



23 April 2024

Donni Luther
Branch Secretary
United Firefighters' Union of Australia-Queensland Branch
Sent via email: admin@ufua.asn.au

cc:

Dear Donni Luther



IMMEDIATE ACTION REQUIRED:

You must take steps after your recent election E2023/193

An election has recently been completed by the Australian Electoral Commission (AEC) for the United Firefighters' Union of Australia-Queensland 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

United Firefighters' Union of Australia
Queensland Branch
Scheduled Election
E2023/193

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

Organisation: United Firefighters' Union of Australia

Election Decision No: E2023/193

Election: Scheduled Election

Date the nominations closed: 2 April 2024

Date results declared: 4 April 2024

Date PER due: 4 April 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 E2023/193 on 4 April 2024. For a copy, see **Attachment A**.

United Firefighters' Union of Australia Rules

United Firefighters' Union of Australia Rules used for the election:

259V: Incorporates alterations of 8 September 2022 [R2022/65] Note: Also includes alterations certified on 24 December 2020 [R2020/200] and 16 July 2021 [R2021/44] which were not included in this rulebook when it was published on 16 July 2021.

Replaces rulebook dated 22 April 2021 [R2020/174]

Roll of Voters

There were no issues of note with the Roll of Voters

Written allegations of any irregularities

The AEC received no written allegations of any irregularities.

Other irregularities

No irregularities were noted.

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

United Firefighters' Union of Australia
QLD Branch
DECLARATION OF RESULTS - E2023/193
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:

Queensland Branch

President (ex officio Branch Delegate to National Committee of Management) (1)

Candidates

No Nominations Received

Vice-President (the specified office holder Branch Delegate to National Committee of Management) (1)

Candidates

No Nominations Received

Secretary (ex officio Branch Delegate to National Committee of Management) (1)

Candidates

No Nominations Received

Branch Executive Members (4)

Candidates

No Nominations Received

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



United Firefighters' Union of Australia
QLD Branch
DECLARATION OF RESULTS - E2023/193
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:

Queensland Branch

President (ex officio Branch Delegate to National Committee of Management) (1)

Candidates

No Nominations Received

Vice-President (the specified office holder Branch Delegate to National Committee of Management) (1)

Candidates

No Nominations Received

Secretary (ex officio Branch Delegate to National Committee of Management) (1)

Candidates

No Nominations Received

Branch Executive Members (4)

Candidates

No Nominations Received

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

United Firefighters' Union of Australia
(E2023/193)

MR STEENSON

SYDNEY, 5 MARCH 2024

Arrangement for conduct of election.

[1] On 25 January 2024 the Queensland Branch of the United Firefighters' Union of Australia (the UFUA) lodged with the Fair Work Commission prescribed information and on 1 March 2024 lodged amended prescribed information for an election to fill the following offices for a new term of office:

- | | |
|--|-----|
| President (ex officio Branch Delegate to National Committee of Management) | (1) |
| Vice-President (the specified office holder Branch Delegate to National Committee of Management) | (1) |
| Secretary (ex officio Branch Delegate to National Committee of Management) | (1) |
| Branch Executive Members | (4) |

[2] Rule 12(1) of the organisation's rules provides that the UFUA's national committee of management consists of elected national officers together with national delegates elected from each Branch. The rule provides that each Branch Secretary shall by virtue of holding that office (i.e. ex officio), hold the office of the Branch delegate, to the national committee of management. Where any Branch is entitled to a second delegate, the rule provides that the Branch President shall ex officio hold the second Branch delegate office.

[3] In response to a request by Commission staff, the Branch advised the Commission of the number of members of the Branch¹. From this figure, it was identified that the Branch was entitled to three delegates to the national committee, in accordance with the formula set out in rule 12(2) of the UFUA rules. The amended prescribed information lodged on 1 March 2024 also specified that the Branch had determined that the office of third Branch Delegate to the national committee would be held by the candidate elected to the office of Branch Vice President in this election (**E2023/193**).

