



3 December 2024

Michael Boyle
President
Civil Contractors Federation
Sent via email: ccfnat@civilcontractors.com

Dear Michael Boyle



IMMEDIATE ACTION REQUIRED:

You must take steps after your recent election E2024/95

An election has recently been completed by the Australian Electoral Commission (AEC) for the Civil Contractors Federation 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.

3 December 2024

Post-election report

Civil Contractors Federation

Scheduled Election

E2024/95

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

Organisation: Civil Contractors Federation

Election Decision No: E2024/95

Election: Scheduled Election

(If uncontested) Date the nominations closed: 21/11/2024

Date results declared: Uncontested Stage 1: 11/10/2024

Uncontested Stage 2: 26/11/2024

Date PER due: 21/12/2024

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.

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 E2024/95 Stage 1 and Stage 2 on 11/10/2024 and 26/11/2024 respectively. For a copy, see **Attachment A**.

Civil Contractors Federation Rules

Civil Contractors Federation Rules used for the election:

267V: Incorporates alterations certified on 31/12/2018 in matter R2018/292

Signed

Benjamin Murray
Returning Officer
Australian Electoral Commission
E: IEEvents@aec.gov.au
P: 03 9285 7111
3 December 2024

Attachments

- A. E2024/95 CCF Stage 1 - Declaration of Uncontested Results
- B. E2024/95 CCF Stage 2 – Declaration of Uncontested Results

Civil Contractors Federation
DECLARATION OF RESULTS - E2024/95 - Stage 2
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 Board

President (1)

Candidates

BOYLE Michael

Vice President (1)

Candidates

DAMIANI Antony

Treasurer (1)

Candidates

ZARDO Nick

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

Taylah Grillo
Returning Officer
Telephone: 03 9285 7111
Email: IEEvents@aec.gov.au
26/11/2024





18 November 2024

Michael Boyle
President
Civil Contractors Federation
Sent via email: ccfnat@civilcontractors.com

Dear Michael Boyle



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Yours sincerely

Fair Work Commission



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Civil Contractors Federation
DECLARATION OF RESULTS - E2024/95 - Stage 1
Uncontested Offices

Insufficient Nominations 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 Board Member (1)

Candidates

HATCHER Charles

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: IEBevents@aec.gov.au
11/10/2024





DECISION

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

Civil Contractors Federation

(E2024/95)

MR STEENSON

SYDNEY, 10 SEPTEMBER 2024

Arrangement for conduct of election.

[1] On 26 August 2024 the Civil Contractors Federation (**organisation**) lodged with the Fair Work Commission prescribed information for an election to fill the following offices for a new term of office:

President	(1)
Vice President	(1)
Treasurer	(1)

[2] Additionally, the organisation lodged prescribed information for an election to fill the following office, due to insufficient nominations received in a previous election (**E2023/94**):

National Board Member	(1)
-----------------------	-----

[3] The organisation confirmed via written correspondence dated 5 September 2024, that the above office of National Board Member is required to be elected due to an insufficient nomination arising from election E2023/94, rather than the reason contained in the prescribed information which indicates that the office is required to be elected due to it being scheduled.

[4] I note that the prescribed information for the vacant National Board Member office was lodged in August 2024, despite election E2023/94 being declared by the Australian Electoral Commission (AEC) on 28 August 2023, at which time it would have been apparent that this office remained vacant. That is, it has been apparent for almost a year that this particular office – on the organisation’s National Board – remained vacant, with apparently no earlier attempts to fill it during that period.

[5] One of the objects of the Fair Work (Registered Organisations) Act 2009 (**RO Act**) is the democratic control of organisations. A necessary part of that is the conduct of elections and the filling of vacancies that arise. This is particularly so where an office is part of a senior decision-making body of the organisation.

[6] In its correspondence dated 26 August 2024, the organisation stated the delay in lodging prescribed information was due to an error.

[7] I note that the organisation has stated that it will review its procedures to ensure that election timeframes are met in future.

[8] The apparent failure to make an attempt to fill an office on the National Board for almost a year is concerning. The case law in relation to vacancies due to insufficient nominations is clear. In *Geneff v Peterson and Ors*,¹, the Federal Court noted that:

If insufficient nominations are received, then further elections must be held and further nominations called for. This process must continue, for as long as vacancies exist on the Executive Committee.

[9] Taking the necessary 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.

[10] The delayed lodgement was in relation to the insufficient nominations vacancy for National Board Member, for which there is no prescribed day for lodgement under the rules of the organisation. But there is the requirement to make adequate attempts to fill it, in accordance with the principle outlined by the Federal Court in *Geneff* (referred to above).

[11] However, if the delay had been in relation to the scheduled election for offices then late lodgement of prescribed information would have exposed the organisation to possible civil penalty liability, as section 189(2) of the RO Act is a civil penalty provision.

