



27 November 2023

Janet Reah
Branch Secretary
Australian Nursing and Midwifery Federation - Western Australian Branch
Sent via email: Janet.Reah@anfiuwp.org.au

cc: fedsec@anmf.org.au

Dear Janet Reah



IMMEDIATE ACTION REQUIRED:

You must take steps after your recent election E2023/96

An election has recently been completed by the Australian Electoral Commission (AEC) for the Australian Nursing and Midwifery Federation - Western Australian Branch and a post-election report has been issued by the AEC.

This letter explains the next steps you must take, including what information you need to give to members 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 the Commission at 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 we 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 approved 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 receive 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 *Fair Work (Registered Organisations) Act 2009* (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.

Real-life example of penalties in Court An 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 an interim [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.

27 November 2023

Post-election report

Australian Nursing and Midwifery
Federation
Scheduled Election & Casual Vacancy
E2023/96

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Election(s) Covered in Post-Election Report (PER)

Organisation:	Australian Nursing and Midwifery Federation
Election Decision No:	E2023/96
Election:	Scheduled Election & Casual Vacancy
Date the nominations closed:	15/09/2023
Date ballot closed:	13/11/2023
Date results declared:	16/11/2023
Date PER due:	13/12/2023

Relevant legal provisions

Fair Work (Registered Organisations) Act 2009 ('the Act')

197 Post-election report by AEC

Requirement for AEC to make report

- (1) After the completion of an election conducted under this Part by the AEC, the AEC must give a written report on the conduct of the election to:
 - (a) the General Manager; and
 - (b) the organisation or branch for whom the election was conducted.

Note: The AEC may be able, in the same report, to report on more than one election it has conducted for an organisation. However, regulations made under paragraph 359(2)(c) may impose requirements about the manner and timing of reports.

- (2) The report must include details of the prescribed matters.

Contents of report—register of members

- (3) If the AEC is of the opinion that the register of members, or the part of the register, made available to the AEC for the purposes of the election contained, at the time of the election:
 - (a) an unusually large proportion of members' addresses that were not current; or
 - (b) in the case of a register kept by an organisation of employees—an unusually large proportion of members' addresses that were workplace addresses;

this fact must be included in the report, together with a reference to any relevant model rules which, in the opinion of the AEC, could assist the organisation or branch to address this matter.

Note: Model rules are relevant only to the conduct of elections for office, not for elections for other positions (see section 147).

Contents of report—difficult rules

- (4) If the report identifies a rule of the organisation or branch that, in the AEC's opinion, was difficult to interpret or apply in relation to the conduct of the election, the report must also refer to any relevant model rules, which in the opinion of the AEC, could assist the organisation or branch to address this matter.

Note: For model rules, see section 147.

Subsection (3) relevant only for postal ballots

- (5) Subsection (3) applies only in relation to elections conducted by postal ballot.

Note: An organisation can obtain an exemption from the requirement to hold elections for office by postal ballot (see section 144).

190 Organisation or branch must not assist one candidate over another

An organisation or branch commits an offence if it uses, or allows to be used, its property or resources to help a candidate against another candidate in an election under this Part for an office or other position.

Penalty: 100 penalty units.

193 Provisions applicable to elections conducted by AEC

- (1) If an electoral official is conducting an election, or taking a step in relation to an election, for an office or other position in an organisation, or branch of an organisation, the electoral official:
 - (a) subject to paragraph (b), must comply with the rules of the organisation or branch; and
 - (b) may, in spite of anything in the rules of the organisation or branch, take such action, and give such directions, as the electoral official considers necessary:
 - (i) to ensure that no irregularities occur in or in relation to the election; or
 - (ii) to remedy any procedural defects that appear to the electoral official to exist in the rules; or
 - (iii) to ensure the security of ballot papers and envelopes that are for use, or used, in the election.

- (2) A person commits an offence if the person does not comply with a direction under subsection (1).

