



15 July 2024

Bernadette Zimmermann
Branch Secretary
Police Federation of Australia-South Australia Police Branch
Sent via email: secretary@pasa.asn.au

cc: lan Leavers, pfa@pfa.org.au

Dear Bernadette Zimmermann



IMMEDIATE ACTION REQUIRED:

You must take steps after your recent election E2024/78

An election has recently been completed by the Australian Electoral Commission (AEC) for the Police Federation of Australia-South Australia Police 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.

12 July 2024

Post-election report

Police Federation of Australia

South Australia Police Branch

Casual Vacancy Election

E2024/78

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

Organisation:	Police Federation of Australia – South Australia Police Branch
Election Decision No:	E2024/78
Election:	Casual Vacancy
Date ballot closed:	4/7/2024
Date results declared:	4/7/2024
Date PER due:	3/8/2024

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 E2024/78 on 4 July 2024. For a copy, see **Attachment A**.

Police Federation of Australia Rules

Police Federation of Australia Rules used for the election:

- 200V: Incorporates alterations of 20 November 2023 [R2023/84]

Roll of Voters

There were no matters in relation to the roll of voters including those matters contained in subsection 197(3) of the Act.

Written allegations of any irregularities

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

Other irregularities

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

Signed

Ishtiaq Ahmed
Returning Officer
Australian Electoral Commission
E: IEBEvents@aec.gov.au
P: 03 9285 7111
12 July 2024

Attachments

A. Declaration of Results for Contested Offices

Police Federation of Australia
South Australia Police Branch
DECLARATION OF RESULTS - E2024/78
Contested 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:

South Australia Police Branch

VOTING MATERIAL ISSUED	
Total number of people on the roll of voters (a)	4,553
Number of voters issued with voting material	4,553
Total number of voters issued with replacement voting material	82
Total number of voting material packs issued	4,635
VOTING MATERIAL RETURNED	
Total number of envelopes returned for scrutiny by closing date of ballot (b)	1,945
Number of declaration envelopes rejected at preliminary scrutiny (minus)	8
Number of ballot papers returned outside declaration envelopes (minus)	0
COUNT	
Total ballot papers admitted to the count	1,937
LATE OR UNRETURNED VOTING MATERIAL	
Voting material returned as unclaimed mail by closing date of ballot	111
Voting material packs not returned by voters by closing date of the ballot	2,579
Percentage of voting material packs returned by voters to number of people on the roll of voters (b/a)	43 %

Branch President (1)

<u>Candidates</u>	<u>Final Votes</u>
SCHULZ, Leonie	313
LAWTON, Kevin	97
CORNELL, Darren	738
BURNS, Wade	787

Total ballot papers admitted for this office	1,936
Formal Ballot papers	1,935
Informal Ballot papers	1

I declare the following elected:

- BURNS, Wade

Ishtiaq Ahmed
Returning Officer
Telephone: 03 9285 7111
Email: IEBevents@aec.gov.au
04/07/2024





DECISION

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

Police Federation of Australia
(E2024/78)

MR STEENSON

SYDNEY, 2 MAY 2024

Arrangement for conduct of election.

[1] On 12 April 2024 the South Australia Police Branch (**Branch**) of the Police Federation of Australia (**organisation**) lodged with the Fair Work Commission (**Commission**) prescribed information for an election to fill a casual vacancy in the following office for the remainder of the term:

Branch President (1)

[2] In considering whether to arrange for the conduct of an election by the Australian Electoral Commission (**AEC**), section 189 of the *Fair Work (Registered Organisations) Act 2009* (**the Act**) requires the General Manager of the Commission (or his Delegate) to be satisfied that an election is required to be held under the rules of the organisation or branch.

[3] Relevantly, regulation 138(1) of the *Fair Work (Registered Organisations) Regulations 2009* provides that:

For subsection 189(1) of the Act, the following information is prescribed information for an election conducted for an office or for a position other than an office:

...

