



18 November 2024

Elizabeth Dabars
Branch Secretary
Australian Nursing and Midwifery Federation - South Australian Branch
Sent via email: elizabeth.dabars@anmfsa.org.au

cc: Annie Butler, fedsec@anmf.org.au

Dear Elizabeth Dabars



IMMEDIATE ACTION REQUIRED:

You must take steps after your recent election E2024/81

An election has recently been completed by the Australian Electoral Commission (AEC) for the Australian Nursing and Midwifery Federation - 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
- Respond to the AEC

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](#).

STEP 4: Reply to the AEC

The AEC’s post-election report says the AEC had trouble applying some of your election rules. You **MUST** respond to the AEC about the issues in the report (section 198).

Your response to the AEC must be in writing. It must include:

- whether the organisation intends to take action
- (if yes) what action the organisation intends to take

You must send your response to the AEC within **30 days** of receiving the report and provide a copy to the Commission (section 198).



Penalties apply

The requirement to respond to the AEC comes from section 198 of the RO Act. Section 198 of the RO Act is a civil penalty provision.

A failure to take any of these steps, or taking them in the wrong order, can expose your organisation to penalties under the RO Act.

Make the report and your response available to your members

You must make the post-election report about difficult rules available to your members.

You must also make your written response to the AEC available to your members.



Timing is very important

You must make the report about difficult rules available to your members **before or at the same time** as you make your response available.

Your response must be available to members:

- in the next edition of your journal or
- within 30 days of giving it to the AEC (if using a method other than your journal to make it available, e.g. your website)



Penalties apply

The requirement to respond to the AEC comes from section 198 of the RO Act. Section 198 of the RO Act is a civil penalty provision.

A failure to take any of these steps, or taking them in the wrong order, can expose your organisation to penalties under the RO Act.

How do I make these documents available to my members?

The RO Act says you will have made the document available if you do all the following things:

- Publish a copy of the relevant section and your response in your next journal, AND
- Send the Commission a copy of the relevant section and your response with a declaration that you'll provide copies to any member who asks for one, AND

- Tell members in your next journal (or an appropriate newspaper) that you'll give the relevant section of the report and your response to any member free of charge if requested, AND
- Put on your website:
 - the relevant section of the report within 14 days of receiving it and
 - your response within 14 days of sending it to the AEC

But you can also make the documents available to your members in other ways as well.



What if we decide to change our rules?

You can! If you think changing your rules will fix or improve the issues raised by the AEC you can change your rules.

Your rules will include a rule altering procedure that you must follow in order to do this.

We provide help changing your rules and advice on rule requirements. Please contact us at regorgs@fwc.gov.au, or ring 1300 341 665. Alternatively you could book an online [Governance to You visit](#) with a Commission staff member to discuss the changes.

Questions?



What if I don't understand the post-election report?

You should contact the AEC immediately to discuss what the report means.

What if we decide not to take action?

You must tell the AEC in writing you do not intend to act.

What if I have already responded to the AEC?

If you have already done the things set out in step 4, please disregard this step.

Remember to make the relevant section of the report and your response available to your members as well.

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.

18 November 2024

Post-Election Report

Australian Nursing and Midwifery Federation

South Australia Branch

Scheduled Election

E2024/81

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

Organisation:	Australian Nursing and Midwifery Federation South Australian Branch
Election Decision No:	E2024/81
Election:	Scheduled Election
Date the nominations closed:	24/06/2024
Date ballot closed:	18/10/2024
Date results declared (Uncontested Offices):	21/08/2024
Date results declared (Contested Offices):	22/10/2024
Date PER due:	18/11/2024

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 Australian Electoral Commission (AEC) issued a declaration for Uncontested Offices on 21/08/2024 and declaration for Contested Offices on 22/10/2024.

For copies, see **Attachments A** and **B**

Rules

Rules used for this election:

- 145V: Incorporates alterations of 3 July 2024 [R2024/59] (replaces rulebook dated 12 April 2024 [R2024/15])

Rules difficult to interpret:

Rule 5.2.3 (b) states that:

Membership shall be open to persons who are entitled to be members but who are not practising or who because of their long membership or services to the Federation or to the nursing profession may be admitted as non-practising members or honorary members or may have their membership changed from member to non-practising member or honorary member by the decision of Council. These members shall be entitled to all the privileges of membership except that they shall not be entitled to vote or to nominate or to take part in the election of officers or members of the Council.

The AEC suggest that the ANMF consider reviewing the above rule to clarify its intent in relation to 'associate members'.

Rule 84.1 states that:

A candidate for election to the office of Branch President, Branch Vice President, Branch Executive Member or Branch Councillor shall have been a financial member of the Federation for a period of one year immediately preceding the date of nomination for office and shall be a member of the branch in which they are nominating for office at the date of nomination for office.

The AEC suggest that the ANMF consider reviewing the above rule to clarify its intent in relation to requirements for 12 months of **continuous** financial membership preceding the call for nominations. For example, the rule could include any implications for being unfinancial at any time during that 12-month period (irrespective of whether any outstanding contributions are subsequently repaid to render the member retrospectively financial). The date for determining eligibility must also be clear.

Roll of Voters

The AEC did not identify any issues with the roll of voters.

Written allegations of any irregularities

The AEC received five written allegations of potential breaches of s190 of the Act. The AEC sought further information about these allegations and issued a reminder to the organisation about its obligations under s190 of the Act. No further action was taken.

The AEC received one allegation of from a candidate who believed they were incorrectly deemed to be ineligible to stand for office. The Returning Officer reviewed the rules and consulted with both the candidate and the ANMF and determined that the candidate was ineligible to stand for office.