Penalty: 30 penalty units.

- (3) Subsection (2) does not apply so far as the person is not capable of complying.

Note: A defendant bears an evidential burden in relation to the matter in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

- (4) Subsection (2) does not apply if the person has a reasonable excuse.

Note: A defendant bears an evidential burden in relation to the matter mentioned in subsection (4), see subsection 13.3(3) of the *Criminal Code*.

- (5) An offence against subsection (2) is an offence of strict liability.

Note: For *strict liability*, see section 6.1 of the *Criminal Code*.

- (6) An election for an office or other position conducted by an electoral official, or step taken in relation to such an election, is not invalid merely because of a breach of the rules of the organisation or branch because of:

- (a) action taken under subsection (1); or
- (b) an act done in compliance with a direction under subsection (1).

- (7) If an electoral official conducting, or taking a step in connection with, an election for an office or other position:

- (a) dies or becomes unable to complete the conduct of the election or the taking of the step; or
- (b) ceases to be qualified to conduct the election or to take the step;
the Electoral Commissioner must arrange for the completion of the conduct of the election, or the taking of the step, by another electoral official.

6 Definitions

irregularity, in relation to an election or ballot, includes:

- (a) a breach of the rules of an organisation or branch of an organisation; and
- (b) an act or omission by means of which:
 - (i) the full and free recording of votes by all persons entitled to record votes and by no other persons; or
 - (ii) a correct ascertainment or declaration of the results of the voting;

- is, or is attempted to be, prevented or hindered; and
- (c) a contravention of section 190.

Fair Work (Registered Organisations) Regulations 2009 ('the Regulations')

140 Declaration of result of election (s 193)

- (1) Within 14 days after the closing day of an election, the AEC must issue a declaration stating the following:
 - (a) the total number of persons on the roll of voters;
 - (b) the total number of ballot papers issued (if applicable);
 - (c) the total number of envelopes that were returned undelivered by the closing day of the ballot to the AEC (if applicable);
 - (d) the total number of ballot papers received by the electoral official by the closing day of the ballot (if applicable);
 - (e) the result of the election;
 - (f) the total number of informal ballot papers (if applicable).
- (2) In subregulation (1), ***closing day***, for an election, means:
 - (a) if a ballot is not required—the day on which nominations for the election close; or
 - (b) if a ballot is required—the closing day of the ballot.
- (3) Immediately after issuing a declaration under subregulation (1), the AEC must give a copy of the declaration to:
 - (a) the General Manager; and
 - (b) the organisation or branch for whom the election was conducted.

141 Post-election report by AEC (s 197(2))

- (1) For subsection 197(2) of the Act, the following matters are prescribed for inclusion in the report (the ***post-election report***) given under subsection 197(1) of the Act:
 - (a) the declaration mentioned in regulation 140;
 - (b) any rules of the organisation or branch which because of ambiguity or other reason, were difficult to interpret or apply;
 - (c) any matters in relation to the roll of voters including those matters contained in subsection 197(3) of the Act;
 - (d) the number of written allegations (if any) of irregularities made to the AEC during the election;
 - (e) action taken by the AEC in relation to those allegations;
 - (f) any other irregularities identified by the AEC and action taken by the AEC in relation to those other irregularities.
- (2) The AEC must:
 - (a) give the post-election report within 30 days after the closing day of the election; and
 - (b) publish a notice on its web site advising that a copy of the post-election report can be obtained from the AEC on the request of a member who was eligible to vote in the election.
- (3) The AEC must supply a copy of the post-election report to the member as soon as practicable, but no later than 7 days, after receiving a request under paragraph (2)(b).

145 Elections conducted by AEC—no unauthorised action

- (1) For any election conducted by the AEC under Part 2 of Chapter 7 of the Act, a person other than the person conducting the election must not do, or purport to do, any act in the conduct of the election other than as directed or authorised by the person conducting the election.

