



7 August 2024

Maureen Harding
President
Hair and Beauty Australia
Sent via email: info@askhaba.com.au

Dear Maureen Harding



IMMEDIATE ACTION REQUIRED:

You must take steps after your recent election E2023/135

An election has recently been completed by the Australian Electoral Commission (AEC) for the Hair and Beauty Australia 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.

7 August 2024

Post-election report

Hair and Beauty Australia

Scheduled Election

E2023/135

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

Organisation:	Hair and Beauty Australia
Election Decision No:	E2023/135
Election:	Scheduled Election
Date the nominations closed:	22 July 2024
Date results declared:	1 August 2024
Date PER due:	21 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 E2023/135 on 1 August 2024. For a copy, see **Attachment A**.

Hair and Beauty Australia Rules

Hair and Beauty Australia Rules used for the election:

- 146N: Alterations certified on 21 May 2024 in matter R2024/16

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
7 August 2024

Attachments

A. Declaration of Results for Uncontested Offices

Hair and Beauty Australia DECLARATION OF RESULTS - E2023/135 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:

National

President (1)

Candidates

HARDING Maureen E

Vice-President (1)

Candidates

CAIRES Elvio N

Secretary (1)

Candidates

NASSO Mario

Treasurer (1)

Candidates

FLOHM Brian

Ordinary Members of the Committee (2)

Candidates

ALFONSO Ameer Jane

CAMPBELL Wendy

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
01/08/2024

Hair and Beauty Australia
DECLARATION OF RESULTS - E2023/135
Uncontested Offices

Scheduled Election

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Benjamin Murray
Returning Officer
Telephone: 03 9285 7111
Email: IEBevents@aec.gov.au
01/08/2024



DECISION

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

Hair and Beauty Australia
(E2023/135)

MR STEENSON

SYDNEY, 29 MAY 2024

Arrangement for conduct of election.

[1] On 10 May 2024, Hair and Beauty Australia (**the organisation**) lodged prescribed information, and on 28 May 2024 lodged amended prescribed information, with the Fair Work Commission (**Commission**) for an election to fill the following offices for a new term of office.

President	(1)
Vice President	(1)
Secretary	(1)
Treasurer	(1)
Ordinary Members of the Committee	(2)

[2] The organisation did not lodge the prescribed information before the prescribed day as required by regulation 138(3) of the *Fair Work (Registered Organisations) Regulations 2009*. The prescribed information should have been lodged by 2 August 2023. In its correspondence dated 10 May 2024, the organisation’s President stated the delay was due to pending rule changes which the organisation was seeking to have completed before the election is conducted.

[3] The organisation’s rule alteration application was lodged on 5 February 2024, following communications with Commission staff in October and November 2023 about the proposed rule changes and requirements of the organisation relating to this. This itself followed earlier consultations between the organisation and the regulator – initially with the Registered Organisations Commission and then with this Commission. At the time that the original prescribed information was lodged on 10 May 2024, the rule changes had been lodged with this Commission but were still being considered.

[4] Rule changes, including election-related rules, were certified by the Commission on 21 May 2024.¹ The certified rule changes alter the structure of the organisation’s Committee of Management, by reducing the total number of offices from 10 to 6. Specifically, the rule changes reduce the number of ‘Ordinary Committee Members’ from 6 to 2.

¹ [2024] FWCD 1025 in matter R2024/16

[5] On 28 May 2024, the organisation lodged amended prescribed information to reflect these rule changes.

[6] The normal and reasonable expectation that registered organisations take steps to ensure that they comply with the time-frame requirements set out not only in the *Fair Work (Registered Organisations) Act 2009* (the Act) but also in instruments pertaining to their own governance that are formulated by the organisations themselves, such as their own rules.

[7] The organisation appears to have delayed the lodgement of prescribed information in the hope that the rule alterations would be in place before its next election (i.e. this one) was conducted. The effect of this was a delay of several months in the lodgement of prescribed information and members not having the opportunity to participate in an election during that time.

[8] Ultimately, after consulting with Commission staff, the organisation lodged prescribed information. It then lodged amended prescribed information within a week of the rule alteration being certified. While the initial delay of several months is problematic, once the organisation consulted with the Commission about the lodgement of prescribed information it acted relatively promptly.

[9] Considering all of the relevant factors, on this occasion I allow, under section 189(2) of the Act, a later day for lodgement. I note that the organisation was also granted an extension in relation to the lodgement for its previous election.

[10] The failure to lodge the prescribed information before the prescribed day can leave an organisation open to civil penalty liability under section 189(2) of the Act. Therefore, while on this occasion the surrounding circumstances of the proposed rule changes contributed to the organisation's delay (and I have allowed later lodgement on this occasion), instances of future late lodgement may lead to civil penalty proceedings under section 189(2) of the Act.

[11] 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 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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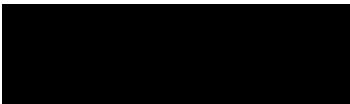
PR755270

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, Maureen Harding, being the President of Hair and Beauty Australia Ltd (HABA), make the following statement:

1. I am authorised to sign this statement containing prescribed information for Hair and Beauty Australia Ltd.
2. The following information is lodged under subsection 189 (1) of the Fair Work (Registered Organisations) Act 2009 (the RO Act) as an amendment to the original filing that was submitted on 10th May 2024.
3. HABA has been in conversation with Fair Work over the past 6 months regarding a change to our HABA's Rules. At the last HABA AGM meeting held 15 January 2024 a number of rules changes were approved which are currently being reviewed by Fair Work. The key change would be a reduction in the number of Committee Members which would need to be elected. On the 21st May 2024 HABA received confirmation of the acceptance of our rule changes from the Fair Work Commission, as such we are now submitting an amended Prescribed Information for our upcoming elections.
4. The elections that are required are set out in the table in Annexure A.
5. This statement **IS NOT** lodged at least 2 months before nominations open for the election below. The reason for this is the above-mentioned rule alterations, which we sought to have in place before the election. We request that the Commission allow the later date for lodgement on this occasion.

Signed



Name: Maureen Harding

HABA National President

Dated: **28th May 2024**

ANNEXURE A

- Elections that are required:

Branch	Name of Office	Number required	Voting System	Reason for Election	Electorate
			<i>Direct voting system; Collegiate electoral system</i>	<i>Scheduled; Casual vacancy; New office created; Insufficient nominations</i>	
National	President	1	Direct	Scheduled	All full members of the association
National	Vice President	1	Direct	Scheduled	All full members of the association
National	Secretary	1	Direct	Scheduled	All full members of the association
National	Treasurer	1	Direct	Scheduled	All full members of the association
National	Ordinary Member	2	Direct	Scheduled	All full members of the association

-

	Direct Voting System
Nominations OPEN	<i>1st July 2024</i>
Nominations CLOSE	<i>28 days after nominations open</i>
Roll of Voters cut off date	<i>Last Monday June</i>

Please note: that for insufficient nominations and casual vacancies, the date nominations open and close, unless specified in the rules, should be listed as ‘to be determined by the returning officer’. Casual vacancies must be accompanied by proof of resignation and attached to this statement.