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# **TREASURY LAWS AMENDMENT (MEASURES FOR CONSULTATION) BILL 2023: ACNC REVIEW REC 17 – SECURITY PROVISIONS**

Enhancing Public Confidence in our Associations  
and Charities.

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Master Electricians Australia (MEA) is the trade association representing electrical contractors recognised by industry, government and the community as the electrical industry's leading business partner, knowledge source and advocate. Our website is [www.masterelectricians.com.au](http://www.masterelectricians.com.au)

MEA is supportive of the Treasury Laws Amendment Bill 2023: ACNC Review Rec 17 – Secrecy Provision. Given the nature of these entities, ongoing investigations should be made publicly available. It will be suggested, however, that checks and balances are introduced into the Commissioner's assessment of the public harm test and that associations and charities are to receive notification prior to public announcement.

The draft explanatory materials are very well presented. They are clear, concise and understandable. The document has articulated the purpose of the new law, how it will be applied, its scope and limitations and impact on associations and charities.

## Draft Legislation

Overall, MEA supports the amended law. It provides opportunities to enhance public confidence in the regulation of associations and charities. Furthermore, allowing the disclosure of investigations alerts the public of safety concerns regarding the recognised assessment activity at risk. This has the potential to save money, time and reputations of many members of the public and associated stakeholders. Given the non-profit nature of the associations and charities, it is sensible that investigations into misconduct be made publicly available.

We raise concern regarding the scope of the subjective element of the 'public harm test'. The consideration of disproportionate harm to a registered entity or its stakeholders is left solely to the Commissioner's discretion. There does not appear to be any checks and balances in place to ensure this position of power is not abused when assessing the level of harm. Alternatively, the subjective opinion of the commissioner may ultimately be different from the objective opinion of a wider group of people. A review panel should be introduced to assess the commissioner's decision prior to it being formalised.

Given the new law flips the burden of proof onto associations and charities, MEA believes the commissioner should be obligated to notify the entities of upcoming public disclosure. The association/charity should be given one working day to respond if and how such disclosure would create disproportionate harm.

## Effectiveness of the Exposure Draft Explanatory Material

Has the exposure draft explanatory material been effective in explaining how the new law is intended to operate?

The comparison between current law and the proposed amendment makes it particularly clear to understand how the new law is intended to operate.



Is the background and policy context sufficiently comprehensive to support understanding of the policy intent and outcomes of the new law?

Yes. Very thorough information has been provided. The explanatory material is very clear, concise and understandable. Clarification has been given to ensure its full scope and limitations are identified. The explanatory notes are very informative in justifying the amendment and has seamlessly transitioned the changes into the current law.

Are the use of relevant examples, illustrations or diagrams as explanatory aids effective?

MEA does not believe illustrations or diagrams are necessary. However, a few examples of breached 'recognised assessment activities' would be useful for complete clarification.

Are there any other matters affecting the readability or presentation of the explanatory material?

No. The notes are succinct and understandable. Questions are not left regarding how the new law will operate or why it exists.

## Conclusion

MEA supports the overall amendment to the law. However, we do believe there is risk of the Commissioner's powers being abused or misjudged. We recommend introducing checks and balances to ensure a fair assessment is given towards associations and charities subject to the investigation. Furthermore, given the burden of proof will lie with the associations and charities as opposed to the Commissioner, we believe the Commissioner should be obligated to provide notification prior to the information going public. Without such notification, public announcement without first engaging with the association/charity would not be in the spirit of a 'fair trial' in the court of public opinion.

The explanatory notes are very thorough and detailed. The purpose of the new law is very well justified and its intended operation is very clearly outlined. The scope and limitations of the new law are easily understood. Our only suggestion is to include examples of misconduct that could be subject to public announcement of its investigation.

