Australian Government
Registered Organisations Commission

PODCAST

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ROCpod episode 41 – Don’t miss the deadline

The ROCpod was a monthly podcast focussed on the regulation of registered organisations. It shared information, tips and tools for improving compliance with legislative requirements.

The podcast was key part of the Registered Organisations Commission's (ROC) education strategy. The ROC was abolished on 6 March. The Fair Work Commission (the Commission) is now the regulator for registered organisations.

Although processes may change under the Commission, much of the podcast content is still useful.

Email any questions about anything in an episode to regorgs@fwc.gov.au.

Speaker Key

AN	Unidentified announcer
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CC	Claire Cotterill

AN Welcome to *ROCpod*: Talking with the Registered Organisations Commission. The official podcast of the ROC about the regulation of unions and employer associations. And in this monthly podcast we'll share essential information, uncover handy hints and tips and reveal our best tools for proactive compliance with the complex legislative requirements.

Don't forget to subscribe and see how *ROCpod* can help you and your organisation.

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CLB Hello and welcome to *ROCpod*. My name is Cynthia Lo-Booth and I’m a senior adviser and lawyer in the compliance team at the ROC. Many of the compliance requirements of registered organisations have specific timeframes that are prescribed by law. In this month’s episode we’ll identify what those compliance requirements are, the timeframes that are most commonly missed by organisations and share our strategies to help you beat the deadline.

To help me unpack this topic, I'm joined by Claire Cotterill. Claire is a lawyer and adviser also in the compliance team at the ROC. Claire is involved in assessing many of the documents you lodge with the ROC for compliance. Welcome to *ROCpod* Claire!

CC: Thanks for having me Cynthia! There are different deadlines for lodging information and documents with the ROC so it's great to have this conversation to help organisations get across all these key dates.

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CLB: To start with Claire can you give our listeners a recap of all the things that need to be lodged with the ROC and the relevant deadlines for lodgement?

CC: Sure thing, Cynthia. First, all organisations need to lodge with the ROC their annual return by 31 March each calendar year. The annual return includes information about the organisation, its officers and its membership numbers in the previous calendar year.

CLB: Annual returns for 2022 will be due by 31 March 2023. However, you can lodge your annual return anytime between 1 January and 31 March. The ROC has annual return templates that you can use on our website.

CC: That's right Cynthia. We really encourage organisations to use our templates not only for annual returns but for all their lodgements. We have designed our templates to make it easier for you to give the ROC all the information we need the first time round.

Organisations also need to lodge a notification of change (we call this a NOC) to advise us of any change to the annual return such as a new or departing officer or an update to the organisation's contact details. NOCs must be lodged within 35 calendar days from the date of the change. That is 35 days total and not business days. So, for example, if an officer resigns and their last day is 2 January 2023, you must lodge the NOC by Monday 6 February 2023.

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CLB: NOCs are one of the requirements that organisations often miss. In a large organisation with many officers there may be substantial turnover and the ROC needs to be advised when the officer departs and when a new officer fills the vacant office. Remember, sometimes certain changes will need two or more notifications. For example, if an officer left on 2 January, but their replacement isn't appointed or elected until the 8th of February you have to notify the ROC twice. First, you need to lodge the NOC before 6 February that the officer has left his/her office and then you need to lodge a second notification by 15 March for the new incoming officer.

Organisations also need to provide us information within certain timeframes for us to make arrangements for their elections don't they Claire?

CC: Yes, for the ROC to make arrangements for an election, the organisation needs to lodge prescribed information with the ROC. The prescribed information (or PI for short) tells us the name of each office there will be an election for, the electorate and the important dates for your election such as the date that nominations open and close. The PI must be lodged with the ROC at least two months before nominations open.

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CLB: That's an important point you've raised about needing to lodge at least two months before nominations open Claire. In our experience if organisations leave it to the last day to lodge their PI, or any document for that matter, that leaves us a very tight timeframe to process the PI. For example, we sometimes see errors in the PI that need to be resolved before an election decision can be issued. The PI then needs to be re-lodged and re-signed by the authorising officer.

