



29 July 2024

Joshua Peak
Branch Secretary-Treasurer
Shop, Distributive and Allied Employees Association-South Australian Branch
Sent via email: secretary@sda.com.au

cc: National- general@sda.org.au

Dear Joshua Peak



IMMEDIATE ACTION REQUIRED:

You must take steps after your recent election E2024/2

An election has recently been completed by the Australian Electoral Commission (AEC) for the Shop, Distributive and Allied Employees Association-South 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](#).

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.

29 July 2024

Post-election report

Shop, Distributive and Allied Employees
Association, South Australian Branch
Scheduled Election
E2024/2

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

Organisation:	Shop, Distributive and Allied Employees Association, South Australian Branch
Election Decision No:	E2024/2
Election:	Scheduled
Date ballot closed:	N/A
Date the nominations closed:	1 May 2024 for stage one and 17 July 2024 for stage two
Date results declared:	9 May 2024 for stage one and 19 July 2024 for stage two
Date PER due:	16 August 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 a declaration of the result of election E2024/2 (stage one) on 9 May 2024 and E2024/2 (stage two) on 19 July 2024. For a copy, see **Attachment A and Attachment B**.

Shop, Distributive and Allied Employees Association South Australian Branch Rules

Shop, Distributive and Allied Employees Association, South Australian Branch Rules used for the election:

- 006N-SA Incorporates alterations of 05 May 2021 [R2021/18] – SA Br. Current Rules

The following rules would have been difficult to apply if the election for President and Vice Presidents (stage two) was contested and went to ballot.

Timing of Nominations:

Rule 32.4.2 provides that nominations shall open on the first Wednesday and close on the third Wednesday in August in the election year. Rule 32.8 states that if a secret postal ballot is required, the Returning Officer must declare the result of the election by the first Wednesday in September in the year in which the election is held.

The organisation rules only provide two weeks after the close of nominations for the Returning Officer to complete all steps in the election and to declare the result of the election. Two weeks from the close of nominations is not enough time for the Returning Officer to check eligibility of candidates, provide candidates time to rectify any problems with their nomination, prepare ballots, have the ballot sent and returned via Australia Post, conduct the count and declare the results.

It is suggested that the Shop, Distributive and Allied Employees Association, South Australian Branch review the relevant Rules to clarify the information and/or allow more time between the close of nominations, and the opening and closing of the ballot.

Ballot Paper Order and Tie Votes:

Rule 32 covering the election of the President and Vice President does not provide guidance on how to determine the order of candidates on the ballot paper or what to do in the event of a tied vote. If a ballot is required, I will therefore resolve both matters by drawing lots.

Roll of Voters

The AEC did not identify any matters in relation to the roll of voters.

Written allegations of any irregularities

The AEC did not receive any written allegations of irregularities during the election.

Other irregularities

The AEC did not identify any other irregularities in the election.

Signed

Benjamin Murray
Returning Officer
Australian Electoral Commission
E: IEBevents@aec.gov.au
P: 03 9285 7111
29 July 2024

Attachments

- A. Declaration of Results for Uncontested Offices for Stage 1
- B. Declaration of Results for Uncontested Offices for Stage 2

Shop, Distributive and Allied Employees Association

DECLARATION OF RESULTS - E2024/2 - Stage 2

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:

Committee of Management

Branch President (1)

Candidates

RIVERS Lyn

Branch Vice-President (2)

Candidates

MASON Leanne

SCIANCELEPORE Angela

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: IEEvents@aec.gov.au
19/07/2024



Shop, Distributive and Allied Employees Association

DECLARATION OF RESULTS - E2024/2 - Stage 1

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:

South Australian Branch

Branch Secretary/ Treasurer (1)

Candidates

PEAK Josh

Branch Assistant Secretary (1)

Candidates

MUMFORD Jordan

National Councillors (6)

Candidates

MASON Leanne

MUMFORD Jordan

PEAK Josh

RASMUSSEN Bente

RIVERS Lyn

SCIANCELEPORE Angela

Electorate 1 (Department/Discount Department Stores and their Distribution Centres)

Branch Committee Member (2)

Candidates

KENDALL Beth

SCIANCELEPORE Angela

Electorate 2 (Supermarkets and their Distribution Centres)

Branch Committee Member (3)

Candidates

BRYANT Helen

MASON Leanne

RASMUSSEN Bente

Electorate 3 (Fast Food/Catering Industries and Members employed by the Association)

Branch Committee Member (2)

Candidates

HAMDEMIR Jasemin

MAGNUSSON Josh

Electorate 4 (All other Members)

Branch Committee Member (3)

Candidates

HOGBEN Brianna

RIVERS Lyn

VIEGAS Tony

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: IEEvents@aec.gov.au
09/05/2024





CORRECTION TO DECISION

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

Shop, Distributive and Allied Employees Association - South Australian Branch
(E2024/2)

MR STEENSON

SYDNEY, 17 MAY 2024

Arrangement for conduct of election.

