



30 November 2022

Joel Tynan
General Secretary-Treasurer
Shop, Distributive and Allied Employees Association-Tasmanian Branch
Sent via email: secretary@sdatas.asn.au



IMMEDIATE ACTION REQUIRED:

You must take steps after your recent election E2022/147

Dear Joel Tynan,

An election has recently been completed by the Australian Electoral Commission (**AEC**) for the Shop, Distributive and Allied Employees Association-Tasmanian Branch.

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](http://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.

30 November 2022

Post-election report

**Shop, Distributive and Allied Employees
Association**

SDAEA - Tasmanian Branch

Scheduled election

E2022/147

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Election Covered in this Report

Organisation: SDAEA - Tasmanian Branch
Election: Scheduled
Election Decision No/s: E2022/147

Rules

Rules used for the election: Yes

Rules difficult to apply/interpret: No

Model Rule reference (if any): N/A

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

Signed

Lachlan Symonds
Returning Officer
Australian Electoral Commission
E: iebevents@aec.gov.au
P: 02 9375 6366
30 November 2022

Attachments.

A. Declaration of Results for Uncontested Offices – TAS

Shop, Distributive and Allied Employees Association (SDAEA) Tasmanian Branch

DECLARATION OF RESULTS - E2022/147 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:

Tasmanian Branch

General President (1)

Candidates

WELLS Isabell

Vice President (1)

Candidates

HARRIS Aniela

State Councillors (6)

Candidates

BARR Katrina

BURROWS Paul

MOWAT Shandell

PORTER Leanne

STEVENSON Eillean

STILGOE Chris

Delegates to National Council (2)

Candidates

TYNAN Joel

WELLS Isabell

General Secretary-Treasurer (1)

Candidates

TYNAN Joel

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

Lachlan Symonds
Returning Officer
Telephone: 02 9375 6366
Email: IEEvents@aec.gov.au

29/11/2022



DECISION

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

Shop, Distributive and Allied Employees Association (E2022/147)

MR STEENSON

SYDNEY, 28 JULY 2022

Arrangement for conduct of election.

[1] On 4 July 2022 the Tasmanian Branch of the Shop, Distributive and Allied Employees Association (the **Branch**) lodged with the Registered Organisations Commission (the **Commission**) an email purporting to be prescribed information for an election to fill the following offices for a new term of office:

General President	(1)
Vice President	(1)
State Councillors	(6)
Delegates to National Council	(2)
General Secretary-Treasurer	(1)

[2] Section 189 of the *Fair Work (Registered Organisations) Act 2009* (the **RO Act**) says:

Commissioner to arrange for conduct of elections

- (1) An organisation or branch of an organisation must lodge with the Commissioner the prescribed information in relation to an election that is to be conducted by the AEC.
- (2) The prescribed information must be lodged before the prescribed day or such later day as the Commissioner allows.

Civil penalty: 60 penalty units.

- (3) If:
 - (a) the prescribed information is lodged with the Commissioner by the organisation or branch (whether or not before the prescribed day or the later day allowed by the Commissioner); and
 - (b) the Commissioner is satisfied that an election is required to be held under the rules of the organisation or branch; and
 - (c) if the election is not an election for an office--the organisation or branch has made a request under section 187;

the Commissioner must arrange for the conduct of the election by the AEC.

[3] Regulation 138 *Fair Work (Registered Organisations) Act 2009 (the Regulations)* provides further detail about what information constitutes prescribed information, namely:

Prescribed information for election (s 189(1))

- (1) For subsection 189(1) of the Act, the following information is prescribed information for an election conducted for an office or for a position other than an office:
 - (a) the name of each office or position for which an election is required;
 - (b) the reason for the election is that:
 - (i) the term of the office or position has expired or is due to expire in the normal course of events; or
 - (ii) a casual vacancy in the office or position has occurred (or will occur imminently); or
 - (iii) a new office or position has been created; or
 - (iv) the office or position was not filled at the previous election;
 - (c) if more than one of the offices or positions for which an election is required has the same name, and the number of offices or positions can, under the rules of the relevant organisation or branch, be determined before the prescribed day--the number of those offices or positions;
 - (d) if the electorate comprises only members of a branch, section or other division of an organisation--the name of the branch, section or division;
 - (e) the date and time of the beginning and end of the period in which nominations of candidates will be called for or may be made under the rules of the organisation or branch in relation to the election;
 - (f) the day provided for in the rules of the organisation as the day on which the roll of voters is to be closed;
 - (g) the kind of voting system to be used in the conduct of the election is:
 - (i) a direct voting system; or
 - (ii) a collegiate electoral system.
- (2) The prescribed information lodged by an organisation or branch under subsection 189(1) of the Act must contain a statement, signed by an officer of the organisation or branch who is authorised to sign the statement, that the information is lodged under subsection 189(1) of the Act.
- (3) For subsection 189(2) of the Act, the prescribed day is the day occurring 2 months before the first day when a person may, under the rules of the organisation or branch, become a candidate in an election.