(b)(ii) a casual vacancy in the office or position has occurred (**or will occur imminently**); ...

[emphasis added]

[4] Accompanying the prescribed information was a copy of a letter dated 12 April 2024 addressed to the Branch Committee of Management (**Committee**) from the current Branch President. The letter advised his intention to resign, with effect from 5 July 2024. The letter further stated that the intention to resign is “irrevocable” and that the early notice of resignation was given in order to provide sufficient time for the Branch to fill the casual vacancy by way of an election conducted by the AEC.

[5] I refer to the decision of Vice President Watson in *Australian and International Pilots Association v Captain Michael Glynn*¹ which discusses relevant legal principles concerning the withdrawal of a notice of resignation, in particular, the principle that once notice has been communicated it cannot be withdrawn except by mutual consent of the parties.

[6] Further, rule 44B(k) of the organisation's rules² provides that where a casual vacancy arises, the Branch Committee shall take 'immediate action' to have such vacancy filled. In this case, while the office is not vacant yet, the intention to vacate the office has been submitted irrevocably by the current officeholder and accordingly, the Branch has taken action to have this pending vacancy filled. The Commission recognises the Branch's intention to continue operating with its governance uninterrupted. Therefore, it is appropriate in these circumstances that the Branch has lodged the prescribed information for a vacancy that will come into effect in the near future, and that notice is given to enable governance to continue effectively during the transition.

[7] It should also be noted that rule 44B(k)(i)³ provides that where the unexpired portion of the term does not exceed one year, the Branch Committee 'may' fill such vacancy by appointment. As the Branch President was declared elected on 30 March 2021 (in election matter **E2020/195**) and the officers take office from the completion of the election,⁴ the current term is due to expire on 30 March 2025.

[8] However, the use of the word 'may' implies that it is not a requirement to appoint someone under rule 44B(k)(i), and as the Branch has lodged prescribed information with the Commission, this is sufficient to indicate that an election for the soon-to-be-vacant office is necessary.

[9] 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 Act, I am making arrangements for the conduct of the election by the AEC.



DELEGATE OF THE GENERAL MANAGER

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¹ [2011] FWA 1223.

² Rulebook R2023/84, certified 20 November 2023.

³ Ibid.

⁴ Ibid, rule 44B(b)(i).



Police Federation of Australia

South Australia Police Branch
ABN 73 802 822 770

27 Carrington Street
Adelaide SA 5000

Tel: (08) 8212 3055

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, BERNADETTE ZIMMERMANN, being the SECRETARY of the POLICE FEDERATION OF AUSTRALIA, SOUTH AUSTRALIA POLICE BRANCH make the following statement:

1. I am authorised to sign this statement containing prescribed information for the POLICE FEDERATION OF AUSTRALIA, SOUTH AUSTRALIA POLICE 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 reason the election is required is
 - (i) A casual vacancy caused by the retirement of the incumbent. A copy of that resignation is attached at Annexure B.
5. No rule changes are pending that will impact the election.

Signed:

BERNADETTE ZIMMERMANN, SECRETARY

Dated: 12 APRIL 2024

Annexure A

-

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
SA	Branch President	1	Direct Voting System	Casual Vacancy	All applicable financial members of the Branch (Rule 44B(k)(i))

- Important dates:

	Direct Voting System
Nominations OPEN	To be determined by the returning officer in consultation with the Secretary, PFA SA Police Branch
Preferred Nominations OPEN date	Monday, May 6, 2024
Nominations CLOSE	To be determined by the returning officer in consultation with the Secretary, PFA SA Police Branch
Preferred Nominations CLOSE date	Monday, May 20, 2024
Roll of Voters cut off date	7 days prior to nominations opening (Rule 44B(e)(i))
Preferred Ballot OPEN date	Tuesday, June 11, 2024
Preferred Ballot CLOSE date	Thursday, July 4, 2024