



22 March 2023

Matthew Deaner
Executive Director
Screen Producers Association of Australia
Sent via email: info@screenproducers.org.au

Dear Matthew Deaner



IMMEDIATE ACTION REQUIRED:

You must take steps after your recent election E2022/196

An election has recently been completed by the Australian Electoral Commission (AEC) for the Screen Producers Association of Australia.

This letter explains the next steps you must take and what information you need to lodge with the Fair Work Commission (the Commission).

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@fwc.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 (regulation 141). The notice must be on your website for at least three 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 three months. You can always do more than the regulatory minimum.

The Commission 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 (section 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 Commission website](#).

You must act on this now, as affected officers **MUST** complete approved financial training OR been granted an [exemption by the Commission](#) **within six 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 Commission within **35 days** of the change occurring.

We have a [template](#) to help you with this, which you can send to regorgs@fwc.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](#).



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@fwc.gov.au.

Yours sincerely

Fair Work Commission



The Commission 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.

21 February 2023

Post-election report

Screen Producers Association of Australia
Scheduled election
E2022/196

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Election Covered in this Report

Organisation: Screen Producers Association of Australia
Election: Scheduled
Election Decision No/s: E2022/196

Rules

Rules used for the election: 118N: Incorporates alterations of 15 May 2020] [R2019/121 and R2020/27]

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/

Other Matters

Returning Officer actions required (Section 193): Yes

Details:

Rules regarding the timetable of the election were set aside as the AEC held concerns that the coronavirus pandemic may impact on the ability for stakeholders to fully participate in the election. A timetable for the conduct of the ballot which varied from the rules was set when the AEC was satisfied that stakeholders would be able to fully participate.

Signed

Ben Murray
Returning Officer
Australian Electoral Commission
E: iebevents@aec.gov.au
P: 03 9285 7111
21 February 2023

Attachments

A. Declaration of results for Uncontested Offices – National

Screen Producers Association of Australia
DECLARATION OF RESULTS - E2022/196
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 of Management

President (1)

Candidates

VIEIRA Tracey

Vice President (1)

Candidates

RYAN Suzanne

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: iebevents@aec.gov.au
10/02/2023





DECISION

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

Screen Producers Association of Australia (E2022/196)

MR STEENSON

SYDNEY, 8 NOVEMBER 2022

Arrangement for conduct of election.

[1] On 20 October and 2 November 2022 the Screen Producers Association of Australia (the organisation) lodged with the Registered Organisations Commission (the Commission) prescribed information for an election to fill the following offices:

President (1)

Vice President (1)

[2] The organisation did not lodge the prescribed information in the timeframe mandated by regulation 138(3) of the *Fair Work (Registered Organisations) Regulations 2009*, i.e. at least two months before the day on which nominations are due to open under the organisation's rules. The organisation advised the Commission that the Annual General Meeting (AGM) is scheduled for 15 November 2022 and rule 17 of the organisation's rules provides that nominations for the offices of President and Vice President must be called for prior to the AGM. Therefore the prescribed information should have been lodged, at the latest, by 14 September 2022.

[3] In its correspondence dated 2 November 2022, staff of the organisation stated to the Commission that the delay was due to leave and staff changes, the apparent cumulative effect of which was the prescribed information not being submitted within the required 'two months before' timeframe.

[4] All organisations registered under the *Fair Work (Registered Organisations) Act 2009* (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. These include steps required by instruments relating to their own governance, such as their rules.

[5] Section 189(2) of the RO Act provides that the Commissioner (and, by implication, their Delegate) may allow a later date for lodgement of prescribed information. I note that the organisation's most recent previous election was delayed as a consequence of COVID-related delays in the conduct of industrial elections. I have considered the specific circumstances giving

rise to the lodgement of prescribed information on this occasion. I have also noted that, historically, the organisation has lodged prescribed information in a timely manner. I am satisfied that in this instance it is appropriate to allow, under section 189(2) of the RO Act, a later day for lodgement.

[6] Having allowed a later day for lodgement of prescribed information on this particular occasion, I remind the organisation that the clear and unequivocal expectation is that future lodgements of prescribed information be made within the timeframes set out in the RO Act and the organisation's own rules. I further remind the organisation that late lodgement of prescribed information may leave the organisation liable for civil penalties.

[7] 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.



DELEGATE OF THE COMMISSIONER

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PR352361

2 November 2022

The Commissioner
Registered Organisation Commission
GPO Box 2983
Melbourne
VIC 3001

Via regorgs@roc.gov.au

Dear Commissioner,

Re: Screen Producers Association of Australia: Election of President & Vice President

I am contacting you to advise of an error regarding submission for the PRESCRIBED INFORMATION FOR ELECTIONS in accordance with Section 189 Fair Work (Registered Organisations) Act 2009 and Regulation 138 Fair Work (Registered Organisations) Regulations 2009 concerning the second round of elections for the offices of President and Vice President for the coming 12-month period.

The first-round information for election of Council positions was submitted correctly and the election held in accordance with requirements by the Australian Electoral Commission with the post-election report received on 11 October from the AEC.


However, as advised previously by the ROC, the Constitutional changes confirmed by the Fair Work Commission on 15 May 2020 concerning 2-year terms alternatively for Council positions did not include the same requirement for the two officer positions, therefore annual elections by Council members for the officers under the Collegiate system are required until such time an application can be finalised to update to 2-year terms.

Unfortunately, due to leave and staff changes, the form for elections for the two officer positions was not submitted within the required 2-month timeframe for elections to be held in good time. As the manager responsible for the oversight of Governance, I sincerely apologise for the error and have submitted the required form on 20 October and a further update dated today, 2 November noting the Collegiate system of voting.

The Association can extend the terms for the two officers until the first Council meeting post-AGM (15 November 2022) and await your decision on the most appropriate way to rectify the error.

Thank you for your assistance.

Yours sincerely,

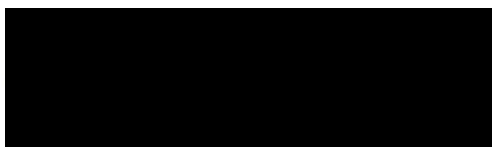
A large black rectangular redaction box covering the signature area of the letter.

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, Tracey Vieira, being the President of the Screen Producers Association of Australia, make the following statement:

1. I am authorised to sign this statement containing prescribed information for the Screen Producers Association of Australia.
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. *If the number of elected representatives is calculated on a formula(s) defined in the rules]:*
 - a. The rule number which specifies the formula are under rule **17 – Election of the President and Vice President**
 - b. **Rule 17c** - Each nomination may be made and seconded only by Members of the Council, during the first meeting after the election of Councillors. Nominations can be received by the Returning Officer in writing or orally during the meeting.

Signed:

A large black rectangular redaction box covering the signature of Tracey Vieira.

Dated: 20 October 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;</i>	Electorate
National	President	1	Direct Voting System	Scheduled	<i>Elected Council Only</i>
National	Vic President	1	Direct Voting System	Scheduled	<i>Elected Council Only</i>

- Important dates:

	Direct Voting System	Collegiate Electoral System
Nominations OPEN	To be determined by the Returning Officer (AEC). Preference ASAP 2022	N/A
Nominations CLOSE	To be determined by the Returning Officer (AEC). Preference ASAP 2022	N/A
Roll of Voters cut off date	To be determined by the Returning Officer (AEC). Preference ASAP 2022	N/A

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](#)