate that:
20 (i) has a history of representing the interests of the
21 designated emergency management body’s volunteers;
22 and
23 (ii) is not prescribed by the regulations for the purposes of
24 this subparagraph;
25 (b) any other body that is prescribed by the regulations for the
26 purposes of this paragraph.

27 (3) Subsection (1) applies whether or not the FWC holds a hearing in
28 relation to the matter.

29 **7 Section 258 (paragraph relating to Division 7)**

30 Repeal the paragraph, substitute:

