



19 August 2022

Martin Byrne
Federal President
The Australian Institute of Marine and Power Engineers
Sent via email: mbyrne@aimpe.asn.au



IMMEDIATE ACTION REQUIRED:

You must take steps after your recent election E2022/3

Dear Martin Byrne,

An election has recently been completed by the Australian Electoral Commission (**AEC**) for the Australian Institute of Marine and Power Engineers.

This letter explains the next steps you must take and what information you need to lodge with the Registered Organisations Commission (**ROC**).

What you must do right now

- Let your members know about the election report issued by the AEC
- Arrange financial training for officers newly elected to an office with financial management duties. (This includes all members of the committee of management).
- Complete the notification of change and email it to regorgs@roc.gov.au
- Respond to the AEC

This letter explains these steps and the tools available to help you.

STEP 1: Notify members

You must put a notice on your website once you receive your post-election report. It must tell your members they can request a copy of the post-election report from you or the AEC (r. 141). The notice must be on your website for at least 3 months.



Can I put more information on our website?

Yes! Being transparent is part of good governance. You can publish the whole report or the declaration of results, as well as your notice and leave them up longer than 3 months. You can always do more than the regulatory minimum.

The ROC will also publish your declaration of results on our [website](https://www.roc.gov.au).

STEP 2: Financial training

You may have to arrange financial training for people elected to new roles.

All officers with financial management duties must complete financial training (s 293K). For information on when officers must redo training and hints on when to book training for officers taking up multiple offices [please see our fact sheet](#).

There are face to face and online [financial training packages on the ROC website](#).

You must act on this now, as affected officers **MUST** complete approved financial training OR been granted an [exemption by the ROC within 6 months](#) of beginning to hold office.



Good governance tip:

Organisations should instruct officer holders about their other obligations. This is especially important for committee of management members.

Our podcast covers the [benefits of officer induction](#). Officers have responsibilities under the rules, the RO Act, and disclosure requirements around conflicts of interest, remuneration and material personal interests. Officers will benefit from our [officer induction kit](#) and our [podcast, such as episode 17 - conflicts of interest](#).

STEP 3: Notifications of change

A notification of change must be lodged with the ROC within **35 days** of the change occurring.



We have a [template](#) to help you with this, which you can send to regorgs@roc.gov.au. An officer must sign the completed notification template.

You must lodge a notification of change if:

- any of your officers have not been re-elected;
- officers have changed offices; or
- you have new officers.

Only notify us of changes that have **already occurred**. If people take up office in the future, you must wait until the change happens before lodging the notification within 35 days of the change.

Note: One election may result in many notifications of change.



Penalties apply

Failing to lodge your notifications of change on time can expose your organisation and its officers to significant penalties.

ROC v CEPU

The organisation failed to make a series of notifications of change on time.

The Full Court said 'The record-keeping obligations imposed under the Registered Organisations Act are treated by the legislature as important and serious, and contravention of those obligations are correspondingly serious.'

The organisation was ordered to pay a penalty. More information is available in our [case summary](#).

STEP 4: Reply to the AEC

The AEC's post election report says the AEC had trouble applying some of your election rules. You **MUST** respond to the AEC about the issues in the report (s 198).

Your response to the AEC must be in writing. It must include:

- whether the organisation intends to take action
- (if yes) what action the organisation intends to take

You must send your response to the AEC within **30 days** of receiving the report and also provide a copy to the ROC (s 198).



Penalties apply

The requirement to respond to the AEC comes from section 198 of the RO Act. Section 198 of the RO Act is a civil penalty provision.

A failure to take any of these steps, or taking them in the wrong order, can expose your organisation to penalties under the RO Act.

Make the report and your response available to your members

You must make the post-election report about difficult rules available to your members.

You must also make your written response to the AEC available to your members.



Timing is very important

You must make the report about difficult rules available to your members **before or at the same time** as you make your response available.

Your response must be available to members:

- in the next edition of your journal or
- within 30 days of giving it to the AEC (if using a method other than your journal to make it available, e.g. your website)



Penalties apply

The requirement to respond to the AEC comes from section 198 of the RO Act. Section 198 of the RO Act is a civil penalty provision.

