



20 December 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 E2023/141

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



20 December 2023

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

Dear Matthew Deaner



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Fair Work Commission



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19 December 2023

Post-Election Report

Screen Producers Association of
Australia
Scheduled
E2023/76 and E2023/141

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

Organisation: Screen Producers Association of Australia.

Election Decision No: E2023/76.

Election: Scheduled

Date ballot closed: 15/11/2023.

Date results declared: 15/11/2023.

Election Decision No: E2023/141.

Election: Scheduled

Date the nominations closed: 13/12/2023.

Date results declared: 15/12/2023.

Date PER due for E2023/76 and E2023/141: 12/01/2024.

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 the uncontested declaration of result for E2023/76 on 30/11/2023 and issued the contested declaration on 15/11/2023. The uncontested declaration for E2023/141 was issued on 15/12/2023. For a copy, see **Attachment A**.

SPAA Rules

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

Roll of Voters

There were no issues with the roll of voters.

Section 193 of the Fair Work (Registered Organisations) Act 2009 Application

- Due the nature of the film and television production business, in-person meetings are difficult to organise and would likely not achieve an in-person quorum. The SPAA therefore requested a postal vote for the member to fully participate in the election and the AEC applied s193 to ensure full participation in this election.

Written Allegations of Any Irregularities

No irregularities were recorded for this election.

Signed

Benjamin Murray
Returning Officer
Australian Electoral Commission
E: IEEvents@aec.gov.au
P: 03 9285 7111
19 December 2023

Attachments

- A. E2023/76 Declaration of Results for Uncontested Offices
- B. E2023/76 Declaration of Results for Contested Offices
- C. E2023/141 Declaration of Results for Uncontested Offices

Screen Producers Association of Australia
DECLARATION OF RESULTS - E2023/141
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.

Benjamin Murray
Returning Officer
Telephone: 03 9285 7111
Email: IEBevents@aec.gov.au
14/12/2023



Screen Producers Association of Australia
DECLARATION OF RESULTS - E2023/141
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.

Benjamin Murray
Returning Officer
Telephone: 03 9285 7111
Email: IEBevents@aec.gov.au
14/12/2023



Screen Producers Association of Australia
DECLARATION OF RESULTS - E2023/76
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:

Producer Member and Services and Facilities Member Divisions

Services and Facilities Councillor (1)

Candidates

No Nominations Received

Benjamin Murray
Returning Officer
Telephone: 03 9285 7111
Email: IEBevents@aec.gov.au
11/10/2023



Screen Producers Association of Australia
DECLARATION OF RESULTS - E2023/76 - 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:

Producer Member Division

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	309
Number of voters issued with voting material	309
Total number of voters issued with replacement voting material	3
Total number of voting material packs issued	312
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	71
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	63
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	31
Voting material packs not returned by voters by closing date of the ballot	210
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	23 %

Producer Councillors (3)

<u>Candidates</u>	<u>First Preference Votes</u>	<u>Final Votes</u>
VIEIRA, Tracey	41	41
BAILEY, Drew	11	11
MUNNICH, Kylie	32	32
KRUMM, Michelle	13	13
WILLIAMS, Simon	13	13
RYAN, Suzanne	29	29
REDMAN, David	21	21
MACLAREN, Lucy	26	26

Total ballot papers admitted for this office	63
Formal Ballot papers	62
Informal Ballot papers	1

I declare the following elected:

- VIEIRA, Tracey
- MUNNICH, Kylie
- RYAN, Suzanne

Order Elected

1
2
3

Benjamin Murray
Returning Officer
Telephone: 03 9285 7111
Email: IEEvents@aec.gov.au
15/11/2023





DECISION

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

Screen Producers Association of Australia
(E2023/76 and E2023/141)

MS GUINA

MELBOURNE, 14 AUGUST 2023

Arrangement for conduct of election.