On 12 September 2024, a candidate complained that Associate members were excluded from the roll of voters. This matter was investigated, and the Returning Offer determined that these members were not eligible to vote and therefore, not improperly excluded from the roll of voters.

Other irregularities

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

Signed

Hanish Gupta
Returning Officer
Australian Electoral Commission
E: IEBevents@aec.gov.au
P: 03 9285 7111
18 November 2024

Attachments

A. Declaration of Results for Uncontested Offices

B. Declaration of Results for Contested Offices

Australian Nursing and Midwifery Federation

South Australia Branch

DECLARATION OF RESULTS - E2024/81

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:

South Australian Branch

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	22,804
Number of voters issued with voting material	22,796
Total number of voters issued with replacement voting material	2
Total number of voting material packs issued	22,798
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	2,696
Number of declaration envelopes rejected at preliminary scrutiny (minus)	32
Number of ballot papers returned outside declaration envelopes (minus)	0
COUNT	
Total ballot papers admitted to the count	2,664
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	179
Voting material packs not returned by voters by closing date of the ballot	19,923
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	12%

Branch Secretary (1)

<u>Candidates</u>	<u>Final Votes</u>
SMITH, Emma	1,148
DABARS, Elizabeth	1,494

Total ballot papers admitted for this office	2,664
Formal Ballot papers	2,642
Informal Ballot papers	22

I declare the following elected:

- DABARS, Elizabeth

Branch Councillor (15)

<u>Candidates</u>	<u>Final Votes</u>
LAWSON, Nanette	1,707
BILLING, Tash	1,523
O'DONOHUE, Nicholas	1,628
GRYST, Aurora	1,580
PARKER, Mathew	1,416

RADFORD, Toni	1,659
JOHNSON, Marcelle	1,528
HUSKER, Wendy	1,411
LAMONT, Astrid	1,414
MCILDUFF, Colm	1,640
CARR, Shareece	1,548
NORRIS, Sue	1,538
MOORE, Christopher	1,526
ALAM, Monjurul	1,313
CRISTEA, Elena Claudia	1,723
LEE, Vicki	1,507

Total ballot papers admitted for this office

Total ballot papers admitted for this office	2,664
Formal Ballot papers	2,569
Informal Ballot papers	95

I declare the following elected:

	Order Elected
• CRISTEA, Elena Claudia	1
• LAWSON, Nanette	2
• RADFORD, Toni	3
• MCILDUFF, Colm	4
• O'DONOHUE, Nicholas	5
• GRYST, Aurora	6
• CARR, Shareece	7
• NORRIS, Sue	8
• JOHNSON, Marcelle	9
• MOORE, Christopher	10
• BILLING, Tash	11
• LEE, Vicki	12
• PARKER, Mathew	13
• LAMONT, Astrid	14
• HUSKER, Wendy	15

Hanish Gupta
 Returning Officer
 Telephone: 03 9285 7111
 Email: IEBevents@aec.gov.au
 22/10/2024

Australian Nursing and Midwifery Federation
South Australia Branch
DECLARATION OF RESULTS - E2024/81
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 President (1)

Candidates

DOUGLASS Jocelyn Hilary

Branch Vice President (1)

Candidates

HORN Sharon

Branch Executive Member (4)

Candidates

BULL Kristen

HARTUP Nyssa

SMITH Stuart Lloyd Francis

TYLER Barbara Ann

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

Hanish Gupta
Returning Officer
Telephone: 03 9285 7111
Email: IEEvents@aec.gov.au
21/08/2024





DECISION

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

Australian Nursing and Midwifery Federation
(E2024/81)

MR STEENSON

SYDNEY, 2 MAY 2024

Arrangement for conduct of election.

[1] On 18 April 2024 the South Australian Branch of the Australian Nursing and Midwifery Federation lodged with the Fair Work Commission prescribed information for an election to fill the following offices for a new term of office:

Branch President	(1)
Branch Vice President	(1)
Branch Secretary	(1)
Branch Executive member	(4)
Branch Councillors	(15)

[2] 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

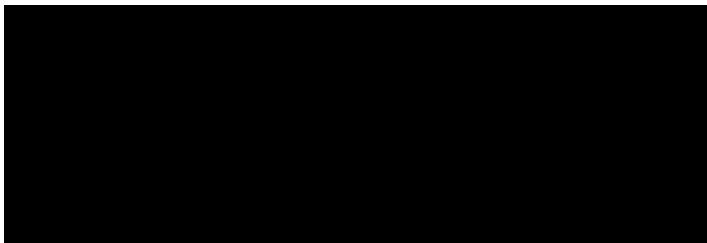
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PRESCRIBED INFORMATION FOR ELECTIONS in accordance with Section 189 *Fair Work (Registered Organisations) Act 2009* and Regulation 138 *Fair Work (Registered Organisations) Regulations 2009*

I, **Elizabeth Dabars**, being the **Branch Secretary** of the **Australian Nursing and Midwifery Federation South Australian Branch** make the following statement:

1. I am authorised to sign this statement containing prescribed information for the **Australian Nursing and Midwifery Federation 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.



Signed:

Dated: 18 April 2024

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

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 Australia	Branch Secretary	1	Direct Voting System	Scheduled	Whole of Branch
South Australia	Branch President	1	Direct Voting System	Scheduled	Whole of Branch
South Australia	Branch Vice President	1	Direct Voting System	Scheduled	Whole of Branch
South Australia	Branch Executive Member	4	Direct Voting System	Scheduled	Whole of Branch
South Australia	Branch Councillor Member	15	Direct Voting System	Scheduled	Whole of Branch