A failure to take any of these steps, or taking them in the wrong order, can expose your organisation to penalties under the RO Act.

How do I make these documents available to my members?

The RO Act says you will have made the document available if you do all the following things:

- Publish a copy of the relevant section and your response in your next journal, AND
- Send the ROC a copy of the relevant section and your response with a declaration that you'll provide copies to any member who asks for one, AND
- Tell members in your next journal (or an appropriate newspaper) that you'll give the relevant section of the report and your response to any member free of charge if requested, AND
- Put on your website:
 - the relevant section of the report within 14 days of receiving it and
 - your response within 14 days of sending it to the AEC

But you can also make the documents available to your members in other ways as well.



What if we decide to change our rules?

You can! If you think changing your rules will fix or improve the issues raised by the AEC you can change your rules.

Your rules have a rule altering procedure that you must follow in order to do this.

For help changing your rules and advice on rule requirements, please contact the [Fair Work Commission](#). The ROC can provide advice and assistance on election-related issues but it does not change rules.

Questions?



What if I don't understand the post election report?

You should contact the AEC immediately to discuss what the report means.

What if we decide not to take action?

You must tell the AEC in writing you do not intend to act.

What if I have already responded to the AEC?

If you have already done the things set out in step 4, please disregard this step. Remember to make the relevant section of the report and your response available to your members as well.

Why do I need to tell you the results of the election when you've already received them?

The RO Act requires that **you** tell us this information about your officers – it is a legal obligation. The notification of change also contains information that is not in the declaration of results.

What if the officer has already done training?

Check out our [fact sheet](#) for when officers need to redo training, when they can get an exemption and when further training isn't required.

If you have any queries we can be contacted on 1300 341 665 or by email at regorgs@roc.gov.au.

Yours sincerely

Registered Organisations Commission



The ROC has a [Compliance Policy](#) which explains how we respond to issues of non-compliance. The policy is available on our website if you would like further information on the steps the compliance team may take in response to non-lodgement of a financial report.

19 August 2022

Post-Election Report

The Australian Institute of Marine and
Power Engineers
Scheduled Election
E2022/3

Contents

Election Covered in this Report.....	3
Rules.....	3
Roll of Voters.....	4
Other Matters.....	5
Signed.....	5
Attachments.....	6
A. Declaration of Results for Contested Offices – E2022/3 Stage One.....	6
B. Declaration of Results for Uncontested Offices – E2022/3 Stage Two.....	6

Election Covered in this Report

Organisation: The Australian Institute of Marine and Power Engineers

Election: Scheduled

Election Decision No: E2022/3

Rules

Rules used for the election: [009V: Incorporates alterations of 25 January 2022 in matter R2021/137] (replaced rule book dated 11 June 2021 [R2021/90])

Rules difficult to apply/interpret: Yes

- AIMPE rules are silent on nominating for more than one office.

If the rules of an organisation make no comment on the issue of multiple nominations, the Returning Officer (RO) accepts the multiple nominations.

Where the positions are uncontested (or there are no more nominations than vacancies), the RO may declare the candidate elected to all those offices, unless the rules state or indicate that a person cannot hold more than one of the offices in question. However, it should be noted that the 'doctrine of incompatible office' may apply where two of the offices give membership to the same committee of the organisation.

Although this situation did not arise in E2022/3, AIMPE may wish to consider a review of their rules to clarify whether individuals can nominate and/or be elected to multiple offices. This would prevent any potential delay or ambiguity caused by defective nominations if the 'doctrine of incompatible offices' did in fact apply in future electoral events.

If AIMPE does not wish to allow an individual to hold multiple offices it is recommended that the organisation clearly identifies those offices which cannot be held concurrently by one member. Additionally, the Rules should also clearly identify a methodology for resolving any such multiple nominations.

Model Rule reference (if any):

8.1 Holding more than one office

8.1.1 No person may hold simultaneously more than one of the following offices, which are listed in descending ranking. The first office listed being the highest office: (list the offices in hierarchical order from highest office to lowest office).

