

7 June 2022

Post-election report

**The Civil Air Operations Officers'
Association of Australia**
Scheduled election
E2022/13

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Election(s) Covered in this Report

Organisation: Civil Air Operations Officers' Association of Australia, The
Election: Scheduled
Election Decision No/s: E2022/13

Rules

Rules used for the election: 212V: Incorporates alterations of 21 February 2022 [R2022/6]
(Replaces rulebook dated 10 February 2022 [R2021/211])

Rules difficult to apply/interpret: None
Model Rule reference (if any): **N/A**

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:

- There were no concerns in the construction of the Roll of Voters
- There are no concerns in the data provided by the organisation

Other Matters

Returning Officer actions required (Section 193): Yes

Details:

- Rules regarding the timetable of the election were set aside as the AEC held concerns that dates within the rules 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.
- As there is no rule pertaining to the withdrawal of Nomination, s.193 (1) (b) of the Fair Work (Registered Organisations) Act 2009 was applied to fix a closing time for the withdrawal of nominations.

Signed

Cameron Caccamo
Returning Officer
Australian Electoral Commission
E: iebevents@aec.gov.au
P: (02) 9375 6362
7 June 2022

Attachments

A. Declaration of results for Uncontested Offices

Civil Air Operations Officers' Association of Australia
DECLARATION OF RESULTS - E2022/13
Uncontested Offices

Scheduled and Casual Vacancy 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:

Vice President Communication (1)

Candidates

NUGENT Scott

Melbourne Centre

Divisional Delegate (1)

Candidates

IPPOLITO Ben

Sydney Towers and Terminal Control Units

Divisional Delegate (1)

Candidates

MURRAY Ryan

Brisbane Towers and Terminal Control Units

Divisional Delegate (1)

Candidates

O'SULLIVAN Phillip

Perth Towers and Terminal Control Units

Divisional Delegate (1)

Candidates

No Nominations Received

Brisbane Centre - Alternate

Divisional Delegate (1)

Candidates

ELICH Jeremy

Southern Towers

Divisional Delegate (1)

Candidates

No Nominations Received

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

Cameron Caccamo
Returning Officer
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20/05/2022





DECISION

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

The Civil Air Operations Officers' Association of Australia (E2022/13)

MR STEENSON

SYDNEY, 10 MARCH 2022

Arrangement for conduct of election.

[1] On 1 March 2022 the Civil Air Operations Officers' Association of Australia (**the organisation**) lodged with the Registered Organisations Commission (**the Commission**) prescribed information for an election to fill the following offices:

Divisional Delegates representing each of the following Divisions:

Melbourne Centre	(1)
Sydney Towers and Terminal Control Units	(1)
Brisbane Towers and Terminal Control Units	(1)
Perth Towers and Terminal Control Units	(1)
Brisbane Centre – Alternate	(1)
Southern Towers	(1)

[2] On the same day, the organisation also lodged with the Commission prescribed information for an election to fill the following office for the remainder of the term, due to a casual vacancy:

Vice President Communication	(1)
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Lodgement date

[3] Section 189(2) of the *Fair Work (Registered Organisations) Act 2009* (**the Act**) requires that prescribed information for elections be lodged ‘before the prescribed day’ unless the Commissioner allows a later day for lodgement. ‘Prescribed day’ is defined in regulation 138(3) of the *Fair Work (Registered Organisations) Regulations 2009* as two months before the first day when a person may become a candidate, i.e. two months prior to nominations opening.

[4] For the Divisional Delegate offices, under the rules of the organisation the date for opening of nominations is 1 May.¹ The prescribed day for those offices this year is therefore 1 March 2022 (two months prior) and regulation 138(3) requires lodgement before the prescribed day. It should therefore have been lodged by no later than 28 February 2022, the day before the prescribed day, instead it was lodged on 1 March 2022, i.e. on the prescribed day.

¹ Rule 35(d)(1)(a) provides that ‘The returning officer shall ... not later than the first day of May in any year, call for nominations ...’

[5] Given the very minor delay in lodgement of the prescribed information, and having regard to the normal and reasonable expectation that registered organisations take steps to ensure they comply with the time-frame requirements set out not only in the Act but also in instruments relating to the organisation’s own governance, such as their rules, I allow, under section 189(2) of the Act, a later day for lodgement.

[6] I take this opportunity however to remind the organisation that section 189(2) of the Act is a civil penalty provision, so late lodgement or non-lodgement of prescribed information may leave an organisation open to court proceedings and civil penalties.² That will not occur in this specific circumstance, as I have allowed a later day for lodgement. Such concessions are not automatic and it is the Commission’s clear expectation that prescribed information be lodged in accordance with the timeframes in the Act.

