

10 February 2023

Post-election report

Master Grocers Australia Limited
Scheduled election
E2022/89

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Election(s) Covered in this Report

Organisation: Master Grocers Australia Limited

Election: Scheduled

Election Decision No/s: E2022/89

Rules

Rules used for the election: Incorporates alterations of 04 July 2018 [R2018/138].

Rules difficult to apply/interpret: N/A.

Model Rule reference (if any): N/A.

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

- The Rules pertaining to the notice of the event to be published in the Independent Retailer were substituted with publishing the Notice of Election and Candidate statements via Electronic Direct Mail, Returning Officer will apply subparagraph 193(1)(b)(ii) of the Fair Work (Registered Organisation) Act 2009 to ensure no irregularity occurs.
- The Returning Officer will apply subparagraph 193(1)(b)(ii) of the Fair Work (Registered Organisation) Act 2009 to allow for Preliminary scrutiny to be conducted.
- As there is no rule pertaining to the withdrawal of nominations, the Returning Officer will apply subparagraph 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 will close at the time of closing of nominations

Signed

Lachlan Symonds
Returning Officer
Australian Electoral Commission
E: iebevents@aec.gov.au
P: 02 9375 6366
10 February 2023

Attachments

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



9 February 2023

Deborah Smith
President
Master Grocers Australia Limited
Sent via email: admin@mga.asn.au



IMMEDIATE ACTION REQUIRED:

You must take steps after your recent election E2022/89

Dear Deborah Smith,

An election has recently been completed by the Australian Electoral Commission (**AEC**) for the Master Grocers Australia Limited.

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](#).

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.

Master Grocers Australia Limited
DECLARATION OF RESULTS - E2022/89 - Stage 2
Contested 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:

Board of Directors

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	9
Number of voters issued with voting material	9
Total number of voters issued with replacement voting material	0
Total number of voting material packs issued	9
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	8
Number of declaration envelopes rejected at preliminary scrutiny (minus)	0
Number of ballot papers returned outside declaration envelopes (minus)	0
COUNT	
Total ballot papers admitted to the count	8
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	0
Voting material packs not returned by voters by closing date of the ballot	1
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	89 %

President (1)

<u>Candidates</u>	<u>Final Votes</u>
WYMER, Lincoln	6
SMITH, Deborah May	2

Total ballot papers admitted for this office	8
Formal Ballot papers	8
Informal Ballot papers	0

I declare the following elected:

- WYMER, Lincoln

Lachlan Symonds
Returning Officer
Telephone: 02 9375 6366
Email: iebevents@aec.gov.au
09/02/2023



5 January 2023

Deborah Smith
President
Master Grocers Australia Limited
Sent via email: admin@mga.asn.au



IMMEDIATE ACTION REQUIRED:

You must take steps after your recent election E2022/89

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Can I put more information on our website?

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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](#).

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The organisation failed to make a series of notifications of change on time.

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Yours sincerely

Registered Organisations Commission



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Master Grocers Australia Limited (MGAL)
DECLARATION OF RESULTS - E2022/89 - 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:

Board of Directors

Vice President (1)

Candidates

HINCHCLIFFE Grant

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

23/12/2022





23 November 2022

Deborah Smith
President
Master Grocers Australia Limited
Sent via email: admin@mga.asn.au



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Registered Organisations Commission



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Master Grocers Australia Limited

DECLARATION OF RESULTS - E2022/89 - Stage 1 Contested 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:

Master Grocers Australia Limited

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	2,069
Number of voters issued with voting material	2,069
Total number of voters issued with replacement voting material	4
Total number of voting material packs issued	2,073
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	350
Number of declaration envelopes rejected at preliminary scrutiny (minus)	8
Number of ballot papers returned outside declaration envelopes (minus)	0
COUNT	
Total ballot papers admitted to the count	342
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	61
Voting material packs not returned by voters by closing date of the ballot	1,662
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	17 %

Director (3)

<u>Candidates</u>	<u>First Preference Votes</u>	<u>Final Votes</u>
ANILE, Rosario (Ross)	264	264
HARPER, Jeff	267	267
HOPPER, Raelene	174	174
SMITH, Deborah May	198	198

Total ballot papers admitted for this office	342
Formal Ballot papers	301
Informal Ballot papers	41

I declare the following elected:	Order Elected
• HARPER, Jeff	1
• ANILE, Rosario (Ross)	2
• SMITH, Deborah May	3

Lachlan Symonds
Returning Officer
Telephone: 02 9375 6366
Email: iebevents@aec.gov.au
22/11/2022





DECISION

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

Master Grocers Australia Limited (E2022/89)

MR STEENSON

SYDNEY, 10 AUGUST 2022

Arrangement for conduct of election.