[1] On 27 July 2023 the Screen Producers Association of Australia (the **Organisation**) lodged with the Fair Work Commission (the **Commission**) prescribed information for elections to fill the following offices for new terms of office:

Producer Councillors	(3)
Services and Facilities Councillor	(1)
President	(1)
Vice President	(1)

[2] It is noted that the opening of nominations for the offices of President and Vice President must, per sub rule 17(a) of the Organisation's rules (the **rules**), occur as soon as possible after the completion of the first-stage Councillor elections and at a date prior to the Annual General Meeting (the **AGM**). The Organisation has advised the Commission that the AGM will probably occur in November 2023, thereby enabling this timetable to be met.

[3] The rules do not prescribe a specific date for the opening of nominations for the Producer and Service and Facilities Councillor elections (other than specifying that nominations open not less than 28 days prior to closing of voting, which itself must be not less than 7 days prior to AGM.¹ It should be noted, however, that nominations will need to open on or after 27 September 2023 in order for the Organisation to meet its obligations under section 189(2).²

¹ Sub rule 15(b).

² Sub section 189(2) of the RO Act provides that the prescribed information for an election must be lodged before the prescribed day or such later day as the General Manger allows (this is a civil penalty provision). Regulation 139(3) of the *Fair Work (Registered Organisations) Regulations 2009* (the RO Regulations) provides that the prescribed day is the day occurring two months before the first day when a person may, under the rules of the organisation, become a candidate in an election.

[4] Sub rule 17(a) of the rules provides that 'at the first meeting of the Council **after each election**, and prior to the Annual General Meeting, the **newly elected councillors** will convene to conduct...a collegiate election for the offices of President and Vice President of the Association from within their number' [my emphasis]. The language of this sub rule suggests these offices must be elected annually (notwithstanding the Organisation's apparent intention for two-year terms). It appears unclear whether the electorate of 'newly-elected councillors' encompasses only the four Councillors identified above or the entire Council (the latter being elected on a biennial rotational basis).

[5] In light of this apparent ambiguity, I recommend to the Organisation that it consider altering its rules to remedy the potential deficiency. Applications to alter rules (other those effecting a change of name or eligibility rules) can be lodged with the Commission under section 159 of the RO Act.

[6] 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

Printed by authority of the Commonwealth Government Printer

PR755119

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 Viera, 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 national office of 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. This statement **IS** lodged at least 2 months before nominations open for the election(s) in Annexure A.

Signed:



Tracey Viera, President

Dated: 24/07/2023

NOTE: This statement should be lodged with the Fair Work Commission at least 2 months prior to nominations opening. It can be submitted to regorgs@fwc.gov.au.

Annexure A

- Elections that are required [insert as many pages as required]

Branch	Name of Office	Number required	Voting System Direct voting system; Collegiate electoral system	Reason for Election Scheduled; Casual vacancy; New office created; Insufficient nominations	Electorate
National	Producer Councillor	3	Direct Voting System	Scheduled	National – Rules 15 & 16
National	Services & Facilities Councillor Councillor	1	Direct Voting System	Scheduled	National – Rules 15 & 16

- Important dates:

	Direct Voting System	Collegiate Electoral System
Nominations OPEN	To be determined by the Returning Officer (AEC). Preference mid September 20223, as soon as practicable after close of voter role	NA
Nominations CLOSE	To be determined by the Returning Officer (AEC). October 20223, two weeks after nominations open	NA
Roll of Voters cut off date	To be determined by the Returning Officer (AEC). Preference mid September 20223	NA

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.

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 handwritten signature in blue ink, appearing to read 'T. Vieira', followed by a horizontal line.

Dated: 24/07/2023

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	Collegiate electoral system	Scheduled	<i>Elected Council Only</i>
National	Vic President	1	Collegiate electoral system	Scheduled	<i>Elected Council Only</i>

- Important dates:

	Direct Voting System	Collegiate Electoral System
Nominations OPEN	As soon as possible after 1 st Round of 2023 Council elections completed	N/A
Nominations CLOSE	As soon as possible after 1 st Round of 2023 Council elections completed	N/A
Roll of Voters cut off date	As soon as possible after 1 st Round of 2023 Council elections completed	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.