



23 April 2024

Natasha Brown
Branch Secretary
CPSU, the Community and Public Sector Union-SPSF Group, South Australian Branch
Sent via email: enquiries@psaofsa.asn.au

cc: Karen Batt, kbatt@cpsuVIC.org

Dear Natasha Brown



IMMEDIATE ACTION REQUIRED:

You must take steps after your recent election E2024/39

An election has recently been completed by the Australian Electoral Commission (AEC) for the CPSU, the Community and Public Sector Union-SPSF Group, 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](#).



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.

23 April 2024

Post-election report

Community and Public Sector Union
SPSF Group – South Australian Branch
Casual Vacancy Election
E2024/39

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

Organisation: Community and Public Sector Union – SPSF Group South Australian Branch

Election Decision No: E202/39

Election: Casual Vacancy Election

Date the nominations closed: 3 April 2024

Date results declared: 4 April 2024

Date PER due: 4 May 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 E2024/39 on 4 April 2024. For a copy, see **Attachment A**.

Community and Public Sector Union – SPSF Group South Australian Branch Rules

Community and Public Sector Union – SPSF Group South Australian Branch Rules used for the election:

[090V-SPSF: Incorporates alterations of 06/12/2023] [R2023/80] Formatting errors corrected 14/12/2023
(replaces rulebook dated 27/03/2019 [R2018/316])

Roll of Voters

There were no issues of note with the roll of voters.

Written allegations of any irregularities

There were no written allegations of any irregularities.

Other irregularities

There were no other irregularities.

Signed

Jacqueline McHenry
Returning Officer
Australian Electoral Commission
E: IEBevents@aec.gov.au
P: 03 9285 7111
23 April 2024

Attachments

A. Declaration of Results for Contested Offices

CPSU, the Community and Public Sector Union
SPSF Group - South Australian Branch
DECLARATION OF RESULTS - E2024/39
Uncontested Offices

Casual Vacancy 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:

Electorate 6

Branch Councillor (1)

Candidates

STEVENS Mark

As the number of nominations accepted did not exceed the number of positions to be filled, I declare the above candidates elected.

Jacqueline McHenry
Returning Officer
Telephone: 03 9285 7111
Email: IEEvents@aec.gov.au
04/04/2024





DECISION

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

CPSU, the Community and Public Sector Union-SPSF Group, South Australian Branch
(E2024/39)

MR STEENSON

SYDNEY, 29 FEBRUARY 2024

Arrangement for conduct of election.

[1] On 2 February and 15 February 2024 the CPSU, the Community and Public Sector Union-SPSF Group, South Australian Branch (the Branch) lodged with the Fair Work Commission (the Commission) prescribed information for an election to fill a casual vacancy in the following office for the remainder of the term:

Branch Councillor (Electorate 6) (1)

[2] The prescribed information and further materials lodged with the application contained information indicating the position above became vacant in January 2022. Rule 44.4 at Chapter C of the organisation’s SPSF-Group Rules, provides that an alternate member can be appointed by the Branch Council to fill a casual vacancy, pending a new election which must be conducted within six months of the vacancy occurring. I note the current request to conduct an election falls outside of the timeframe set out in that provision of the organisation’s rules.

[3] Section 189 of the *Fair Work (Registered Organisations) Act 2009* (RO Act) requires that an organisation must lodge prescribed information for elections by the ‘prescribed day’, which is defined in Regulation 138 of the *Fair Work (Registered Organisations) Regulations 2009* as ‘the day occurring two months before the first day when a person may, under the rules of the organisation or branch, become a candidate in an election’ (i.e. two months before nominations are due to open according to the rules).

[4] In many cases, there is not a specific prescribed day in relation to casual vacancy elections. However, as indicated above, under the SPSF-Group Rules there are timeframe requirements in relation to conducting elections to fill casual vacancies, i.e. an election occurring within six months of the vacancy occurring.

[5] Clearly, the lodgement of prescribed information more than two years after a casual vacancy has arisen is well in excess of the requirement, under the organisation’s rules, that an election be conducted within six months. Even on a generous reading of Rule 44.4, it is apparent that the prescribed information has been lodged considerably late.

[6] Section 189(2) if the RO Act provides that a failure to lodge prescribed information by the prescribed day (or by such later date as the General Manager or his Delegate allows) is a civil penalty provision.

[7] It is apparent, from the available information, that the failure to lodge prescribed information was due to an oversight on the part of the Branch – given that the prescribed information lodged on 2 February 2024 actually bore a 2022 date (but there was no 2022 lodgement).