8.2 Nomination for more than one office

8.2.1 Where in any election a person nominates for more than one office that cannot be held simultaneously, the person shall before the closing time for the receipt of nominations withdraw all necessary nominations so that only one such nomination remains with the returning officer.

For more details see the Model Rules on the AEC website: www.aec.gov.au/ieb/

Roll of Voters

Based on an analysis of the register of members the Returning Officer has formed the opinion that the:

- There were no concerns in the construction of the Roll of Voters

Other Matters

Returning Officer actions required (Section 193): Yes

Details:

- The rules of the Organisation are silent in relation to withdrawal of nominations. The AEC applied a withdrawal period same as the nominations close.
- Rules regarding the timetable of the election were set aside as the AEC held concerns that the coronavirus pandemic may impact on the ability for stakeholders to fully participate in the election. A timetable for the conduct of the ballot which varied from the rules was set when the AEC was satisfied that stakeholders would be able to fully participate.
- Rules requiring an in-person ballot were set aside as the AEC held concerns that the coronavirus pandemic would impact on the ability for all stakeholders to attend. Instead, the ballot was conducted via post.
- Rules specifying the method of lodgement of nominations were set aside as the AEC held concerns that the coronavirus pandemic would impact on the ability for potential candidates to nominate. Nominations were received electronically, via email/the AEC's portal.

Signed

Jenna Hales
Returning Officer
Australian Electoral Commission
E: IEBEvents@aec.gov.au
P: (03) 9285 7111
19 August 2022

Attachments

- A. Declaration of Results for Contested Offices – E2022/3
Stage One
- B. Declaration of Results for Uncontested Offices – E2022/3
Stage Two

The Australian Institute of Marine and Power Engineers

DECLARATION OF RESULTS - E2022/3 - Stage 2

Uncontested Offices

Scheduled 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:

Senior Vice President (1)

Candidates

HARTREE John

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

Jenna Hales
Returning Officer
Telephone: (03) 9285 7111
Email: IEEvents@aec.gov.au
11/08/2022



The Australian Institute of Marine and Power Engineers
DECLARATION OF RESULTS - E2022/3 - Stage 1
Contested Offices

Scheduled 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:

Federal Council

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	17
Number of voters issued with voting material	17
Total number of voters issued with replacement voting material	3
Total number of voting material packs issued	20
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	14
Number of declaration envelopes rejected at preliminary scrutiny (minus)	0
Number of ballot papers returned outside declaration envelopes (minus)	0
COUNT	
Total ballot papers admitted to the count	14
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	0
Voting material packs not returned by voters by closing date of the ballot	6
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	82 %

President (1)

<u>Candidates</u>	<u>Final Votes</u>
BYRNE, Martin	8
CHRISTIANSEN, Henning	6

Total ballot papers admitted for this office	14
Formal Ballot papers	14
Informal Ballot papers	0

I declare the following elected:

- BYRNE, Martin

Vice President (3)

<u>Candidates</u>	<u>Final Votes</u>
HARTREE, John	8
JONES, Mark	7
PEBERDY, David	7
READY, Brad	2
ROOTS, Peter	5
TOOHEY, Peter	13

Total ballot papers admitted for this office	14
Formal Ballot papers	14
Informal Ballot papers	0

I declare the following elected:	Order Elected
• TOOHEY, Peter	1
• HARTREE, John	2
• JONES, Mark	3

Treasurer (1)

<u>Candidates</u>	<u>Final Votes</u>
FLETCHER, Malcolm	6
MCALLISTER, Ian	8

Total ballot papers admitted for this office	14
Formal Ballot papers	14
Informal Ballot papers	0

I declare the following elected:
• MCALLISTER, Ian

Benjamin Murray
Returning Officer
Telephone: 03 9285 7129
Email: IEBevents@aec.gov.au
05/07/2022



DECISION

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

The Australian Institute of Marine and Power Engineers (E2022/3)

MR STEENSON

SYDNEY, 21 MARCH 2022

Arrangement for conduct of election.