[4] The 4 July 2022 email from the Branch requesting ‘*that the General Manager [sic] of the ROC make arrangements under section 187 of the RO Act with the Australian Electoral Commission, to conduct an Election ...*’¹ did not include much of the information actually required to be lodged. In particular, it did not include: the electorate from which each office was to be elected, the nomination opening and closing dates, the date on which the roll of voters closes, and the type of voting system to be used to elect each office. Nor was there a statement in the format required by the Regulations.²

¹ Email from the Branch’s General Secretary

² Sub-regulations 138(1)(d),(e),(f),(g) and 138(2) of the Regulations

[5] As the Branch's 4 July 2022 lodgement was missing a number of essential elements, staff of the Commission contacted the Branch on several occasions³ seeking to obtain the information. This included, following an assessment of the rules, providing the Branch with a template of what appeared to Commission staff to be the required information based on those rules and the requirements of the RO Act, asking the Branch to confirm whether this was correct and, if so, to sign a declaration certifying this. On 27 July 2022, the Branch provided the Commission with a signed declaration accompanied by the required information on which an election decision could then be based.

[6] Unfortunately this is not the first time that the Branch has lodged deficient information in relation to seeking an election for office. A review of available records shows that on multiple occasions over several years the initial lodgement by the Branch, in relation to an election that is sought, has been either insufficient to meet the essential requirements for prescribed information or has been incorrect.⁴ On each of those occasions, the active intervention by staff of this Commission (and before that, the Fair Work Commission when it was the relevant regulator) was needed to bring about the lodgement of election-related information that was both correct and compliant with the RO Act and Regulations.

[7] Ultimately, the obligation to provide complete and accurate prescribed information in relation to elections for registered organisations lies with those organisations and their branches. I therefore propose to engage separately with the Branch with a view to improving the quality of election-related information submitted for elections going forward.

[8] 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 RO Act, I am making arrangements for the conduct of the election by the Australian Electoral Commission. As each of the elections is for an office (rather than for non-office positions) section 187 of the RO Act does not apply.



DELEGATE OF THE COMMISSIONER

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³ Namely 8, 15, 26 and 27 July 2022

⁴ For example, election matters E2019/182, E2017/184 and E2014/189.

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, **Paul Griffin**, being the **General Secretary - Treasurer** of the **Shop, Distributive and Allied Employees Association-Tasmanian Branch** make the following statement:

1. I am authorised to sign this statement containing prescribed information for the **Tasmanian Branch, Shop, Distributive and Allied Employees 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(s) in Annexure A.
6. Formulas for the number of Offices:

- a. The rule number(s) which specify the formula are:

National Rules, Rule 8

- b. The formula is:

Branches having 2,001 – 5,500 members

2 Councillors

- c. The information for calculating the formula(s) is:

Number of financial members was 5,264

- d. The relevant date(s) for this information is:

31 December 2021

Signed:



Dated:

27. 7. 22

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
Tasmanian Branch	General President	1 - Rule 21	Direct Voting System	Scheduled	Financial members of the Branch Rule 22
Tasmanian Branch	Vice President	1 - Rule 21	Direct Voting System	Scheduled	Financial members of the Branch Rule 22
Tasmanian Branch	State Councillor	6 - Rule 21	Direct Voting System	Scheduled	Financial members of the Branch Rule 22
Tasmanian Branch	Delegate to National Council	2 – National Rule 8	Direct Voting System	Scheduled	Financial members of the Branch Rule 22
Tasmanian Branch	General Secretary - Treasurer	1 - Rule 21	Direct Voting System	Scheduled	Financial members of the Branch Rule 22

- Important dates:

	Direct Voting System	Collegiate Electoral System
Nominations OPEN	Latest by 7 November 2022 (no less than 14 days prior to Nov General Meeting) Rule 25(b)	N/A
Nominations CLOSE	21 November 2022, 12pm Rule 25(b)	N/A

Roll of Voters cut off date	Latest by 1 November 2022 (7 days prior to when nominations open) Rule 25(b)	N/A
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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](#).