[8] The normal and reasonable expectation is that an organisation or branch will comply with the requirements of the legislation and with instruments that the organisation itself has formulated for its governance, i.e. its own rules.

[9] The delay in arranging for the election is concerning. Having considered the available information, as Delegate of the General Manager, I am not satisfied that a later date for lodgement should be allowed.

[10] Section 189(3) of the RO Act requires that, regardless of whether prescribed information is lodged late or not, I am required to determine whether an election is required to be held under the rules of the organisation. On the available information, the abovenamed office has a four-year term and was filled in scheduled election E2020/14, declared on 19 March 2021, and the casual vacancy arose on 17 January 2022. That is, the vacancy arose at a time when the unexpired part of the term was more than three-quarters of the term of office. Section 145 of the RO Act provides that substantively filling casual vacancies of that duration must be done via election.

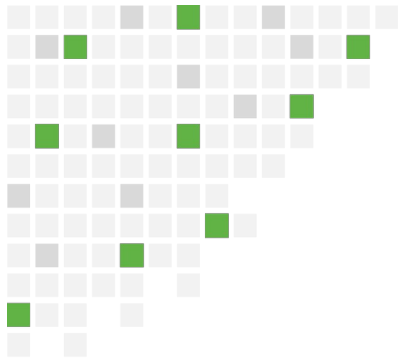
[11] I am satisfied that an election for the abovenamed office is required to be held under the rules of the organisation and, under subsection 189(3) of the RO Act, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



DELEGATE OF THE GENERAL MANAGER

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PR755222



Public Service Association of SA

GPO Box 2170, Adelaide, SA 5001
122 Pirie Street, Adelaide, SA 5000
Phone: (08) 8205 3200
enquiries@psaofsa.asn.au
www.psaofsa.asn.au

Fair Work Commission

By email: regorgs@fwc.gov.au

Re: PRESCRIBED INFORMATION FOR ELECTIONS in accordance with Section 189 Fair Work (Registered Organisations) Act 2009 and Regulation 138 Fair Work (Registered Organisations) Regulations 2009

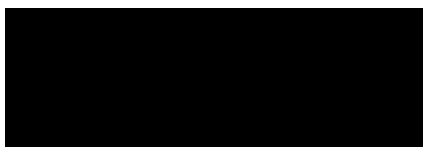
I, Natasha Brown, being the Branch Secretary of the Community and Public Sector Union SPSF Group South Australian Branch make the following statement:

1. I am authorised to sign this statement containing prescribed information for Community and Public Sector Union SPSF Group 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 election that is required is set out in the table in Annexure A.
4. The resignation letter or other supporting information is attached for the casual vacancy.
5. No rule alterations are pending that will impact the election.
6.
 - a) The rule numbers which specify the formula for the number of elected representatives are Chapter C Rule 7.1 and 44.3 (Casual Vacancy), and South Australian Branch Rule 8.
 - b) The formula is 1 Branch Councillor to be elected per 500 members or part thereof (Chapter C Rule 7.1 and South Australian Branch Rule 8). Branch members are allocated to electorates under the South Australian Branch Rules (in this case 9.7).
 - c) The information for calculating the formula is:

Electorate 6 – Professional Officers	No. of members	No. of delegates
Members employed under the SA Public Sector Salaried Employees Interim Award Professional Services Stream and other members in Public Service classifications declared by the Branch Council to be in Electorate 6.	751	2

- d) The relevant date(s) for this information is 31 December 2019

Yours sincerely



Natasha Brown
Branch Secretary

15 February 2024



Annexure A

- Elections that are required

Branch	Name of Office	Number required	Voting System	Reason for Election	Electorate
SA Branch	Branch Councillor (Electorate 6)	1	Direct voting system	Casual vacancy (Rule 44.3) (the resignation is attached)	Electorate 6 (SA Branch Rule 9.7) Members employed under the SA Public Sector Salaried Employees Interim Award Professional Services Stream and other members in Public Service classifications declared by the Branch Council to be in Electorate 6.

- Important dates:

	Direct Voting System	Collegiate Electoral System
Nominations OPEN	'To be determined by returning officer'	
Nominations CLOSE	Chapter C Rule 19.2 c) provides that nominations for delegates to Branch Council shall be open for at least 14 days	
Roll of Voters cut off date	Chapter C Rule 25.1 c) provides that the Close of Roll Day shall be 7 days before the day on which nominations for the election open.	