

Archived: Thursday, 27 October 2022 5:01:08 PM
From: [Ian Macdonald](#)
Mail received time: Thu, 27 Oct 2022 04:33:04
Sent: Thu, 27 Oct 2022 04:32:57
To: [IEB Events](#); [ROC - Registered Org Commission](#); [Industrial Elections](#); [Roz Chivers](#); [Tony Hopkins - CDC](#)
Subject: E2022/95 Australian Public Transport Industrial Association - reply to Post Election Report [SEC=OFFICIAL]
Sensitivity: Normal

\cbpat3CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear Cameron

Thank you for your Report of the 24 October 2022. You have identified two issues with the rules in which you were able to rely upon section193 (1) (b) (i) of the ROA to overcome the issue.

The two identified issues included the rectification of defects in nominations which is addressed in the Rules and a second issue being the time for withdrawing a nomination which is not addressed.

As this is the third set of elections for APTIA since is incorporation and since there has been no mandated requirements to change the current rules, I do not propose to recommend such changes to the APTIA membership unless you or the Registered Organisation Commissioner advises me to the contrary.

Regards

Ian MacDonald, National IR Manager

Australian
Public
Transport
Industrial
Association

Industrial
Arm of the
Bus
Industry
Confederation

E: [REDACTED]

W: movingpeople.com.au

APTIA

Industrial Arm of the Bus Industry Confederation

moving people

Industry Navigators

moving people

movingpeople.com.au

Bus Australia Network

BIC

Bus Industry Confederation

moving people

bushsw

Bus & Coach Association WA

BusSA

Bus & Coach Association SA

@BIC

Queensland

TasBus

Tasmania



Victoria



26 October 2022

Ian MacDonald
National Industrial Relations Manager
Australian Public Transport Industrial Association
Sent via email: imacdonald@bic.asn.au



IMMEDIATE ACTION REQUIRED:

You must take steps after your recent election E2022/95

Dear Ian MacDonald,

An election has recently been completed by the Australian Electoral Commission (**AEC**) for the Australian Public Transport Industrial Association.

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.

24 October 2022

Post-election report

Australian Public Transport Industrial
Association
Scheduled election
E2022/95

Contents

Election(s) Covered in this Report3

Rules.....3

Roll of Voters**Error! Bookmark not defined.**

Other Matters3

Signed4

Attachments5

 A. Declaration of results for Uncontested Offices – Stage 15

 B. Declaration of Results for Uncontested Offices – Stage 25

Election(s) Covered in this Report

Organisation: Australian Public Transport Industrial Association
Election: Scheduled
Election Decision No/s: E2022/95

Rules

Rules used for the election: [150N: Incorporates alterations of 05/04/2016 (R2015/257)]

Rules difficult to apply/interpret: Yes

Rule 31(2)(d), which reads in part;

“In all elections if the returning officer finds that a nomination is defective, before rejecting the nomination the returning officer shall notify the person concerned of the defect and, where it is practicable to do so, give that person the opportunity of remedying the defect before the time and date fixed for close of nominations.”

Rule 31(2)(d) is contrary to Section 143(c) of the Fair Work (Registered Organisations) Act 2009 which provides that the defect period is not less than 7 days after candidates have been notified of a defect in their nomination. Accordingly, the Returning Officer took action under Section 193(1)(b)(i) of the Fair Work (Registered Organisations) Act 2009 to allow 7 days after candidates have been notified of any defect to remedy their nomination.

Model Rule reference:

9.1.1

Where the returning officer finds that a nomination is or may be defective, the returning officer shall, before rejecting the nomination, notify the person concerned of the defect and where practicable, give the person the opportunity of remedying the defect or providing further information in support of the nomination, within a period of not less than seven days after being notified.

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

Other Matters

Returning Officer actions required (Section 193): Yes
Details:

As there is no rule pertaining to the withdrawal of nominations, the Returning Officer applied Section 193(1) (b)(ii) of the Fair Work (Registered Organisation) Act 2009 to fix a closing time for the withdrawal of nominations and the withdrawal period closed at the time of closing of nominations.

Model Rule reference:

10.1.1

A member nominating for any office may withdraw the nomination:

a) by notice in writing to the returning officer at any time before the closing time for the receipt of nominations;

or

b) by notice in writing to the returning officer up to, but not later than 7 days after the close of nominations.

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

Signed

Cameron Caccamo
Returning Officer
Australian Electoral Commission
E: IEBevents@aec.gov.au
P: 02 9375 6366
24 October 2022

Attachments

- A. Declaration of results for Uncontested Offices – Stage 1
- B. Declaration of Results for Uncontested Offices – Stage 2



10 October 2022

Ian MacDonald
National Industrial Relations Manager
Australian Public Transport Industrial Association
Sent via email: imacdonald@bic.asn.au



IMMEDIATE ACTION REQUIRED:

You must take steps after your recent election E2022/95

Dear Ian MacDonald,

An election has recently been completed by the Australian Electoral Commission (**AEC**) for the Australian Public Transport Industrial Association.

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

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](#).

Questions?



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.