[1] On 21 July 2022 the Master Grocers Australia Limited (the **Organisation**) lodged with the Registered Organisations Commission (the **Commission**) prescribed information for an election to fill the following offices:

Director	(3)
President	(1)
Vice President	(1)

[2] Under the rules of the Organisation, specifically rules 21.6 and 21.8, one-third of Directors retire each year (and are eligible for re-election), and an election is to be held prior to the Annual General Meeting (**AGM**) that year, with the new term of office commencing from the date of the AGM. In addition, rule 24 provides that each year (after the AGM is completed) nominations are to be called to elect the President and Vice-President by and from the Directors.

[3] Section 189 of the *Fair Work (Registered Organisations) Act 2009* (**RO Act**) requires each registered organisation to lodge prescribed information in order for an election decision to be issued for its elections to be arranged by the Australian Electoral Commission (**AEC**).¹ Section 189(2) of the RO Act and Regulation 138(3) of the *Fair Work (Registered Organisations) Regulations 2009* specify that it must be lodged prior to a prescribed day – that being two months before the date that nominations open.

[4] According to the prescribed information lodged by the Organisation, the opening date for nominations is 14 September 2022. Therefore the prescribed needed to be lodged before 14 July 2022. While the declaration accompanying the prescribed information was signed on 11 July 2022, lodgement did not occur until 21 July 2022. In the Organisation’s email dated 21 July 2022 attaching the lodgement, its Chief Executive Officer (**CEO**) acknowledged and apologised for the late lodgement. In the email, the CEO also stated that the document ‘was ready to go’ but that the delay was due to a combination of his absence interstate and the commencement of a new company secretary who was unaware of the specific timeframe in

¹ Unless it holds an exemption, under s.186 of the RO Act, allowing it to conduct its own elections

which the prescribed information had to be lodged with the Commission. I commend the Organisation's candour in identifying and acknowledging the issue (i.e. its own apparent non-compliance) at the time of lodgement and providing information as to how it arose.

[5] All organisations registered under the RO Act, as well as having certain privileges and entitlements as a result of that registration, have certain obligations that they must meet. One of these is in relation to elections and the requirements attached to them, consistent with democratic control of registered organisations being an object of the RO Act.

[6] Section 189(2) of the RO Act provides that the Commissioner (and, by implication, his Delegate) may allow a later date for lodgement. Having regard to the circumstances giving rise to the lodgement of prescribed information after the prescribed date, and the challenges that these have presented for the Organisation on this particular occasion, I am satisfied that it is appropriate to allow, under section 189(2) of the Act, a later day for lodgement.

[7] Having noted the reasons for the delay in lodgement of prescribed information for this election and having allowed a later day for lodgement on this occasion, I remind the Organisation that the clear and unequivocal expectation is that future lodgements of prescribed information be made within the timeframe set out in the RO Act and the Organisation's own rules.

[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 *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

PR352311

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, **Deborah May Smith**, being the **President** of the **Master Grocers Australia Ltd.** make the following statement:

1. I am authorised to sign this statement containing prescribed information for **Master Grocers Australia Ltd.**
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.
 - a. The rule number which specify the formula is **Election and Appointment of Directors / Who can be a Director – section 21.6**
 - b. The formula is **1/3 of Directors or if number is not 3 or a multiple of 3 then the nearest one third.**
 - c. As at the date of this declaration the total number of Directors is **9**

Signed: **Deborah May Smith, President of Master Grocers Australia Limited**



Dated: 11/07/2022

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 <i>Direct voting system; Collegiate electoral system</i>	Reason for Election <i>Scheduled; Casual vacancy; New office created; Insufficient nominations</i>	Electorate
N/A	Director	3	Direct Voting System	Scheduled	All MGA Members
N/A	President	1	Collegiate electoral system	Scheduled	Board of Directors
N/A	Vice President	1	Collegiate electoral system	Scheduled	Board of Directors

- Important dates: Master Grocers Australia Limited – Annual General Meeting – 25th November 2022

	Direct Voting System	Collegiate Electoral System
Nominations OPEN	Rule 21.19 – Returning Officer calls for MGA Director nominations 72 days prior to the AGM – that date being no later than 14 th September 2022	Rule 24.6 – Nominations for President and Vice President shall be sent to each Director no more than 7 days after the AGM - that date being 2 nd December 2022
Nominations CLOSE	Rule 21.24 – Nominations for MGA Directors to be received no later than 21 days after nominations open - that date being no later than 5 th October 2022	Rule 24.6 – Closing date for President and Vice President nominations is 14 days from the date the notice was sent - that date being 16 th December 2022
Roll of Voters cut off date	Rule 25.9 – 7 days before the opening of nominations – that date being 7 th September 2022	Rule 25.9 – 7 days before the opening of nominations – that date being 25 th November 2022

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](#)