[12] To assist the organisation with its compliance in relation to election-related obligations going forward, I draw the organisation’s attention to the guidance material available on the Commission’s website at <https://www.fwc.gov.au/registered-organisations/running-registered-organisation/elections>.

[13] 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 AEC.



DELEGATE OF THE GENERAL MANAGER

Printed by authority of the Commonwealth Government Printer

PR755335

¹ [1986] FCA 432, at 129.

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, Michael Boyle, being the President and Officer of the Civil Contractors Federation make the following statement:

1. I am authorised to sign this statement containing prescribed information for Civil Contractors Federation
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.

[delete as appropriate]

- ~~4. [If there is a Casual Vacancy] The resignation letter or other supporting information is attached for each casual vacancy.~~
- ~~5. [If there is insufficient nominations]: Insufficient nominations were received in an earlier election(s) and the declaration/s of results is/are attached.~~
- ~~6. [If rule alterations are pending that will impact **THIS** election] A brief outline of the proposed rule alterations affecting this election is attached. These rule alterations [HAVE/HAVE NOT] been lodged with the Fair Work Commission. [If lodged] The proposed alterations were lodged on [DATE].~~

or

[If no rule alterations are being considered] No rule alterations are pending that will impact the election.

7. [In relation to scheduled elections, if lodged 2 months prior to nominations opening] This statement **IS** lodged at least 2 months before nominations open for the election(s) in Annexure A.

or

[In relation to scheduled elections, if lodged less than 2 months before nominations open] This statement **IS NOT** lodged at least 2 months before nominations open for the election(s) in Annexure A. The reason it is lodged after the prescribed time is:

- a. The understanding of the CCF CEO from correspondence was that this form was to be submitted by the end of August. It is noted that this was an error and would be reviewed in the future to ensure that these timeframes are met.

b. An extension of time request was lodged for this election on 26.8.2024.

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.

~~8.—If the number of elected representatives is calculated on a formula(s) defined in the rules]:~~

~~a.—The rule number(s) which specify(s) the formula(s) is/are [INSERT RULE NUMBER(S)]:~~

~~b.—The formula(s) is/are [INSERT THE FORMULA(S)]:~~

~~c.—The information for calculating the formula(s) is [INSERT THE INFORMATION, e.g. it could be the number of members or the amount of capitations received, or other information. You will need to refer to your rules to determine what information is required]:~~

~~d.—The relevant date(s) for this information is [INSERT DATE(S)]~~

~~e.—[If the relevant information for calculating the formula(s) is not provided above under c] The relevant information for calculating the information has not been provided because [INSERT REASON, e.g. the relevant date is in the future]:~~

Signed:



Dated: 26 August 2024

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	Rule 25B Immediately after the conclusion of each AGM, the National Board shall hold a meeting to elect the President, Vice President and Treasurer by and from the National Board Members for the next term.
National	Vice President	1	Collegiate electoral system	Scheduled	Rule 25B Immediately after the conclusion of each AGM, the National Board shall hold a meeting to elect the President, Vice President and Treasurer by and from the National Board Members for the next term.
National	Treasurer	1	Collegiate electoral system	Scheduled	Rule 25B Immediately after the conclusion of each AGM, the National Board shall hold a meeting to elect the President, Vice President and Treasurer by and from the National Board Members for the next term.
National	Boardmember	1	Direct Voting System	Scheduled	Not less than 42 days before the AGM the Returning Officer or delegate must by pre-paid post: (i) invite nominations for vacant positions on the National Board;

- Important dates:

	Direct Voting System	Collegiate Electoral System
Nominations OPEN	Rule 21 (a) (i) Not less than 42 days before the AGM the Returning Officer or delegate must by pre-paid post: (i) invite nominations for vacant positions on the National Board;	(Rule 25 B) Immediately after the conclusion of each AGM, the National Board shall hold a meeting to elect the President, Vice President and Treasurer by and from the National Board Members for the next term. (Rule 25 c) The election shall be conducted by a Returning Officer appointed by the AEC.

		(25F) The Returning Officer shall commence the election by calling for nominations for the office of president. This shall occur immediately after the meeting's formalities have concluded
Nominations CLOSE	Rule 21 (a) (ii) Not less than 42 days before the AGM the Returning Officer or delegate must by pre-paid post: (i) invite nominations for vacant positions on the National Board; and (ii) notify all Contractor Members or their Representatives as to the closing time for nominations which must be not less than 14 days after the notice.	22 November 2024. Rule is Silent.
Roll of Voters cut off date	Rule 21 (h) Where the Returning Officer finds that a nomination is or may be defective, the Returning Officer shall, before rejecting the nomination, notify the person concerned of the defect and give the person a reasonable amount of time to remedy the defect.	22 November 2024. Rule is Silent.

SAMPLE