



## 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.<sup>1</sup> 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).<sup>2</sup>

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<sup>1</sup> Sub rule 15(b).

<sup>2</sup> 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

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## **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](mailto: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
<b>Nominations OPEN</b>	To be determined by the Returning Officer (AEC). Preference mid September 20223, as soon as practicable after close of voter role	NA
<b>Nominations CLOSE</b>	To be determined by the Returning Officer (AEC). October 20223, two weeks after nominations open	NA
<b>Roll of Voters cut off date</b>	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:



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](mailto: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
<b>Nominations OPEN</b>	As soon as possible after 1 <sup>st</sup> Round of 2023 Council elections completed	N/A
<b>Nominations CLOSE</b>	As soon as possible after 1 <sup>st</sup> Round of 2023 Council elections completed	N/A
<b>Roll of Voters cut off date</b>	As soon as possible after 1 <sup>st</sup> 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.