¹ Rule 12(3) UFUA rules

Late lodgement

[4] Section 189(2) of the *Fair Work (Registered Organisations) Act 2009* (RO Act) requires that prescribed information be lodged before the ‘prescribed day’. The *Fair Work (Registered Organisations) Regulations 2009* (Regulations), in particular regulation 138(3), defines the ‘prescribed day’ as the day occurring ‘2 months before the first day when a person may, under the rules of the organisation or branch, become a candidate in an election’. In other words, it must be lodged at least two months before the date on which nominations open. The date that nominations are due to open under sub-rule 27(10)(a) of the UFUA rules,² is the first weekday occurring on or after 14 March – with the prescribed day being two months before that. The Branch did not lodge the prescribed information by the prescribed day.

[5] In the amended statement of prescribed information dated 1 March 2024, the Branch Secretary stated that the reason for lodging prescribed information after the prescribed time was that the Branch mistakenly believed that the holding of the previous Branch election (E2022/195) in December 2022, to reconstitute the Branch Committee of Management, meant that the next scheduled Branch elections were not yet due. The Branch advised that upon further investigation, and having the opportunity to consult with the National Secretary, it became aware of and noted the direction in *United Firefighters’ Union of Australia v United Firefighters’ Union of Australia, Union of Employees, Queensland*,³ in particular paragraph 18 of Appendix A of the judgement, which noted that after the elections to reconstitute the Branch committee, the next elections for Branch officers were due to be held in 2024.

[6] I note the recent reconstitution of the Branch committee, achieved in the previous Branch election (E2022/195), and the relative inexperience of the incoming office holders in administering the Branch’s governance functions including its election-related obligations. Having regard to the particular circumstances of the Branch and its office holders, I am satisfied that on this occasion it would be reasonable to allow a later day for lodgement. I therefore grant a later day for lodgement under section 189(2) of the RO Act.

[7] 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

PR755206

² UFUA rules certified 8 September 2022 [R2022/65]

³ [2022] FCA 145

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, Don Luther, being the Branch Secretary of the United Firefighters Union of Australia – QLD Branch, make the following statement:

1. I am authorised to sign this statement containing prescribed information for the QLD Branch of the United Firefighters Union 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.

No rule alterations are pending that will impact the election

4. This statement **IS NOT** lodged at least 2 months before nominations open for the election(s) in Annexure A. The reason it is lodged after the prescribed time is:

- a. National Secretary Greg McConville has been on medical leave since November 2023. In his absence it was interpreted that the QLD elections held in December 2022 negated the need to hold elections for this Branch. Upon further investigation, the Federal Court matter NSD 987 2022, at paragraph 18 states that for the Queensland Branch of UFUA:

The elections are to be held to fill the vacant offices. The persons elected to any office shall, notwithstanding any UFUA Rule, commence to hold office from the date on which they are declared to be elected and shall hold office until the declaration of elections for Branch officers conducted in 2024, and the persons then elected shall be elected for three years thereafter.

- b. Elections are therefore required for the Queensland Branch, and the relevant information needed to be provided on or prior to 14 January 2024. In addition, it has been determined that the entitlement to the third office of Branch Delegate to the National Committee of Management shall be held by the candidate elected to the office of Branch Vice President in this election (E2023/193).
- c. We respectfully apologise for the late submission of relevant information.

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; Casual vacancy; New office created; Insufficient nominations</i>	Electorate
QLD	President	1	DVS	Scheduled	All members of QLD Branch (Rule 70)
	Vice President (National Committee of Management Member)	1	DVS	Scheduled	All members of QLD Branch (Rule 70)
	Secretary	1	DVS	Scheduled	All members of QLD Branch (Rule 70)
	Branch Executive Member	4	DVS	Scheduled	All members of QLD Branch (Rule 70)

- Important dates:

	Direct Voting System
Nominations OPEN	9am Thursday 14 March 2024 - First weekday on or after 14 March (Rule 27(10)(a))
Nominations CLOSE	5pm Monday 1 April 2024 - First weekday on or after 31 March (Rule 27(10)(b))
Roll of Voters cut-off date	Thursday 7 March 2024 - 7 days prior to nominations opening (Rule 27)

Signed:



Dated: 01 March 2024

[PLEASE 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@fvc.gov.au.]