[1] On 8 March 2022 the Australian Institute of Marine and Power Engineers lodged with the Registered Organisations Commission prescribed information for an election to fill the following offices:

President	(1)
Vice President	(3)
Treasurer	(1)
Senior Vice President (to be elected from the 3 Vice Presidents)	(1)

[2] I am satisfied that an election for the abovenamed offices is required to be held under the rules of the organisation and, under subsection 189(3) of the *Fair Work (Registered Organisations) Act 2009*, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



DELEGATE OF THE COMMISSIONER

Printed by authority of the Commonwealth Government Printer

PR352192

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, Martin Byrne, being the Federal President of the Australian Institute of Marine and Power Engineers (AIMPE) make the following statement:

1. I am authorised to sign this statement containing prescribed information for AIMPE.
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. The rules under which the election are to be conducted have been changed. The current relevant rule Rule 33A as amended is attached as annexure B.
5. In addition, a Schedule has been added to the rules dealing with the COVID-19 pandemic and these provisions may apply if the pandemic is still in effect - see annexure C.
6. This statement **IS** lodged at least 2 months before nominations open for the election(s) in Annexure A.

NOTE: A failure to lodge Prescribed Information on time can lead to civil penalties under the RO Act. Extensions of time should be requested at least two months before nominations open.

Signed:

A handwritten signature in black ink, appearing to read 'Martin Byrne', with a long horizontal flourish extending to the right.

Dated: 8th March 2022

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.

Annexure A

Elections that are required

Branch	Name of Office	Number required	Voting System	Reason for Election	Electorate
National	President	1	Collegiate electoral system	Scheduled	<i>Federal Council (rule 5(ii) & rule 33A)</i>
National	Vice President	3	Collegiate electoral system	Scheduled	<i>Federal Council (rule 5(ii) & rule 33A)</i>
National	Treasurer	1	Collegiate electoral system	Scheduled	<i>Federal Council (rule 5(ii) & rule 33A)</i>
National	Senior Vice President (elected from among the 3 Vice Presidents)	1	Collegiate electoral system	Scheduled	<i>Federal Council (Rule 10)</i>

- Important dates:

		Collegiate Electoral System
Nominations OPEN		<i>Estimated 25th May 2022 at a time fixed by the Returning Officer (rule 33A (iii))</i>
Nominations CLOSE		<i>1st June 2022 at a time fixed by the Returning Officer (rule 33A (iii))</i>
Roll of Voters cut off date		<i>1st June 2022 at a time fixed by the Returning Officer (rule 33A (iii))</i>

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 [Prescribed information for the election of officer and non-officer positions](#)

Annexure B

33 - ELECTIONS

A. Federal Executive Elections

- (i) At least two months prior to the date set for the opening of the Federal Council, the Federal President shall lodge with the Registered Organisation Commission (ROC), the prescribed information relating to the Federal Executive election as required by relevant Acts & Regulations seeking a Decision for the Australian Electoral Commission to appoint a Returning Officer who will conduct the elections for Federal Executive positions.
- (ii) The members of the Federal Council shall elect a Federal Executive, from amongst their own number, consisting of a Federal President, a Federal Treasurer and three (3) Vice Presidents, for a term of one (1) year or until the next Annual Meeting of the Federal Council. Federal Council shall also elect a Senior Vice President from amongst the three newly elected Vice Presidents.
- (iii) Nominations shall be made in writing and shall be lodged with the Returning Officer before the time so fixed by the Returning Officer for the closing of nominations. Each nomination shall be signed by the Nominee, the Proposer and Seconder. The elections of these officials shall be conducted on the first day of the Annual Meeting of the Federal Council. Nominations shall close on that day at a time fixed by the Returning Officer.
- (iv) The Returning Officer shall have power to accept or reject any nominations in accordance with these Rules; provided that before the Returning Officer rejects any nominations the following shall have effect:-
 - (a) The Returning Officer shall notify the person concerned of the defect in the nomination; and
 - (b) The Returning Officer shall, where it is practicable to do so, give the person concerned the opportunity of remedying the defect as soon as possible after close of nominations.
 - (c) If the person concerned within such period is able to and does in fact remedy the defect in the nomination, the Returning Officer shall thereupon accept such nomination.
- (v) Subject to sub-clause (iv), if the number of valid nominations received does not exceed the number of positions to be filled the Returning Officer shall declare those persons nominated as being elected.
- (vi) If there be no valid nomination received for any office, nominations for such office shall be called by the Returning Officer from the Federal Councillors present at the Meeting. The provisions of sub-clauses (iii) to (v) of this Rule shall apply to such nominations.
- (vii) If more than one nomination is received for any office a secret ballot for that Office shall be conducted by the Returning Officer.

