



# Reduced reporting requirements under Part 3 of Chapter 8

## Section 269 of the *Fair Work (Registered Organisations) Act 2009 (RO Act)*

Eligible reporting units can apply for a certificate under s.269 of the RO Act which reduces their reporting requirements under Part 3 of Chapter 8 of the RO Act.

Part 3 of Chapter 8 sets out the requirements relating to:

- financial records
- accounting
- auditing.



A **reporting unit** is defined under section 242 of the RO Act as:

- the whole of the organisation, where an organisation is not divided into branches; or
- each branch, where an organisation is divided into branches

unless a certificate issued under section 245 by the General Manager of the Fair Work Commission states that the organisation is divided into reporting units on an alternative basis.<sup>1</sup>

<sup>1</sup> s.242, RO Act



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## What is an eligible reporting unit?

If the financial affairs of the reporting unit are encompassed by the financial affairs of an industrial association (the **associated State body**) and the associated State body:

- is registered or recognised under a prescribed State Act (see below)
- has substantially the same members as the reporting unit, and
- has officers who are substantially the same as **designated officers** (see below) in relation to the reporting unit

a reporting unit may be eligible to apply for a section 269 certificate to reduce its reporting requirements.



### Who is a designated officer?

A designated officer is an officer of:

- the organisation (if the reporting unit is the whole of the organisation), or
- a branch that is a reporting unit

who under the rules of the organisation is responsible (whether alone or with others) for undertaking the financial reporting functions required under the RO Act.

## What are the prescribed State Acts?

The following are prescribed State Acts:<sup>2</sup>

- *Fair Work Act 1994 (SA)*
- *Industrial Relations Act 1979 (WA)*
- *Industrial Relations Act 1984 (Tas)*

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<sup>2</sup> r.163, *Fair Work (Registered Organisations) Regulations 2009*



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- *Industrial Relations Act 1996 (NSW)*
- *Industrial Relations Act 1999 (Qld).*

## What are the required additional documents?

The application for a section 269 certificate must include:

- a copy of the associated State body's audited financial report
- an operating report as per the requirements under section 254 of the RO Act.

A copy of both reports must also be provided to members *before* lodging an application with the Commission.

### Applying for a certificate under s.269 of the RO Act

Applications are made to the General Manager of the Fair Work Commission, using the [application form](#). A reporting unit must make an application no later than 6 months and 14 days after the end of its financial year (see below for more information about the timeframes).

If satisfied that the reporting unit meets the requirements for reduced reporting, the General Manager will issue a certificate stating that the financial affairs of the reporting unit are encompassed by the financial affairs of the associate State body. A certificate only applies to a financial year and if applicable, a new application must be made for any subsequent years.



The completed application form (including the required additional documents) can be lodged with the Commission by email to [regorgs@fwc.gov.au](mailto:regorgs@fwc.gov.au).

## Factors to consider when making an application

### Rules of the reporting unit

Do the rules of the organisation require the reporting unit to engage in financial activities, e.g. collecting membership subscriptions or paying a capitation fee? This may indicate that the reporting unit is required to conduct financial transactions and that its financial affairs may not be encompassed by the financial affairs of the associated State body.



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**Remember:** if an associated State body conducts the financial activities on behalf of your reporting unit, make sure that your rules allow for this to occur.

## Preparation of associated State bodies financial report

The associated State body's financial report must be prepared in accordance with the relevant prescribed State legislation.



**Remember:** associated State bodies *do not* have obligations under the RO Act. Their financial reports should not refer to the RO Act and do not need to be prepared in accordance with the requirements under Part 3 of Chapter 8.

## Assets and liabilities of the associated State body

Before making a section 269 application, a review should be undertaken to confirm the legal ownership of the associated State body's assets and liabilities (i.e. they are registered in the legal name of the associated State body and not the reporting unit). Confirmation that all financial transactions are undertaken in the legal name of the associated State body should also occur. This will support the application that the financial affairs of the reporting unit are encompassed by the financial affairs of the associated State body.

## Timeframe for applications

The issuing of a section 269 certificate provides a reporting unit with an exemption from the financial reporting and auditing obligations set out in Part 3 of Chapter 8 of the RO Act. There are important timeframes under the RO Act in relation to the provision of reports to members, the presentation of the financial report at a meeting and lodgement of the financial report to the Commission. These obligations are civil penalty provisions.

To ensure that a reporting unit is not in breach of these requirements, an application under section 269 must be made to the General Manager *before* the latest obligation under Part 3 of Chapter 8 of the RO Act, that is the lodgement of the full report and designated officer's certificate under section 268. This lodgement must be



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made within 14 days of the relevant meeting where the full report was presented. This meeting must be held within 6 months after the end of the financial year. **Therefore, a reporting unit's section 269 application must be made no later than 6 months and 14 days after the end of its financial year.**

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This fact sheet is not intended to be comprehensive. It is designed to assist in gaining an understanding of the relevant provisions of the *Fair Work (Registered Organisations) Act 2009*, and the Fair Work Commission (the Commission) and its work. The Commission does not provide legal advice.