



4 December 2024

David Canny  
Branch President  
Australian Hotels Association - Victorian Branch  
Sent via email: [d.canny@ahavic.com.au](mailto:d.canny@ahavic.com.au)

cc: Stephen Ferguson, [aha@aha.org.au](mailto:aha@aha.org.au)

Dear David Canny



**IMMEDIATE ACTION REQUIRED:**

**You must take steps after your recent election E2024/151**

An election has recently been completed by the Australian Electoral Commission (AEC) for the Australian Hotels Association - Victorian 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](mailto: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](mailto: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](mailto: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.

4 December 2024

# Post-election report

Australian Hotels Association  
Victoria Branch  
Insufficient Nominations & Casual Vacancy  
E2024/151

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

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Organisation:	Australian Hotels Association – Victoria Branch
Election Decision No:	E2024/151
Election:	Insufficient Nominations & Casual Vacancy
Date the nominations closed:	2 December 2024
Date results declared:	2 December 2024
Date PER due:	2 January 2025

## Relevant legal provisions

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### *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

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In accordance with reg 140 of the Regulations, the AEC issued a declaration of the result of election E2024/151 on 2 December 2024. For a copy, see **Attachment A**.

## Australian Hotels Association Rules

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Australian Hotels Association Rules used for the election:

- [024N-VIC: Incorporates alterations of 16 January 2023 [R2022/132]

Victorian Division rule 15A.3 states that within fourteen (14) days after the close of nominations forward by post to each financial member entitled to vote in that election one ballot paper in each election in which that member is entitled to vote which the Returning Officer shall have initialled together with a declaration envelope and a prepaid envelope, both in the form prescribed by the Fair Work (Registered Organisations) Regulations 2009 for the return of ballot papers as hereinafter provided.

Considering the period required for the nomination eligibility check, defect notice (if any), processing of ballot paper, and the Christmas holiday period, the ballot will open within 6 weeks of the close of nominations if applicable.

## Roll of Voters

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

## Written allegations of any irregularities

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The AEC did not receive any written allegations of irregularities.

## Other irregularities

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

# Signed

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Chris King  
Returning Officer  
Australian Electoral Commission  
E: [IEBevents@aec.gov.au](mailto:IEBevents@aec.gov.au)  
P: 03 9285 7111  
4 December 2024

# Attachments

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## A. Declaration of Results for Uncontested Offices

**Australian Hotels Association**  
**Victoria Branch**  
**DECLARATION OF RESULTS - E2024/151**  
**Uncontested Offices**

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**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:

**Victorian Division**

**Honorary Minute Secretary (1)**

Candidates

*No Nominations Received*

**Southern Metropolitan Councillor (1)**

Candidates

*No Nominations Received*

**Branch Committee of Management**

**Delegate to the National Board (1)**

Candidates

*No Nominations Received*

As no nominations were received, the above positions remain vacant.

Chris King  
Returning Officer  
Telephone: 03 9285 7111  
Email: IEEvents@aec.gov.au  
02/12/2024



## DECISION

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

**Australian Hotels Association**  
(E2024/151)

MR STEENSON

SYDNEY, 23 SEPTEMBER 2024

*Arrangement for conduct of election.*

[1] On 27 August and 16 September 2024 the Victorian Branch (**Branch**) of the Australian Hotels Association (**organisation**) lodged with the Fair Work Commission (**Commission**) prescribed information for an election to fill the following offices due to casual vacancies and due to insufficient nominations received in a previous election (**E2023/199**):

Honorary Minute Secretary	(1)
Southern Metropolitan Councillor	(1)
Delegate to National Board	(1)

[2] Accompanying the prescribed information lodged by the Branch was a document titled ‘explanation of delay in request for casual vacancy election’. This document indicated that the Honorary Minute Secretary and Southern Metropolitan Councillor (being the one person holding both offices) submitted a resignation on 13 February 2024 (with an effective date of 25 March 2024), but the prescribed information was not lodged until late August (some five months later). Branch staff advised the Commission that this was because they were waiting until the ‘stages’ of the officer elections were completed.

[3] It is apparent that the first two of those ‘stages’ were stage 1 and stage 2 of the scheduled election of Branch officers (E2023/199). However the third ‘stage’ noted by the Branch in the document was actually a separate election – the insufficient nominations election conducted in accordance with Branch rule 19A, being E2024/75. The prescribed information for that election was lodged with the Commission on 4 April 2024.

[4] It should be noted that Branch rule 19A does not prevent the Australian Electoral Commission (**AEC**) from simultaneously conducting a casual vacancy election alongside an insufficient nominations election – assuming that the organisation lodges prescribed information, in a timely manner, seeking that. It therefore appears that, given the prescribed information for the insufficient nominations election (E2024/75) was lodged with the Commission after the date of effect of the abovementioned resignations, the Branch could have included the casual vacancy election request in the prescribed information for election E2024/75, in order to fill the vacant offices as soon as practicable.

[5] I also note that the request for an election to fill the office of Delegate to National Board that remained vacant due to insufficient nominations was only submitted after the Branch was prompted by Commission staff that the office should be filled.

[6] One of the objects of the *Fair Work (Registered Organisations) Act 2009 (the Act)* is the democratic control of organisations. A necessary part of that is the conduct of elections and the filling of vacancies that arise. Taking the steps to seek an election to fill vacancies that are due to insufficient nominations is particularly important, as such insufficient nominations vacancies can only be filled via election – unlike casual vacancies, where an organisation’s rules may provide for the filling of a vacant office by appointment, if the vacancy arises after a specified period of time has elapsed.

[7] Further, the prescribed information states that the election method for the Southern Metropolitan Councillor is collegiate. In fact, as provided in Branch rule 13(c), the election method is direct election by and from all financial members of the Southern Metropolitan Division.

[8] 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 AEC.



DELEGATE OF THE GENERAL MANAGER

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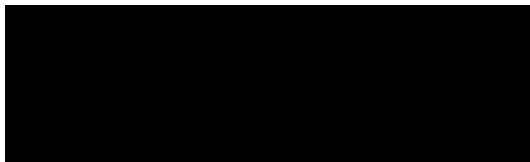
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**PRESCRIBED INFORMATION (AS AMENDED) FOR ELECTIONS in accordance with Section 189 *Fair Work (Registered Organisations) Act 2009* and Regulation 138 *Fair Work (Registered Organisations) Regulations 2009***

I, David Canny, being the President of the Victorian Branch of the Australian Hotels Association make the following statement:

1. I am authorised to sign this statement containing prescribed information for the Victorian Branch of the Australian Hotels Association.
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.
4. The resignation letter or other supporting information is attached for each casual vacancy.

Signed:



Dated: 12/09/2024



**Annexure A**

- Elections that are required:

<b>Branch</b>	<b>Name of Office</b>	<b>Number required</b>	<b>Voting System</b> Direct voting system; Collegiate electoral system	<b>Reason for Election</b> Scheduled; Casual vacancy; New office created; Insufficient nominations	<b>Electorate</b>
Victoria	Honorary Minute Secretary	1	Collegiate electoral system	Casual vacancy	AHA (Vic) Rule 19
Victoria	Southern Metropolitan Councillor	1	Collegiate electoral system	Casual vacancy	AHA (Vic) Rule 19
Victoria	Delegate to the National Board	1	Collegiate electoral system	Insufficient nominations	Members of Branch Committee of Management (AHA National Rules 11.1, 11.2 & 11.5)

- Important dates:

	<b>Direct Voting System</b>	<b>Collegiate Electoral System</b>
<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.