



27 March 2023

Annie Butler
Federal Secretary
Australian Nursing and Midwifery Federation
Sent via email: fedsec@anmf.org.au

cc:

Dear Annie Butler



IMMEDIATE ACTION REQUIRED:

You must take steps after your recent election E2022/203

An election has recently been completed by the Australian Electoral Commission (AEC) for the Australian Nursing and Midwifery Federation.

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.

24 February 2023

Post-election report

Australian Nursing and Midwifery
Federation
Scheduled election
E2022/203

Contents

Election(s) Covered in this Report	3
Rules.....	3
Other Matters	4
Signed.....	4
Attachments	5
A. Declaration of results for Uncontested Offices.....	5

Election(s) Covered in this Report

Organisation: Australian Nursing and Midwifery Federation

Election: Scheduled

Election Decision No/s: E2022/203

Rules

Rules used for the election: 145V: Incorporates alterations of 29 November 2021 [R2021/160]
(replaces rulebook dated 4 June 2021 [R2021/14])

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

Rules regarding the timetable of the election were altered slightly from a completion date of 1 March 2023. 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: IEEvents@aec.gov.au
P: 03 9285 7111
24 February 2023

Attachments

A. Declaration of results for Uncontested Offices

Australian Nursing and Midwifery Federation

DECLARATION OF RESULTS - E2022/203

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:

Australian Nursing and Midwifery Federation

Federal President (1)

Candidates

JONES Sally-Anne

Federal Vice President (1)

Candidates

LLOYD James

Federal Secretary (1)

Candidates

BUTLER Annie

Federal Assistant Secretary (1)

Candidates

SHARP Lori-Anne

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

Ben Murray
Returning Officer
Telephone: 03 9285 7111
Email: IEBevents@aec.gov.au
23/02/2023.





DECISION

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

Australian Nursing and Midwifery Federation (E2022/203)

MR STEENSON

SYDNEY, 20 DECEMBER 2022

Arrangement for conduct of election.

[1] On 7 December 2022, the Australian Nursing and Midwifery Federation (**the Federation**) lodged with the Registered Organisations Commission prescribed information for an election to fill the following offices for a new term of office:

Federal President	(1)
Federal Vice President	(1)
Federal Secretary	(1)
Federal Assistant Secretary	(1)

[2] For the previous election (election **E2018/231**)¹, the applicable election-related rules² prescribed that the election for the offices of Federal President and Federal Vice-President was to be conducted between 1 February and 15 March *in each alternate year*. The elections for the office of Federal Secretary, and the office of the Federal Assistant Secretary (then referred to as Assistant Federal Secretary), were to be conducted *every fourth year* (unless the Federal Council decided that this office was not to be filled).

[3] On 27 May 2020, an application to alter the Federation’s rules was certified by the Fair Work Commission.³ Among the alterations was a change to the frequency of elections for the offices of Federal President and Federal Vice-President from each alternate year (i.e. every two years) to every four years, commencing in 2023. The change to this new four-year term was put into effect by a transitional rule (rule 47.6) extending the term of the current holders of those offices from two to four years, in order to synchronise their next election with the elections for Federal Secretary and Federal Assistant Secretary due in 2023. Consequently, the prescribed information for this election has requested an election for each of the Federal Offices (detailed above) as set out in rule 45 of the Federation’s rules.

Request for extension of time

¹ [2018] ROCD 212 – election decision dated 30 November 2018

² ANMF rules certified 17/01/2018 (R20187/161) – rule 47

³ [2020] FWCD 2451 – ANMF rules certified on 27 May 2020 - (R2020/30)

[4] Section 189(2) of the *Fair Work (Registered Organisations) Act 2009* (**RO Act**) requires that prescribed information be lodged in a particular timeframe before an election is due, known as the ‘prescribed day’. The *Fair Work (Registered Organisations) Regulations 2009* (**Regulations**), in particular regulation 138(3), defines the ‘prescribed day’ as 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’. In other words, the prescribed information must be lodged at least two months before the date on which nominations are due to open under the organisation’s rules. Section 189(2) of the RO Act is a civil penalty provision and late lodgement or non-lodgement could therefore leave an organisation open to litigation and potentially liability to a penalty.⁴