Note: This subregulation is a civil penalty provision (see regulation 168).

- (2) The AEC must advise the General Manager of a possible contravention of subregulation (1) not later than 21 days after the AEC has become aware of the possible contravention.

Declaration of result of election

In accordance with reg 140 of the Regulations, the AEC issued a declaration of the result of election E2023/96 on 16 November 2023. On 24 November 2023, the AEC issued a revised declaration of results of the election to correct an error in the number of declaration envelopes rejected at preliminary scrutiny. This correction did not alter the election results. For a copy, see **Attachment A**.

Matters in Relations to ANMF Rules

Approximately 6% of ballot papers for the position of **Branch Executive Committee Member (Casual Vacancy)** were informal. This is a high informal rate when compared to other large industrial elections conducted by the AEC, which on average have an informal rate of around 1-2%. As mentioned in a recent Post Election Report for another ANMF election, E2023/51, in our view, the high informal rate in this election is attributed to the ANMF's rules. Rule 49.2.12(b) provides that:

49.2.12 Any vote in respect of an election shall be informal if:

49.2.12 (b) the contents of the ballot paper as marked by the voter do not comply with the instructions printed on it.

In this case, the ballot paper included the election for:

Branch President (1 office) – 2 candidates

Branch Executive Committee Members (2 offices) – 6 candidates

Branch Executive Committee Members **Casual Vacancy** (1 office) – 5 candidates

Branch Councillors (9 offices) – 15 candidates.

The instructions on the ballot paper were:

- The ballot paper must be completed by you, the voter, personally.
- Do not put any mark or writing on the ballot paper by which you can be identified.
- To make your vote count, vote for **NO MORE THAN** the number of candidates to be elected; and **PLACE A CROSS** in the boxes and not a tick.

(The vote counting system was First Past the Post (Rule 49.3.3)).

Many of the ballot papers were marked with ticks which were deemed informal. In our view, if the ANMF Rules had a vote saving provision the informal rate could be reduced. In the circumstances, the AEC recommends the organisation to review its rules and consider relevant vote saving provisions, so that if the voter's intention is clear, the vote can still be counted.

Roll of Voters

There were no matters in relation to the roll of voters.

Written allegations of any irregularities

There were no written allegations of irregularities during the election.

Other irregularities

There were no other irregularities.

Signed

Hanish Gupta
Returning Officer
Australian Electoral Commission
E: IEBevents@aec.gov.au
P: 03 9285 7111
[27 November 2023](#)

Attachments

A. Declaration of Results for Contested Offices

Australian Nursing and Midwifery Federation
DECLARATION OF RESULTS - E2023/96
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:

Western Australian Branch

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	38,605
Number of voters issued with voting material	38,732
Total number of voters issued with replacement voting material	15
Total number of voting material packs issued	38,747
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	4,282
Number of declaration envelopes rejected at preliminary scrutiny (minus)	42
Number of ballot papers returned outside declaration envelopes (minus)	1
COUNT	
Total ballot papers admitted to the count	4,239
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	394
Voting material packs not returned by voters by closing date of the ballot	34,071
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	11 %

Branch President (1)

Candidates	Final Votes
FENN, Samantha	1,731
MURPHY, Loreta	2,423

Total ballot papers admitted for this office	4,239
Formal Ballot papers	4,154
Informal Ballot papers	85

I declare the following elected:

- MURPHY, Loreta

Branch Executive Committee Members (2)

<u>Candidates</u>	<u>Final Votes</u>
COLLISON, Lee	1,187
KILKENNY, Liz	1,651
BARNWELL, Martina	1,293
MCDERMOTT, Megan	977
POOLE, David	1,664
FENN, Samantha	1,247

Total ballot papers admitted for this office **4,239**

Formal Ballot papers 4,141

Informal Ballot papers 98

I declare the following elected:	Order Elected
• POOLE, David	1
• KILKENNY, Liz	2