Australian Public Transport Industrial Association

DECLARATION OF RESULTS - E2022/95 - 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:

Office Bearers

Chairperson (1)

Candidates

HOPKINS Tony

Deputy Chairperson (1)

Candidates

KING John

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
Telephone: (02) 9375 6366
Email: IEBevents@aec.gov.au
07/10/2022





6 September 2022

Ian MacDonald
National Industrial Relations Manager
Australian Public Transport Industrial Association
Sent via email: imacdonald@bic.asn.au



IMMEDIATE ACTION REQUIRED:

You must take steps after your recent election E2022/95

Dear Ian MacDonald,

An election has recently been completed by the Australian Electoral Commission (**AEC**) for the Australian Public Transport Industrial Association.

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

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](#).

Questions?



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.

Australian Public Transport Industrial Association

DECLARATION OF RESULTS - E2022/95 - Stage 1

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:

Council Member from New South Wales (2)

Candidates

D'APUZZO Anthony

KING John

Council Member from Victoria (2)

Candidates

LUCAS Sam

WRIGHT Rob

Council Member from Queensland (2)

Candidates

BAULCH Michael

PULITANO Adam

Council Member from South Australia (1)

Candidates

LUCAS Stephen

Council Member from Western Australia (1)

Candidates

DOOLAN Ben

Council Member from Northern Territory (1)

Candidates

No Nominations Received

Council Member from Tasmania (1)

Candidates

DEWSBERY Shane

Council Member from the Urban Transport Group (2)

Candidates

HOPKINS Tony

MITCHELL Rolf

Council Member from the Public Transport Group (2)

Candidates

FARRUGIA Carmel

GRIFFITHS Leanne

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
Telephone: (02) 9375 6366
Email: IEBevents@aec.gov.au
01/09/2022





DECISION

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

Australian Public Transport Industrial Association (E2022/95)

MR STEENSON

SYDNEY, 19 MAY 2022

Arrangement for conduct of election.

[1] On 10 May 2022 the Australian Public Transport Industrial Association lodged with the Registered Organisations Commission prescribed information for an election to fill the following offices for a new term of office:

COUNCIL MEMBERS

Nominee from New South Wales	(2)
Nominee from Victoria	(2)
Nominee from Queensland	(2)
Nominee from South Australia	(1)
Nominee from Western Australia	(1)
Nominee from the Northern Territory	(1)
Nominee from Tasmania	(1)
Urban Transport Group	(2)
Public Transport Group	(2)

OFFICE BEARERS

Chairperson	(1)
Deputy Chairperson	(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
PR352243



Level 2, 14-16 Brisbane Avenue

Barton ACT 2600

No's: 02 99076372/ 0427 206 326

Email: imacdonald@bic.asn.au

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, Wayne Patch, being an authorised Office Bearer of the Australian Public Transport Industrial Association, make the following statement:

1. I am authorised to sign this statement containing prescribed information for the Australian Public Transport Industrial Association.
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 below.

Signed:

Wayne Patch, Authorised Officer

Dated: 10 May 2022

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
<i>National</i>	<i>Council Members</i>	<i>14</i>	<i>Refer Rules 24 (3) & (4)</i>	<i>Scheduled</i>	<i>National Council (Rule 24)</i>
<i>National</i>	<i>Office Bearers</i>	<i>2</i>	<i>Refer Rule 22 (3)</i>	<i>Scheduled</i>	<i>National (Rule 22)</i>
...					

- Important dates:

	Direct Voting System	
Nominations OPEN	<i>31 July 2022 (Rule 33 (4))</i>	
Nominations CLOSE	<i>17 August 2022 (Rule 33(1))</i>	
Roll of Voters cut off date	<i>29 June 2022 (Rule 33 (4))</i>	

Rule 22 (3)

Subject to Rule 24 (7), within 7 days after declaring the result of the elections for Council under Rule 33 the returning officer shall call for written nominations for Office bearer positions.

Rule 24 (3)

- The Council, which shall consist of fourteen (14) shall comprise up to ten (10) persons elected by the financial members of the Association Group members in the following mix:
 - (i) Two nominees from New South Wales
 - (ii) Two nominees from Victoria
 - (iii) Two nominees from Queensland
 - (iv) One nominee from South Australia

- (v) One Nominee from Western Australia
- (vi) One Nominee from the Northern Territory
- (vii) One Nominee from Tasmania

Once the Association members provided their nominations for Council, as they have already been preselected by the financial members of the relevant financial Association Group member, nominees shall be deemed elected in accordance with the Rules of the Association.

Rule 24 (4)

- The Council shall also comprise at least two (2) persons elected from the financial members of the Urban Transport Group and at least two (2) persons elected from the financial members of the Public Transport Group.

Rule 24 (5)

Subject to Rule 24 (7) the Council members shall be elected every four (4) years by secret postal ballot by and from the members of the Association and, subject to these Rules and to earlier termination or removal, shall hold office for a term of four (4) years and at the expiration of their term shall be entitled TO Stand for re-election if they are otherwise eligible under these Rules.

Rule 33 (1)

The closing date for nominations shall be, as far a practicable, at least 3 weeks from the date of such delivery or posting. (i.e. nominations called).

Rule 33 (4)

Nominations shall only be made by and from members and members' representatives. In this regard the roll of members and member's representatives shall close prior to the date of the opening of nominations for election.