



## DECISION

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

**Australian and International Pilots Association**  
(E2024/133)

MR STEENSON

SYDNEY, 13 AUGUST 2024

*Arrangement for conduct of election.*

[1] On 11 July 2024 the Australian and International Pilots Association (the **organisation**) lodged with the Fair Work Commission (the **Commission**) prescribed information for an election to fill the following offices for a new term of office:

### **Executive**

President	(1)
Secretary	(1)
Assistant Secretary	(1)
Treasurer	(1)
Vice-President (Long Haul)	(1)
Vice President (Short Haul)	(1)
Vice President ('A' Pilots)	(1)
Vice President (Other Group Airlines)	(1)

[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 **Regulations**). The prescribed information should have been lodged by 3 July 2024 for the reasons outlined below.

[3] In correspondence to the Commission dated 8 August 2024, the organisation's Secretary stated the delay was due to this election being the first to occur under the organisation's amended rules (the **rules**).<sup>1</sup> The organisation submitted that the new rules introduced prescriptive dates in relation to elections, and indicated that it is now apparent that these

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<sup>1</sup> See rule alteration R2023/101, certified on 22 January 2024.

timelines are quite tight. The effect of these issues was to delay the first-stage election (for the Committee of Management), with voting not set to be completed until 8 October 2024.

[4] The persons elected to the Committee of Management in the first-stage election are those who will then form the electors and persons eligible to nominate in the second-stage collegiate election for the Executive. In the current circumstances, nominations cannot, in practice, open until after the first-stage election is complete.

[5] However, the relevant test for when prescribed information for an election must be lodged with the Commission is set out in regulation 138 of the Regulations. It provides that the prescribed day is the day occurring two months before the first day when a person may, *under the rules of the organisation or branch, become a candidate in an election* (my emphasis).

[6] Two issues arise for the organisation from regulation 138 and the timing of the lodgement of prescribed information.

[7] The first is that the relevant date is determined by reference to the organisation's rules, not from any delay which might occur in the running of a stage of the election. In the case of this organisation, its rules make it clear that for the election of offices on the Executive:

Within 119 days (17 weeks) of the Election Census Date the Returning Officer shall cause nomination forms to be prepared and mailed or otherwise distributed to all members of the Committee of Management.<sup>2</sup>

[8] For 2024, the census date is 7 May 2024. This means that the date for preparation and distribution of nomination forms (i.e. the opening of nominations) is 3 September 2024 for the election of the Executive. By extension, the date by which prescribed information must be lodged for that election was 3 July 2024.

[9] The second is that, as the organisation appropriately acknowledged to the Commission, the organisation erroneously interpreted the words "first day when a person may ... become a candidate in an election" in regulation 138 as meaning the date on which nominations are accepted or when they close, as opposed to the date on which they open.

[10] As well as acknowledging this issue, the organisation has advised that it intends to arrange for further alterations to the rules to rectify the issues referred to above, and that the organisation now understands that prescribed information for elections is due to be lodged with the Commission two months prior to the opening of nominations.

[11] Staff of the organisation responsible for compliance have indicated that they will participate in the Commission's 'Governance to You' training program. Commission staff will be in contact with the organisation to put the necessary arrangements in place and I strongly encourage office-bearers of the organisation to also avail themselves of this opportunity.

[12] The organisation's acknowledgements in relation to lodgement after the prescribed day and the indications of a willingness to complete remedial action in the form of both training and proposed rule alterations are matters that can be considered positively. I also note that the lodgement was only eight (8) days after the prescribed day.

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<sup>2</sup> Rule 61(c), Rulebook of the Australian and International Pilots Association, R2023/101 certified 22 January 2024

[13] Taking all of these matters into aggregate account, I have determined that it is appropriate on this occasion to allow the extension as requested under s.189(2) of the Act. In reaching this conclusion, I have taken into account the fact that this is the first Executive election following substantial rule alterations and the organisation's stated intention to amend its rules to remedy the issues outlined above.

[14] However, in allowing the extension on this occasion, I emphasise that the normal and reasonable expectation is that registered organisations will comply with both the legislation and their own rules in relation to elections and other matters, particularly as rules are formulated by organisations themselves before being certified by the Commission.

[15] I note that the failure of an organisation to lodge the prescribed information before the prescribed day, or such later day as the Commission allows, is a civil penalty provision.

[16] In conclusion, 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, John Pavlou, being the Secretary of the Australian and International Pilots Association ('AIPA') make the following statement:

1. I am authorised to sign this statement containing prescribed information for AIPA.
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.  
This statement **IS** lodged at least 2 months before nominations open for the election(s) in Annexure A.

**NOTE:** Extensions of time should be requested at least two months before nominations open. A failure to lodge Prescribed Information on time can lead to civil penalties under the RO Act.

Signed: 

Dated: 10/07/2024

**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](mailto:regorgs@fwc.gov.au).

## Annexure A

- Elections that are required [insert as many pages as 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
National	President	1	Collegiate electoral system	Scheduled	All members of the Association who will be members of the Committee of Management following the 2024 election (be they new members of continuing members from previous elections)
National	Vice President, Long Haul	1	Collegiate electoral system	Scheduled	All members of the Association who will be members of the Committee of Management following the 2024 election (be they new members of continuing members from previous elections) and who are members of the Long haul WorkGroup
National	Vice President, Short Haul	1	Collegiate electoral system	Scheduled	All members of the Association who will be members of the Committee of Management following the 2024 election (be they new members of continuing members from previous elections) and who are members of the Short haul WorkGroup
National	Vice President 'A' Pilots	1	Collegiate electoral system	Scheduled	All members of the Association who will be members of the Committee of Management following the 2024 election (be they new members of continuing members from previous elections) and who are 'A' pilots as defined.
National	Vice President, Other Group Airlines	1	Collegiate electoral system	Scheduled	All members of the Association who will be members of the Committee of Management following the 2024 election (be they new members of continuing members from previous elections) and who are members of any Workgroup other than Long Haul or Short Haul.
National	Secretary	1	Collegiate electoral system	Scheduled	All members of the Association who will be members of the Committee of Management following the 2024 election (be they new members of continuing members from previous elections)
National	Assistant Secretary	1	Collegiate electoral system	Scheduled	All members of the Association who will be members of the Committee of Management following the 2024 election (be they new members of continuing members from previous elections)

National	Treasurer	1	Collegiate electoral system	Scheduled	All members of the Association who will be members of the Committee of Management following the 2024 election (be they new members of continuing members from previous elections)
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- Important dates:

	Direct Voting System	Collegiate Electoral System
<b>Nominations OPEN</b>		To be determined by the Returning Officer
<b>Nominations CLOSE</b>		To be determined by the Returning Officer
<b>Roll of Voters cut off date</b>		To be determined by the Returning Officer

**NOTES:** 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’. This also applies where rules are silent as to the nominated dates.

If the nomination dates are ‘To be Determined by the Returning Officer’, but your organisation has a preference, please state ‘To be Determined by Returning Officer’ and clearly indicate that your nominated date is a preference.

If the P.I. includes a position that is not an office, please refer to our template [Prescribed information for the election of officer and non-officer positions](#)