



Fair Work
Commission

DECISION

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

Police Federation of Australia
(E2025/28)

MR STEENSON

SYDNEY, 23 JUNE 2025

Arrangement for conduct of election.

[1] On 30 May 2025 the Australian Federal Police Association Branch (the **Branch**) of the Police Federation of Australia (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:

Canberra Zone

Zone Convenor/National Council Delegate	(1)
Zone Workplace Delegates/National Council Delegates	(6)

Community Policing Zone

Zone Convenor/National Council Delegate	(1)
Zone Workplace Delegates/National Council Delegates	(7)

Executive and International Zone

Zone Convenor/National Council Delegate	(1)
Zone Workplace Delegate/National Council Delegate	(1)

Forensics Zone

Zone Convenor/National Council Delegate	(1)
Zone Workplace Delegate/National Council Delegate	(1)

Intelligence Canberra Zone

Zone Convenor/National Council Delegate	(1)
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(The number of Workplace Delegates in this Zone is NIL)

NSW Zone

Zone Convenor/National Council Delegate	(1)
Zone Workplace Delegates/National Council Delegates	(4)

Northern Territory Zone

Zone Convenor/National Council Delegate (1)
(The number of Workplace Delegates in this Zone is NIL)

Protective Service Officers Zone

Zone Convenor/National Council Delegate (1)
Zone Workplace Delegates/National Council Delegates (5)

QLD Zone

Zone Convenor/National Council Delegate (1)
Zone Workplace Delegates/National Council Delegates (2)

SA Zone

Zone Convenor/National Council Delegate (1)
(The number of Workplace Delegates in this Zone is NIL)

Specialist Response Group Zone

Zone Convenor/National Council Delegate (1)
(The number of Workplace Delegates in this Zone is NIL)

VIC and TAS Zone

Zone Convenor/National Council Delegate (1)
Zone Workplace Delegates/National Council Delegates (4)

WA Zone

Zone Convenor/National Council Delegate (1)
Zone Workplace Delegate/National Council Delegate (1)

Late lodgement of prescribed information

[2] The *Fair Work (Registered Organisations) Act 2009* (**RO Act**) requires that certain prescribed information must be lodged in order for it to be determined whether an election is due under the rules of the organisation.

[3] Section 189(2) of the RO Act requires that this information must be lodged by what is known as the ‘prescribed day’, which is defined by the *Fair Work (Registered Organisations) Regulations 2009* (the **Regulations**) as a date two months before the day that nominations are due to open under the organisation’s rules. Section 189(2) of the RO Act is a civil penalty provision and late lodgement can therefore leave an organisation open to litigation and potentially liable to the imposition of a penalty.¹

[4] The Branch did not lodge the prescribed information before the ‘prescribed day’. Rule 95(5)(a) of the organisation’s rules provides that nominations must open no later than 1 June in an election year. The Branch should therefore have lodged prescribed information by no later than 1 April 2025. The prescribed information was instead lodged considerably late, on 30 May 2025.

¹ See, for example, *Registered Organisations Commission v Australian Hotels Association* [2019] FCA 1516.

[5] Such late lodgement meant that, even if a decision had been issued almost instantly, meeting an opening date for nominations of 1 June would have been impossible in practical terms, given the logistics involved in the Australian Electoral Commission (AEC) providing adequate notice of the election timetable (including the nomination period).

[6] In the declaration which accompanied the prescribed information, the Branch President advised that the delay was occasioned by the Branch having had:

[...] administrative changes and [particular staff changes/leave and unavailability referred to] a clerical error [...] resulting in the key date for submission of the Prescribed Information being missed.

[7] I am not satisfied that the above reason is a sufficient ground to justify the failure to comply with a statutory obligation. In reaching this conclusion, I have taken into account the delay in lodgement of almost two months, and the fact that the Branch was also late in lodging prescribed information in its previous scheduled election **E2023/42**.

[8] The reasons the Branch provided for that late lodgement were similar to those put forward in the current matter – namely, administrative changes and staff unavailability. I note also that the prescribed information lodged as part of that application stated the following:

We have of course introduced stop gap measures in the meantime to ensure that this does not occur in the future.

[9] In that decision, I had emphasised that registered organisations (and their branches) have statutory obligations to comply with the election-related requirements of the RO Act. It could have been reasonably expected that, following that decision and the Branch's stated commitment, that the Branch would have taken steps to remedy any operational deficiencies that resulted in the late lodgement. Unfortunately, this does not appear to have been the case, or if steps were indeed taken, then they were quite ineffective.

[10] I reiterate that the statutory obligation to comply with the RO Act rests with organisations and their branches, which in practice operate through their officers and employees. While there is an administrative element to completing election-related paperwork, it must ultimately be signed-off by an officer of the organisation or branch, who is declaring that it is true and correct. Officers of an organisation can reasonably be expected to know when their term of office (and that of other officers) ends, and therefore when elections are due under the organisation's rules.

[11] As indicated above, and having regard to the normal and reasonable expectation that registered organisations take steps to ensure they comply with the time-frame requirements set out not only in the Act, but also in instruments or references pertaining to their own governance (such as the rules formulated by the organisations themselves), I decline on this occasion to allow, under section 189(2) of the RO Act, a later day for lodgement. The failure to lodge the prescribed information before the prescribed day therefore leaves open the possibility of the organisation being liable under a civil penalty provision.²

[12] Notwithstanding the refusal of an extension of time under section 189(2) of the RO Act, as authorised delegate of the General Manager, I must still make a determination for the purposes of section 189(3) of the RO Act as to whether an election is required to be conducted.

² s.189(2), RO Act.

