

22<sup>nd</sup> February 2021

Parliamentary Joint Committee on Intelligence and Security  
By email: [pjcis@aph.gov.au](mailto:pjcis@aph.gov.au)

Dear Chair

**Re: Joint Standing Committee on Intelligence and Security review of the Security Legislation Amendment (Critical Infrastructure) Bill 2020**

Since its formation in 1927, the Australian Council of Trade Unions (ACTU) has been the peak trade union body in Australia. There is no other national confederation representing unions. For more than 90 years, the ACTU has played the leading role in advocating in the Fair Work Commission, and its statutory predecessors, for the improvement of employment conditions of employees. It has consulted with governments in the development of almost every legislative measure concerning employment conditions and trade union regulation over that period.

The ACTU consists of affiliated unions and State and regional trades and labour councils. There are currently 39 ACTU affiliates. They have approximately 2 million members who are engaged across a broad spectrum of industries and occupations in the public and private sector.

In making this submission, the ACTU supports and reiterates the concerns raised by the Australian Services Union (ASU), the Electrical Trades Union of Australia (ETU), and the Maritime Union of Australia (MUA). The union movement is highly concerned with the scope and application of the Bill, noting that it creates vast powers for regulators and its impact cannot truly be gauged by Parliament. The movement is also disappointed that in preparing the legislation and considering the stakeholder list for consultation, the union movement was not engaged by Home Affairs nor PJCIS.

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The Government has not made the case that existing national security law is deficient in dealing with the risks to our nation's infrastructure, particularly given the inclusion of workers in occupations which have no conceivable national security risk.

The scope of the Bill is so broad that it could require up to 1.6 million workers to undergo security checks in occupations such as:

- aviation;
- communications;
- data storage;
- defence;
- energy;
- financial services;
- food and groceries;

- freight;
- higher education;
- hospitals;
- insurance;
- internet services;
- public transport; and
- superannuation.<sup>1</sup>

The union movement accepts that security clearances and checks are required in sensitive industries, particularly the public service and defence and we note systems and processes are already in place for these sectors. However, this proposal could subject nurses, truck drivers, call centre workers, electrical linesperson's and even apprentice electricians to the same rules as ASIO officials, subject to the Minister's whims. That the legislation intends for a consultative framework that regulators and unspecified stakeholders in particular industries to contribute with no legislative obligation on the Minister to meaningfully consider any concerns raised gives no comfort to working people.

The impact of these laws on civil liberties and workers' rights to privacy is similarly concerning. Some employers have already flagged to their workers they intend to use the introduction of this legislation to request access to workers' communication and social media and discriminate against employees for their political views, in order to over-zealously comply with rules not yet issued. As union members in public services can attest, political preferences, party membership, membership of a trade union, participation in democratic expressions of protest, social media profiles, internet activity, and psychological medical history are examined in security vetting. Awarding this power to industry or subjecting packaging workers in the food and grocery sector to this process through a Government agency would be a gross overreach.<sup>2</sup>

The union movement believes this Bill should not be supported in its current form. Parliament should have clarity as to the impact of the powers it is granting the Minister, the regulatory cost of the proposal and the human rights implications on workers and should restrict the scope of the Minister's decision-making. This Bill should be amended following meaningful consultation with workers representatives to determine the impact and need to regulate both the industries and workers who would be required to subjected to additional security checks and the circumstances and scope of these checks, rather than delegating this power to the Minister. If an asset is critical, then it is important enough for Parliament to consider.

The ACTU recommends this Bill be opposed in its current form.

Yours sincerely



**Sally McManus**

Secretary

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<sup>1</sup> Security Legislation Amendment (Critical Infrastructure) Bill 2020 Section 5.

<sup>2</sup> Security Legislation Amendment (Critical Infrastructure) Bill 2020, 16.