

11 April 2022

# Post-election report

**National Retail Association Limited,  
Union of Employers**  
Insufficient Nominations election  
E2021/226

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# Election(s) Covered in this Report

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Organisation: National Retailers Association, Union of Employers

Election: Insufficient Nominations

Election Decision No/s: E2021/226

## Rules

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Rules used for the election: [016Q: Incorporates alterations of 19 June 2018 [R2018/91]  
replaces rulebook dated 9 March 2018 [D2017/9]

Rules difficult to apply/interpret: Yes

### **Notification to member of election**

Rule 38.4.(b)(i)

Notice and nomination form to be posted to each Member entitled to vote at the election, by the critical date in each alternate year commencing from 2018 and not less than fourteen (14) days nor more than twenty-eight (28) days before the closing date for nominations.

A review of this rule is recommended based on the changes to the Australia Post delivery schedules which have reduced deliver standards.

Recommendation: The Organisation may wish to consider changing the method of publication of the election form 'by post' to include electronic methods of delivery, such as by email to members, publication on the association's website and other electronic methods of delivery. Thus allowing members to receive notification of the election in a timely manner.

### **Clearance of mailboxes**

Rule 38.4(i)

The Returning Officer shall arrange for the use of a post office box or other receptacle to which ballot papers may be returned to him and arrange for the same not to be opened by any other person.

Recommendation: Allow the returning office or other authorised person to open the post office box or other receptacle to which the ballot material is returned. For the purpose of delivering ballot material to the returning officer.

Model Rule reference (if any): N/A

For more details see the Model Rules on the AEC website: [www.aec.gov.au/ieb/](http://www.aec.gov.au/ieb/)

# Irregularities.

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Details of written allegations of irregularities, and action taken by AEC:

The AEC received a complaint that the notice calling for nominations for the National Retail Association Limited, Association of Employers (NRA) for director office in the insufficient nominations' election was distributed to individuals/employers who may not be members of the NRA or who have not been admitted to membership of the NRA in the manner prescribed in the organisations' rules/constitution.

The AEC received confirmation that the membership data provided was accurate and written certification from the organisation that the register of members has been maintained as required by Section 230(2) of the Fair Work Registered Organisations) Act 2009. AEC was satisfied with the certification received and no further action was required.

## Other Matters

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Returning Officer actions required (Section 193): Yes

Details:

- **Withdrawal of nominations**  
Application of s.193 of the Act is required to allow for the withdrawal of Nominations at the same time as the close of nominations
- **Notification of election**  
Rules specifying the method for the distributing the Notice and Nomination form have been set aside as the AEC had concerns that the coronavirus pandemic may impact on the ability for stakeholders to fully participate in the election. Members will be notified via email of the election.
- **Access to returned ballot material**  
Rules specify that only the Returning Office may open the post office box or other receptacle to which ballot papers may be returned. Application of s193 has been exercised to allow other persons authorised by the Returning Officer to open the postal box or other receptacle to which ballot material has been returned.

## Signed

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Ann Dougan  
Returning Officer  
Australian Electoral Commission  
E: [IEBevents@aec.gov.au](mailto:IEBevents@aec.gov.au)  
P: 03 9285 7111  
11 April 2022

# Attachments

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## A. Declaration of results for Uncontested Offices

# National Retail Association Limited, Union of Employers

## DECLARATION OF RESULTS - E2021/226

### Uncontested Offices

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#### Insufficient Nominations Election

The results of the election for the following offices conducted in accordance with the provisions of the *Fair Work (Registered Organisations) Act 2009* and the rules of the organisation are:

#### National Retail Association

##### Board Member (6)

###### Candidates

BARBERY Alice

HOGG Geoff

MATHERS Julie

MOORE Antony

REYNOLDS Rhys

WILSON Anthony

As the number of nominations accepted did not exceed the number of positions to be filled, I declare the above candidates elected.

Ann Dougan  
Returning Officer  
Telephone: 03 9285 7111  
Email: [IEBevents@aec.gov.au](mailto:IEBevents@aec.gov.au)  
08/04/2022





## DECISION

*Fair Work (Registered Organisations) Act 2009*  
s.189—Arrangement for conduct of an election

### National Retail Association Limited, Union of Employers (E2021/226)

MR STEENSON

SYDNEY, 19 JANUARY 2022

*Arrangement for conduct of election.*

[1] On 14 December 2021 the National Retail Association Limited, Union of Employers (**the organisation**) lodged with the Registered Organisations Commission (**the Commission**) prescribed information for an election to fill the following vacant offices for the remainder of the current term of office:

Board member (at least 1 and no more than 6)

[2] On 13 January 2022, the organisation confirmed via email that one board member office is arising from a casual vacancy, and 5 board member offices are arising from insufficient nominations in a previous election (**E2019/234**).

[3] The term for the offices listed above will run until the declaration of the next scheduled election for all offices of the organisation.