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



DELEGATE OF THE GENERAL MANAGER

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PR788127

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, Adrian Graeme Smith, being the Secretary of the Australian Federal Police Association (AFPA) make the following statement:

1. I am authorised to sign this statement containing prescribed information for Australian Federal Police Association Branch of the Police Federation of Australia.
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. No rule alterations are pending that will impact the election.
5. 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 AFPA has had administrative changes, and due to a the recent AFPA National Council meeting, and extended leave of the General Manager, a clerical error has occurred, resulting in the key date for submission of the Prescribed Information being missed.
 - b. The President of the AFPA spoke with Mr Chris Enright last week in relation to this issue, and the General Manager spoke with the Registered Organisations office again today, 30 May 2025, regarding the urgent submission of the Prescribed Information.
 - c. The elections as outlined in Attachment A, are still required to be held.

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.

6. If the number of elected representatives is calculated on a formula(s) defined in the rules]:
 - a. Rule 72(3) and 95 (2)(c) specify the formulas for determining the number of delegates required for each zone.
 - b. The formula is:
 - (i) 1 to 100 members: one delegate;
 - (ii) 101 to 200 members: two delegates;
 - (iii) 201 to 300 members: three delegates;
 - (iv) 301 to 400 members: four delegates;

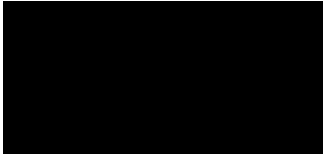
(v) 401 to 500 members: five delegates;

(vi) 501 to 600 members: six delegates:

(vii) 601 to 700 members: seven delegates;

(viii) 701 members and above eight delegates

7. The information for calculating the formula is the number of members in each zone.
8. The relevant dates for this information is the closure of the role.



Signed: Secretary/Treasurer

Dated: 30 May 2025

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.

Annexure A

- Elections that are 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
AFPA Branch – Canberra Zone	Zone Convenor	1	Direct Voting System	Scheduled	Rule 95(3A) – Zone Election Rule
AFPA Branch – Canberra Zone	Zone Workplace Delegate/Council Delegate	6	Direct Voting System	Scheduled	Rule 95(3A) – Zone Election Rule
AFPA Branch – Community Policing Zone	Zone Convenor	1	Direct Voting System	Scheduled	Rule 95(3A) – Zone Election Rule
AFPA Branch – Community Policing Zone	Zone Workplace Delegate/Council Delegate	7	Direct Voting System	Scheduled	Rule 95(3A) – Zone Election Rule
AFPA Branch – Executive & International Zone	Zone Convenor	1	Direct Voting System	Scheduled	Rule 95(3A) – Zone Election Rule
AFPA Branch – Executive & International Zone	Zone Workplace Delegate/Council Delegate	1	Direct Voting System	Scheduled	Rule 95(3A) – Zone Election Rule
AFPA Branch – Forensics Zone	Zone Convenor	1	Direct Voting System	Scheduled	Rule 95(3A) – Zone Election Rule

AFPA Branch – Forensics Zone	Zone Workplace Delegate/Council Delegate	1	Direct Voting System	Scheduled	Rule 95(3A) – Zone Election Rule
AFPA Branch – Intelligence Canberra Zone	Zone Convenor	1	Direct Voting System	Scheduled	Rule 95(3A) – Zone Election Rule
AFPA Branch – NSW Zone	Zone Convenor	1	Direct Voting System	Scheduled	Rule 95(3A) – Zone Election Rule
AFPA Branch – NSW Zone	Zone Workplace Delegate/Council Delegate	4	Direct Voting System	Scheduled	Rule 95(3A) – Zone Election Rule
AFPA Branch – Northern Territory Zone	Zone Convenor	1	Direct Voting System	Scheduled	Rule 95(3A) – Zone Election Rule
AFP Branch – Protective Service Officers Zone	Zone Convenor	1	Direct Voting System	Scheduled	Rule 95(3A) – Zone Election Rule
AFP Branch – Protective Service Officers Zone	Zone Workplace Delegate/Council Delegate	5	Direct Voting System	Scheduled	Rule 95(3A) – Zone Election Rule
AFPA Branch – QLD Zone	Zone Convenor	1	Direct Voting System	Scheduled	Rule 95(3A) – Zone Election Rule
AFPA Branch – QLD Zone	Zone Workplace Delegate/Council Delegate	2	Direct Voting System	Scheduled	Rule 95(3A) – Zone Election Rule

AFPA Branch – SA Zone	Zone Convenor	1	Direct Voting System	Scheduled	Rule 95(3A) – Zone Election Rule
AFPA Branch – Specialist Response Group Zone	Zone Convenor	1	Direct Voting System	Scheduled	Rule 95(3A) – Zone Election Rule
AFPA Branch – VIC and TAS Zone	Zone Convenor	1	Direct Voting System	Scheduled	Rule 95(3A) – Zone Election Rule
AFPA Branch – VIC and TAS Zone	Zone Workplace Delegate/Council Delegate	4	Direct Voting System	Scheduled	Rule 95(3A) – Zone Election Rule
AFPA Branch – WA Zone	Zone Convenor	1	Direct Voting System	Scheduled	Rule 95(3A) – Zone Election Rule
AFPA Branch – WA Zone	Zone Workplace Delegate/Council Delegate	1	Direct Voting System	Scheduled	Rule 95(3A) – Zone Election Rule

- Important dates:

	Direct Voting System	Collegiate Electoral System
Nominations OPEN	1 June 2025 – Rule 95(5)(a), to be determined by the Returning Officer	N/A
Nominations CLOSE	1 July 2025 – Rule 95(5)(b), to be determined by the Returning Officer	N/A
Roll of Voters cut off date	21 days prior to nominations opening – Rule 95(5)(e)	N/A

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.*