[5] The Federation did not lodge the prescribed information before the prescribed day as required by the Regulations. Rule 47 of the Federation’s rules provides that election for these offices is to commence between 1 February and 15 March, and where practicable the conduct of the ballot, if required, is to be completed by 1 March in the election year.⁵

[6] In circumstances where it is intended that nominations for the election are to open on 1 February 2023, the prescribed information should have been lodged by 30 November 2022. As indicated above, it was lodged on 7 December 2022.

[7] In the Statement containing the prescribed information, the Federation’s Federal Secretary indicated that the delay in lodgement was due to:

- the person, who had formerly been responsible for the preparation of election-related lodgements no longer being employed by the Federation; and
- the person currently responsible for preparing election-related lodgements being absent on extended leave.

[8] The Federal Secretary stated that these factors contributed to an ‘administrative oversight’ which resulted in the delay in lodgement. The Federal Secretary also advised that the Federation will take steps to review its administrative processes to ensure that such oversight does not occur again.

[9] In light of this, the Federation requested that the Commissioner exercise the discretion under section 189(2) of the RO Act to allow a later day for lodgement of the prescribed information.

[10] I acknowledge the circumstances that led to the late lodgement, however I am not satisfied that the reasons provided are sufficient to justify the failure to comply with a statutory obligation. Having regard to the normal and reasonable expectation that registered organisations take steps to ensure they comply with the time-frame requirements set out not only in the RO Act but also in their own rules and other instruments pertaining to their own governance, and formulated by the organisations themselves, I decline on this occasion to allow, under section 189(2) of the RO Act, a later day for lodgement.

[11] The refusal of extension of time under section 189(2) of the RO Act does not, however, affect a determination of an election matter for the purposes of section 189(3) of the RO Act.

⁴ Registered Organisations Commissioner v Australian Hotels Association [2019] FCA 1516

⁵ Refer ANMF rules - subrules 47.1 and 47.2

[12] 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

Printed by authority of the Commonwealth Government Printer

PR352379

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, Annie Butler, being the Federal Secretary of the Australian Nursing and Midwifery Federation (ANMF) make the following statement:

1. I am authorised to sign this statement containing prescribed information for the ANMF.
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 NOT** lodged at least 2 months before nominations open for the elections in Annexure A. The reason it is lodged after the prescribed time is:
 - a. The person with previous carriage of elections and rules no longer works for the ANMF. The current person with carriage of elections and rules is on extended leave.
 - b. Due to administrative oversight as explained above, the statement has not been lodged on time. It should have been lodged on 30 November 2022, one week ago. The ANMF will review its processes to ensure this does not happen again.
 - c. The ANMF respectfully requests that the Commissioner exercises their power under s189(2) of the *Fair Work (Registered Organisations) Act 2009* (RO Act) to allow this information to be lodged on 7 December 2022.

Signed:



Dated: 7 December 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
Federal Office	Federal Secretary	1	Direct Voting System	Scheduled	All members (sub-rule 45.1)
Federal Office	Federal Assistant Secretary	1	Direct Voting System	Scheduled	All members (sub-rule 45.1)
Federal Office	Federal President	1	Direct Voting System	Scheduled	All members (sub-rule 45.1)
Federal Office	Federal Vice President	1	Direct Voting System	Scheduled	All members (sub-rule 45.1)

- Important dates:

	Direct Voting System
Nominations OPEN	Elections shall be conducted between 1st day of February and the 15th day of March in every fourth year, as determined by Returning Officer (Rule 47)
Nominations CLOSE	Elections shall be conducted between 1st day of February and the 15th day of March in every fourth year, as determined by Returning Officer (Rule 47)
Roll of Voters cut off date	7 days before the day on which nominations are opened (sub-rule 47.5)