[4] The organisation has advised the Commission that it is proposing to lodge rule alterations to clarify some of the provisions of the rules concerning its elections, including correcting anomalies in the current rules. For example, some rules refer to elections being conducted every even-numbered year (resulting in a two-year term)<sup>1</sup> whereas other rules refer to or are based on a three-year term.<sup>2</sup>

[5] The prescribed information lodged with the Commission initially also included a request for a scheduled election to be commenced.

[6] Historically, the organisation has run elections every 2 years, based on the provisions of rule 38.4 as it currently stands. However, the running of the previous election for the Board of the organisation (**E2019/234**) was delayed due to the Covid-19 pandemic, and the officers were not declared elected until 9 December 2020 (Board members) and 20 January 2021 (Chairperson and Deputy Chairperson) respectively and then did not commence in these roles until the organisation's November 2021 Annual General Meeting (**AGM**).<sup>3</sup>

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<sup>1</sup> In particular, rule 38.4

<sup>2</sup> Rule 20.3 and rule 38.1(c) and (d) respectively

<sup>3</sup> Rule 38.4(l)

[7] The organisation's rules, as they presently stand, require an election to be conducted in every even-numbered year.<sup>4</sup> Thus, the documents lodged by the organisation on 14 December 2021 included prescribed information for a scheduled election of the Board to be held in 2022. The organisation has therefore met its obligation under section 189 of the *Fair Work (Registered Organisations) Act 2009 (RO Act)* to lodge prescribed information for elections in accordance with its rules (as they currently stand).

[8] However, if a scheduled election was to be conducted in 2022, it would have the effect of the current officers only serving from November 2021 until the AGM likely to be held in late 2022 following such an election.

[9] The organisation has advised that its Board recognises this – and the anomalies in the rules outlined above – and after consultation with the Commission, the organisation has undertaken to make rule alterations to address these issues. This will require submitting the proposed alterations to a general meeting of members and, if approved, lodging these with the Fair Work Commission. The intended rule changes, if certified, would remove the requirement for an election to be held in 2022 and resolve the inconsistent references in relation to the length of the term of office that currently appear in the rules.

[10] Consequently, after consulting with the Commission, on 18 January 2022 the organisation withdrew its request for a scheduled election of the full Board to be held in 2022 in circumstances of the proposed rule changes.<sup>5</sup> The organisation has taken a considered approach to the issues outlined above and I take this opportunity to commend it. The prescribed information requesting the filling of currently vacant offices for the remainder of the current term remains for determination.

[11] I am satisfied that an election for the abovenamed offices – vacant due to insufficient nominations and a casual vacancy – is required to be held under the rules of the organisation and, under subsection 189(3) of the RO Act, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



DELEGATE OF THE COMMISSIONER

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<sup>4</sup> Rule 38.4 (notwithstanding references elsewhere in the rules to a three-year term)

<sup>5</sup> This information has accordingly been redacted from the prescribed information lodged by the organisation



**PRESCRIBED INFORMATION FOR ELECTIONS in accordance with Section 189 Fair Work (Registered Organisations) Act 2009 and Regulation 138 Fair Work (Registered Organisations) Regulations 2009**

I, Mark Vincent Brodie, being the Chairman of the National Retail Association Limited, Union of Employers make the following statement:

1. I am authorised to sign this statement containing prescribed information for the National Retail Association Limited, Union of Employers.
2. The following information is lodged under subsection 189(1) of the Fair Work (Registered Organisations) Act 2009 (the RO Act).
3. The elections that are required are set out in the table in Annexure A.
4. No rule alterations are pending that will impact the election.
5. This statement **IS** lodged at least 2 months before nominations open for the election(s) in Annexure A.

Signed: 

Dated: 14 December 2021

**NOTE:** This statement should be lodged with the Registered Organisations Commission at least 2 months prior to nominations opening. It can be submitted to [regorgs@roc.gov.au](mailto:regorgs@roc.gov.au).

## Annexure A

- Elections that are required

Branch	Name of Office	Number required	Voting System <i>Direct voting system; Collegiate electoral system</i>	Reason for Election <i>Scheduled; Casual vacancy; New office created; Insufficient nominations</i>	Electorate
National	Board Member	At least 1 and no more than 6	Direct Voting System	Casual vacancy	Members (see rule 38.1(c))

- Important dates (Casual vacancy election):

	Direct Voting System
Nominations OPEN	To be determined by Returning Officer [REDACTED] [REDACTED]
All nomination forms to be sent to electorate by	To be determined by Returning Officer [REDACTED] [REDACTED]
Nominations CLOSE	To be determined by Returning Officer [REDACTED] [REDACTED]

Roll of Voters cut off date	To be determined by Returning Officer [REDACTED] [REDACTED]
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- Important dates (Scheduled election):

[REDACTED]	[REDACTED]	[REDACTED]
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**NOTES:** For insufficient nominations and casual vacancies, the date nominations open and close, unless specified in the rules, should be listed as 'To be determined by the returning officer'. This also applies where rules are silent as to the nominated dates.  
If the nomination dates are 'To be Determined by the Returning Officer', but your organisation has a *preference*, please state 'To be Determined by Returning Officer' and clearly indicate that your nominated date is a preference.  
If the P.I. includes a position that is not an office, please refer to our template