[1] The decision issued by me as Delegate of the General Manager of the Fair Work Commission on 1 March 2024 ([2024] FWCD 29) is corrected as follows:

By deleting the number '(1)' adjacent to the words 'Branch Vice-President' and substituting the number '(2)' in its place, in the list of offices at paragraph [1] of the decision

[2] This correction follows a communication from the Secretary of the Branch on 16 May 2024. The prescribed information lodged by the Branch requested the election of two Vice-Presidents, however the original decision issued by me indicated, in error, that only one was to be elected.

[3] I note that the Stage 1 of the election in this matter has already commenced, however the office of Vice-President is the subject of election in Stage 2 of that process.

[4] I therefore ask that the Australian Electoral Commission include the additional Vice-President office in its call for nominations in Stage 2 of election E2024/2.



DELEGATE OF THE GENERAL MANAGER

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DECISION

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

Shop, Distributive and Allied Employees Association
(E2024/2)

MR STEENSON

SYDNEY, 1 MARCH 2024

Arrangement for conduct of election.

[1] On 6 and 28 February 2024 the South Australian Branch of the Shop, Distributive and Allied Employees Association lodged with the Fair Work Commission prescribed information for an election to fill the following offices for a new term of office:

Branch Committee Members for electorates 1, 2, 3, and 4
(*numbers to be determined in accordance with the rules*)

Branch Secretary/Treasurer	(1)
Branch Assistant Secretary	(1)
National Councillors	(6)
Branch President	(1)
Branch Vice-President	(1)

[2] The number of Branch Committee Members from each electorate is calculated based on the number of members in those electorates as at 31 March 2024.

[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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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, Joshua Peak, being the Secretary/Treasurer of the Shop, Distributive and Allied Employees Association, South Australian Branch make the following statement:

1. I am authorised to sign this statement containing prescribed information for the Shop, Distributive and Allied Employees Association, South Australian Branch.
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 (Stage 1) and Annexure B (Stage 2).
4. No rule alterations are pending that will impact the election.
5. This is an updated statement of the original that WAS lodged at least 2 months before nominations open for the election(s) in Annexure A.
6. This statement that IS lodged at least 2 months before nominations open for the election(s) in Annexure B.
7. The number of elected representatives representing electorates on Committee of Management is calculated on a formula defined in the rules:
 - a. The rule number which specifies the formula is 27.4:
 - b. The formula is, each electorate shall be represented on the Committee of Management by one member for the first 2,500 members or part thereof as allocated to the electorate on 31 March in the year of the election; and an extra member for each subsequent 2,500 members, or part thereof, provided that the maximum number of representatives for an electorate on the Committee of Management will be three.
 - c. The information for calculating the formula is based on the number of eligible members in each electorate.
 - d. The relevant date for this information is 31 March 2024.

Signed


JOSHUA PEAK

Dated: 28/02/2024

Annexure A

- Elections that are required- Stage 1

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
South Australian Branch	Secretary/Treasurer	1	Direct Voting System	Scheduled	All members of SA Branch. Rule 31.
South Australian Branch	Assistant Secretary	1	Direct Voting System	Scheduled	All members of SA Branch. Rule 31.
South Australian Branch	Committee of Management Members representing electorates	TBC	Direct Voting System	Scheduled	All members of SA Branch as allocated to each electorate in accordance with Rule 27.
South Australian Branch	National Councillors	6	Direct Voting System	Scheduled	All members of SA Branch. Rule 31.

- Important dates:

	Direct Voting System
Nominations OPEN	No less than 7 days and no more than 14 days after the close of the roll of voters on 31 March 2024 (rule 31.2)
Nominations CLOSE	12 noon on Wednesday 1 May 2024 (rule 31.3)
Roll of Voters cut off date	31 March 2024 (rule 31.1)

Annexure B

- Elections that are required- Stage 2

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
South Australian Branch	President	1	Collegiate electoral system	Scheduled	All members of the Committee of Management, elected in Stage 1. Rule 32.
South Australian Branch	Vice President	2	Collegiate electoral system	Scheduled	All members of the Committee of Management, elected in Stage 1. Rule 32.

- Important dates:

	Direct Voting System
Nominations OPEN	Wednesday 7 August 2024 (rule 32.4.1)
Nominations CLOSE	12 noon on Wednesday 21 August 2024 (rule 32.4.2)
Roll of Voters cut off date	At the completion of the stage one election.