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CC: That's right Cynthia, our advice to organisations would be to file as soon as practicable so we have time to resolve issues if there are any. Especially if you are having a large election over many levels of the organisation or across a lot of branches. The ROC checks every PI against the rules, so if you're planning an election with scheduled officers and insufficient nominations and casual vacancies the earlier you lodge, the more time we have to properly assess it.

The next compliance requirement that organisations need to be aware of is the deadline for is financial training. If a new officer has been elected or a returning officer has been elected to a different position and they have financial management duties they will need to undertake approved financial training within six months of taking office. Unlike the other compliance requirements we're talking about in this episode you don't need to lodge a document with the ROC verifying that the officer has completed training, however it is absolutely essential that officers complete training under the *Fair Work (Registered Organisations) Act,* or RO Act for short.

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CLB: Financial training for officers with financial management duties is key to good governance and proper financial management of an organisation. Officers are the leaders of your organisation and training is essential to enable sound financial decision making.

What are the other compliance requirements organisations need to be aware of Claire?

CC: The next set of compliance requirements all have deadlines which are dependent on your organisation's financial year. So, when these documents need to be lodged will be different from organisation to organisation depending on the date your financial year ends. These documents will be your organisation's officer and related party disclosure statement, loans grants and donations statement and finally the financial reports.

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CLB: Well let's cover the officer and related party disclosure statement first. We call this the ORP statement. Every single organisation and branch must prepare an ORP statement as soon as practicable after the end of the financial year and lodge it within six months after the end of their financial year. They also have to provide a copy of the statement to their members within that six months. The ORP statement has information on the top 5 officers ranked by relevant remuneration and details of any related party transactions entered into by the organisation or branch. You have to lodge an ORP statement even if your branch doesn't do a financial report or you have nothing to report. This is a different requirement from the loans, grants and donations statement.

CC: That's right Cynthia. The loans, grants and donations statement (or the LGD statement for short) is required when an organisation or branch made a loan, grant or donation that exceeded $1,000 during a financial year. This statement must be lodged within 90 days of the end of the organisation or branches financial year. The statement must include certain information about each loan, grant and donation made that exceeded $1,000. We have templates for both the ORP statement and the LGD statement available on our website.

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CLB: That brings us on to financial reports. The RO Act requires all reporting units to prepare financial reports. This is an area we most often see non-compliance with the legislated timeframes. There are a number of steps involved in the financial reporting process and these steps need to be followed in a particular order and within certain timeframes to achieve compliance with the RO Act. What we sometimes see is that reporting units miss the deadline for one or more steps in the process which creates delays and issues down the line. Claire, where should an organisation start with in the financial reporting process?

CC: There are six steps in total in the financial reporting process and as you said each step needs to be done within specific timeframes. Step 1 is for a reporting unit to prepare their general purpose financial report and the operating report as soon as practicable after the end of their financial year. Both need to be prepared by the reporting unit. Step 2 relates to the finalisation of the committee of management statement. The committee of management statement contains a resolution passed by the committee of management in relation to the general purpose financial report and other aspects of the governance of the reporting unit. The making of this resolution will occur in a committee of management meeting which is what we refer to as the first meeting within the financial reporting process. Step 3 is for the reporting unit's registered auditor to audit the general purpose financial report and prepare and sign the auditor's report. The auditor's report must be finalised, signed and dated after the committee of management have met (that first meeting) and made the required resolution. This is important as the auditor must audit the committee of management statement and the section 255(2A) report.

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CLB: Those first three steps are the same for all reporting units. But the next two steps depend on whether the reporting unit has a 5% rule in their rulebook. You will need to check your rulebook to determine what process you need to follow. Essentially the 5% rule allows a reporting unit to present the full report to a committee of management meeting instead of a general meeting of members.