- (viii) Any Federal Councillor unable to attend the Federal Council meeting at where a ballot is to be conducted may, by writing under the Councillor's hand, appoint another member of Federal Council as the Councillor's proxy in connection with such election and the same shall be delivered to the Returning Officer before the commencement of the election.
- (ix) In the event of a ballot being required the Returning Officer shall prepare ballot papers with candidates' names set out in alphabetical order. The Returning Officer shall mark each ballot paper issued with the Returning Officer's initials, provide voting instructions to voters and do all things necessary to ensure ballot papers do not disclose the identity of the Federal Councillor voting. Ballot papers shall be distributed to all Councillors or to their proxies. The Returning Officer shall provide a receptacle into which all ballot papers shall be placed by the voter when voting. On completion of the ballot the Returning Officer shall count all formal votes and immediately declare the result of the ballot; in the event of a tie the Returning Officer shall determine the result by lot.
- (x) Each candidate shall have the right to appoint one scrutineer who may attend at all stages of the ballot and whose duties shall be to watch the interests of the candidates. A candidate shall notify the Returning Officer of the appointment of a scrutineer in writing.
- (xi) Extraordinary vacancies for the positions of Federal President, Vice President and Federal Treasurer shall be filled by election by a postal ballot of the remaining members of the Federal Council. The provisions of this Rule shall apply, mutatis mutandis to such election. An extraordinary vacancy shall exist when:-
 - (a) an officer is removed under Rule 41;
 - (b) an officer dies or resigns from office; and
 - (c) an officer ceases to be eligible to hold office.

Annexure C

Part C - Elections and holding office

- C.1 Where the AEC is unable to conduct an election all current officers shall hold over in office until their successor is declared elected.
- C.2 The AEC shall conduct elections for affected offices as soon as practicable.
- C.3 The election shall be conducted under the rules of the Institute and/or branch—as the case may be—with the necessary changes.
- C.4 The successful candidate(s) will take up office immediately once the election is declared.
- C.5 The person declared elected shall hold office until the declaration of their successor in the next scheduled election. For the avoidance of doubt, the term of office for officers elected under this rule is to be shortened by an amount which corresponds to the period of Covid-19 associated delay in holding the election under this rule. The intention of this provision is to ensure that elections in the Institute and its branches revert to their usual cycle at the subsequent scheduled elections.
- C.6 Where a person holding over in office under this rule vacates the office for any reason the relevant collective body may fill the vacancy under the applicable casual vacancy rule, provided:
- (a) the person who fills the vacancy shall hold office for the remainder of the term of office of the person elected at the last scheduled election; and
 - (b) a person appointed or elected to fill a casual vacancy shall be entitled to hold over in office until their successor is declared elected.
- C.7 Where the casual vacancy is required to be filled by election the relevant collective body may appoint someone to act in the vacant office until the election is declared.
- C.8 The returning officer may determine to receive nominations for any vacant office by electronic or postal means (or a combination thereof), where requested to do so by the Committee of Management (Federal Executive or Branch Executive).
- C.9 Where the rules provide for election via attendance ballot, the returning officer may determine to conduct the election by a secret ballot of the eligible voters instead. This may be conducted via postal or electronic means, or a combination thereof. Any secret ballot so conducted may be held at a time proximate to the meeting at which the attendance ballot would have occurred, or according to a different timeframe as determined by the returning officer.
- C.10 Where the returning officer so determines the returning officer shall so far as practicable apply other rules of the Institute or branch—as the case may be—that provide for election to office by postal ballot, with the necessary changes (which may include conducting the secret ballot using electronic means).
- C.11 Where the rules provide for election via non-attendance ballot, the returning officer may conduct the secret ballot via postal or electronic means, or a combination thereof.