



Exemption from financial reporting obligations under Part 3 of Chapter 8

Section 271 of the *Fair Work (Registered Organisations) Act 2009 (RO Act)*

Reporting units with no financial affairs in any given financial year can apply for a certificate under section 271 of the RO Act which exempts them from the requirements of 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 the 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.

Who is eligible for a section 271 certificate?

To be eligible for a section 271 certificate, the General Manager of the Fair Work Commission (the General Manager) must be satisfied that the reporting unit has not had any financial affairs in a financial year.



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The General Manager will consider the following:

- whether the reporting unit spends money or incurs debt to conduct its activities
- whether another reporting unit of the organisation spends its own money or incurs debt so that the reporting unit may conduct its activities
- whether any person or body corporate or trust spends its own money or incurs debt so that the reporting unit may conduct its activities.¹

Applying for a certificate under s.271 of the RO Act

Applications for a section 271 certificate are lodged with the Commission by email (regorgs@fwc.gov.au) using the [application form](#).



There is a timeframe for lodging an application

Applications must be made to the General Manager within 90 days after the end of the financial year.

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 has financial affairs and further information may need to be provided to the General Manager to demonstrate this has not happened.



Remember: if another reporting unit/person/body corporate/trust undertakes financial activities on your behalf, make sure that your rules allow for this to occur.

¹ r 165, *Fair Work (Registered Organisations) Regulations 2009*



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Credit cards

Has an officer of the reporting unit been issued with a corporate credit card? If an officer of a reporting unit has a corporate credit card and has used it to undertake transactions on behalf of and for the reporting unit this may indicate that the reporting unit has financial affairs.

Bank accounts

If the reporting unit maintains a bank account or holds money in cash, you should consider whether financial transactions have occurred and the impact of these financial instruments on the reporting unit's application.

Other considerations

Other questions to consider include:

- did the reporting unit receive any revenue?
- did the reporting unit expend any money?
- did the reporting unit incur any liabilities?
- does the reporting unit have any employees that it has directly employed?

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This fact sheet is not intended to be comprehensive. The Fair Work Commission does not provide legal advice. Users must rely upon the relevant legislation, which is set out in the *Fair Work (Registered Organisations) Act 2009*, the *Fair Work Act 2009*, the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* and the *Fair Work (Registered Organisations) Regulations 2009*.