CC: Exactly. So, if your organisation has a 5% rule then step 4 is to provide the full report to members within 5 months of the reporting unit's end of financial year. Step 5 is to present the full report to a committee of management meeting within six months of the reporting unit's end of financial year.

If your organisation does not have a 5% rule, then step 4 is to provide the full report to members at least 21 days before the general meeting. Step 5 is to present the full report to a general meeting of members within six months of your reporting unit's end of financial year.

In step 5 the meeting held, whether it is a general meeting of members or a committee of management meeting, is what we call the second meeting in the financial reporting process.

The sixth and final step for all reporting units (regardless of whether they have a 5% rule) is to prepare and sign the designated officer's certificate and then lodge this with the full report to the ROC within 14 days of the second meeting.

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CLB: Thanks Claire that was a great summary and more straight forward.

The timeframes for things like annual returns and ORPs are more straightforward, however, with financial reporting there a lot of steps and we've seen organisations miss steps. For example, a step that's commonly missed is lodging the full report to the ROC within 14 days of the second meeting.

Claire, if organisations need help understanding the financial reporting timelines what they can do?

CC: So we have a number of resources to help organisations. First, we have a really clear summary diagram of the financial reporting timelines on our website. I recommend you access and download that summary of timelines. Second is our compliance calculator for calculating timeframes for all of the compliance requirements that we've talked about today including for financial reports. And third you can always call or email us. Our financial reporting team will be happy to chat with you to help you understand all the relevant deadlines.

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CLB: Thanks Claire, I'll add to what you've said here about the compliance calculator. The calculator is an incredibly helpful interactive tool you can use to calculate all your key compliance dates. If you go to our website and click on the calculator all you need to do is enter your financial year end and then click the drop-down box on the topic you're seeking information, for example, annual returns or financial reports. The calculator will prompt you to provide any other information we need and then will calculate the dates it is recommended you do things by for optimal compliance.

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CC: Our stakeholders consistently tell us that the calculator is one of our most helpful and accessed tools. The calculator is particularly good at tailoring your due dates to your organisation. Many of the financial reporting deadlines move around based on when you hold meetings, for instance, and the calculator takes all of that into account. We recommend that you enter all the key dates from the compliance calculator into your own calendar or diary to ensure you don't miss any important deadlines. As we've talked about through the episode requirements like financial reporting have a long lead time, so we recommend diarising the deadline for each step.

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CLB: Good point Claire. And giving yourself plenty of time before the deadline and not waiting until the last possible day will help you avoid the risk of lodging late. If you can provide your documents to us as soon as practicable this will give us an opportunity to resolve any issues with you before the deadline. Any last points for organisations to keep in mind Claire?

CC: One last thing I would say Cynthia is that as we're recording this in December 2022, our listeners may have heard that the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* has been passed by parliament and has now received royal assent.

The Act will transfer the current functions of the ROC to the Fair Work Commission (FWC) at a date to be determined. We don't know what the date is yet, but it will between now and June 2023. What this means is that all the same compliance requirements and deadlines that you have with the ROC now will continue to apply but, once the change takes effect, you will need to lodge with the FWC instead.

For now, it's business as usual and you need to continue to lodge all the same required documents and information with the ROC. Both the ROC and the FWC will communicate with registered organisations to let them know when they need to do anything different – for example lodge documents at a new email or postal address.

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CLB: Thanks Claire. That's important as organisations are still legally required to lodge the required documents with the ROC until the transition takes effect. Thank you for joining me on *ROCpod* this month Claire. It's our final episode for 2022 and it was a great discussion about how organisations can meet their various compliance requirements in the timeframes.

CC: My pleasure Cynthia.

CLB: Thank you for tuning into *ROCpod* this year. We will be back in January 2023 with a new episode on what to do when you identify non-compliance in your organisation. Until then on behalf of all of us at the ROC, I wish you a safe and happy festive season.

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