Branch Councillors (9)

<u>Candidates</u>	<u>Final Votes</u>
BROMWICH, Maddison	2,632
POWER, Virginia	2,478
PANSINI, Christian	2,339
SIMMONDS, Tegan	1,975
DANIELS, Elaine	2,306
GLEESON, Tania	1,815
KILKENNY, Liz	Excluded*
COOK-BARRON, Samuel	1,498
COLLISON, Lee	Excluded*
MAZOUÉ, Vince	1,698
MAGILL, Andrea	1,906
NATOLI, Lisa	2,226
ARMSTRONG, Jane	1,825
CASSEY, Kammy	2,031
PULS, Jamie	2,489

Total ballot papers admitted for this office **4,239**

Formal Ballot papers 4,135

Informal Ballot papers 104

I declare the following elected:	Order Elected
• BROMWICH, Maddison	1
• PULS, Jamie	2
• POWER, Virginia	3
• PANSINI, Christian	4
• DANIELS, Elaine	5
• NATOLI, Lisa	6

- CASSEY, Kammy 7
- SIMMONDS, Tegan 8
- MAGILL, Andrea 9

*Candidates are Excluded Due to Being Elected to a Higher Office.

Branch Executive Committee Member (Casual Vacancy) (1)

<u>Candidates</u>	<u>Final Votes</u>
COLLISON, Lee	739
MCDERMOTT, Megan	677
POOLE, David	Excluded*
KILKENNY, Liz	Excluded*
BARNWELL, Martina	616

Total ballot papers admitted for this office	4,239
Formal Ballot papers	3,980
Informal Ballot papers	259

I declare the following elected:

- COLLISON, Lee

*Candidates are Excluded Due to Being Elected to a Higher Office.

Hanish Gupta
 Returning Officer
 Telephone: 03 9285 7111
 Email: IEEvents@aec.gov.au
 24/11/2023





Fair Work
Commission

DECISION

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

Australian Nursing and Midwifery Federation
(E2023/96)

MR STEENSON

SYDNEY, 23 JUNE 2023

Arrangement for conduct of election.

[1] On 6 June 2023 the Western Australian Branch of the Australian Nursing and Midwifery Federation lodged with the Fair Work Commission prescribed information and on 22 June 2023 lodged amended prescribed information for an election to fill the following offices for a new term of office:

Branch President	(1)
Branch Executive Committee Members	(2)
Branch Councillors	(9)

[2] The prescribed information also sought to fill a casual vacancy in the following office for the remainder of term of office which commenced following election E2022/136:

Branch Executive Committee Member	(1)
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[3] 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 GENERAL MANAGER

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**Australian
Nursing &
Midwifery
Federation**

Thursday, 22 June 2023

Notice and Statement of Prescribed Information for an Election

I, Janet Reah, being the Branch Secretary of the Australian Nursing and Midwifery Federation Western Australian Branch make the following statement:

I am the Branch Secretary of the Australian Nursing and Midwifery Federation, WA Branch.

I am authorised to lodge the following prescribed information concerning forthcoming elections in the Western Australia Branch of the Australian Nursing Federation and

I confirm that the following information is being lodged under subsection 189(1) of the Fair Work (Registered Organisations) Act 2009

Offices/Positions

Branch -Presidents 1 Direct Voting System
Branch Executive Committee Members (2) (DVS)
Branch Executive casual vacancy (1) (DVS)
Branch Councillors (9) (DVS)

Reasons for election:

- Election for offices and positions is required as the terms of office are due to expire in the normal course of events under the rules of the organisation.

Elected by:

- The electorate for the direct voting system is the whole of the Branch.

Nominations open:

- For offices to be elected by direct voting system – after 1 September

Nominations close:

- For offices to be elected by direct voting system no later than - 12 noon, 30th October

Cut off date for roll:

- In all cases - 7 days prior to the opening date for nominations - rule 85.4.1