Prescribed information for other offices

[7] Prescribed information for an election for the office of Vice President was included in this lodgement. It was not lodged late, as the rules of the organisation do not prescribe specific dates in relation to casual vacancy elections, though other election-related rules still apply.

[8] The organisation’s rules also provide that its President is elected for a two-year term in every even numbered year.³ It appears that, traditionally, the organisation has separately lodged the prescribed information for that election. The prescribed information in relation to the office of President must this year be lodged by no later than 18 March 2022.⁴

[9] This Commission has no difficulty if (in the years when the election of President is due to occur) the organisation were to include the office of President in its lodgement of prescribed information for other offices, as the timing of the conduct of that election is still governed by the rules of the organisation and the Australian Electoral Commission (AEC) is required, under section 193 of the Act, to conduct elections in accordance with an organisation’s rules unless required to depart from them in order to prevent an irregularity.

[10] 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 AEC.



DELEGATE OF THE COMMISSIONER

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² *Registered Organisations Commissioner v Australian Hotels Association* [2019] FCA 1516

³ The previous election (E2020/19) was conducted in 2020, being declared by the AEC on 26 October 2020.

⁴ As rule 35(d)(2)(C) of the organisation’s rules specifies that nominations open on 19 May in an election year.

FAIR WORK ACT 2009

In the matter of statement and notice of prescribed information under the *Fair Work (Registered Organisations) Act 2009*:

STATEMENT

I, TOM McROBERT, Air Traffic Controller, of 214 Graham Street, Port Melbourne, in the State of Victoria, do hereby solemnly and sincerely declare;

1. **THAT** I am the Federal President of The Civil Air Operations Officers' Association of Australia.
2. **THAT** I am authorised to lodge the following prescribed information concerning forthcoming elections on behalf of the Association.
3. **THAT** I confirm that the following information is being lodged under subsection 189(1) of the *Fair Work (Registered Organisations) Act 2009*.
4. **THAT** there are no rule change applications that can affect these elections.



TOM MCROBERT
PRESIDENT, Civil Air Operations Officers Association of Australia

Dated: 1 March 2022

NOTICE***Offices/Positions:***

A	Melbourne Centre
A	Sydney Towers and TCU
A	Brisbane Towers and TCU
A	Perth Towers and TCU
A	Brisbane Centre - Alternate
A	Southern Towers
B	Vice President Communication

Reasons for election

Elections for the positions marked “**A**” are required under Civil Air Rule 34(e), which states “Elections for Delegates representing the following divisions shall be conducted each even numbered year:

Melbourne Centre
 Sydney Towers and TCU
 Brisbane Towers and TCU
 Perth Towers and TCU
 Brisbane Centre - Alternate
 Southern Towers”

A casual or extraordinary vacancy election for the position marked “**B**” is requested under Civil Air Rule 37 as the person elected to this role in November 2021 has resigned for personal reasons (see Attachment A).

Elected by:

For the position of Melbourne Centre, the electorate for the direct voting system is the Melbourne Centre Division.

For the position of Sydney Towers and TCU, the electorate for the direct voting system is the Sydney Towers and TCU Division.

For the position of Brisbane Towers and TCU, the electorate for the direct voting system is the Brisbane Towers and TCU Division.

For the position of Perth Towers and TCU, the electorate for the direct voting system is the Perth Towers and TCU Division.

For the position of Brisbane Centre - Alternate, the electorate for the direct voting system is the Brisbane Centre Division.

For the position of Southern Towers, the electorate for the direct voting system is the Southern Towers Division.

Nominations open:

Nominations open in accordance with a timetable provided by the Returning Officer, delegated by the Australian Electoral Commission (AEC).

As per Civil Air Rule 35(d)(1)(a), *“The returning officer shall ...not later than the first day of May in any year, call for nominations for the Divisional Delegate positions becoming vacant, pursuant to rule 34 of these rules, on the thirtieth (30th) day of June in that year; by insertion of notices in journals and/or circulars to members' employment facilities, as the returning officer deems appropriate”*

Nominations close:

As per Civil Air Rule 33(e), *“All nominations for elections, of the position of Divisional Delegate ... shall be received by the returning officer no later than the fourteenth (14th) day of May in the year in which the position becomes vacant.”*

Cut off date for roll:

As per Civil Air Rule 35(f), *“The roll of voters for any ballot is to be closed on the seventh day before the day on which nominations for the election open”.*