



Fair Work  
Commission

## DECISION

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

**Australian Education Union**  
(E2025/98)

MR STEENSON

SYDNEY, 13 JUNE 2025

*Arrangement for conduct of election.*

[1] On 26 May 2025 the Queensland Branch (the **Branch**) of the Australian Education Union (the **AEU**) lodged with the Fair Work Commission (the **Commission**) prescribed information for an election to fill the following offices for a new term of office:

Branch Councillors	(34)
Branch Executive Members	(9)
Branch President	(1)
Branch Deputy President	(1)
Branch Secretary	(1)
Branch Deputy Secretary	(1)

[2] The Branch lodged the prescribed information late, contrary to section 189(2) of the Fair Work (Registered Organisations) Act 2009 (the **RO Act**). Organisations and their branches are required to lodge before the prescribed day, which is specified in regulation 138(3) of the *Fair Work (Registered Organisations) Regulations 2009* (the **regulations**) as being two months before the date that the rules specify for the opening of nominations.

[3] The prescribed information for the Branch Councillors (offices elected every two (2) years); and for the Branch Executive Members, Branch President, Branch Deputy President, Branch Secretary and Branch Deputy Secretary (offices elected every year) should have been lodged, at the latest, by November 2023.

[4] In the prescribed information dated 26 May 2025, Branch Secretary Kate Ruttiman stated the delay was due to ‘reasons as discussed with [staff members] on 14 May 2025’, referring to a meeting between staff of the Commission’s Registered Organisations Services

Branch and the AEU's National and Branch Secretaries. I now consider whether the reasons provided by the Branch during that meeting were sufficient for me to allow for a later lodgement under section 189(2) of the *Fair Work (Registered Organisations) Act* 2009 (the **Act**).

[5] In considering the request, consideration of the matter's background is necessary. It is noted that the rules of the Branch (the **rules**)<sup>1</sup> provide for scheduled elections for all Branch offices:

- first, for thirty-four (34) **Branch Councillors** which are directly elected every two (2) years by all financial members of the Branch per sub rules 2(2) and 2(3); and
- second, for the **Branch Executive**, the offices of which are elected every year by and from the Branch Council per sub rule 6(1)(a). Rule 6 specifies that the Branch Executive consists of a Branch President, Branch Deputy Vice President, Branch Secretary and Branch Deputy Secretary ('the Branch offices') in addition to nine (9) Executive Members.

[6] The previous scheduled election for Branch Councillors occurred in October 2021 (**E2021/127**) with declarations of results being issued by the Australian Electoral Commission (the **AEC**) on 13 October 2021. In accordance with the relevant rules, the terms of offices of the Branch Council members commenced on **20 January 2022** and were deemed to have expired two (2) years afterwards, on **19 January 2024**.<sup>2</sup>

[7] The previous scheduled election for the Branch Executive occurred in early 2023 (**E2022/184**) with declarations being issued on 9 February 2023. The terms of office for these officers commenced on 1 March 2023 with an election for these offices required to have been held between **20 January and 29 February 2024** (the following year).<sup>3</sup>

[8] There is an obligation on organisations and branches to have elections conducted in accordance with their rules. Failure to lodge prescribed information when required is a civil penalty provision.<sup>4</sup> The failure occurred in circumstances where the Commission sent out 'election courtesy letters', the function of which was to assist in alerting organisations and their branches to upcoming scheduled elections (in this case, both of which were due to be held in early 2024). Accordingly, the Commission dispatched two such letters to the Branch on 4 July and 3 October 2023. Staff of the Commission had also contacted the Branch on 28 July 2023 in response to a request for further information and advised the Branch about its obligations and the requirement to lodge prescribed information two months prior to the date specified for opening of nominations for the upcoming elections. No response or further information was provided by the Branch.

[9] Commission staff again contacted the Branch on 11 October 2024 to express concern that Council and Executive elections were clearly overdue. Commission staff arranged a phone consultation on 30 October 2024 during which Branch staff agreed that the elections were behind schedule and undertook to provide the relevant prescribed information (or, at the least, a draft thereof). However, the Branch failed to lodge the prescribed information or submit any

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<sup>1</sup> The Branch rules (the **rules**) form part of the rules of the organisation, which have been most recently amended on 25 October 2024 [R2024/99]. The rules which applied at the time of the expected 2024 elections were those certified on 9 August 2023 [R2023/54]. More recent rule amendments on 25 October 2024 [R2024/99], 2 September 2024 [R2024/118], 24 July 2024 [R2024/81 and R2024/90] and 28 March 2024 [R2023/135, R2023/137 and R2024/38] have not affected Branch office elections.

<sup>2</sup> See sub rule 2(3).

<sup>3</sup> See sub rule 6(2).

<sup>4</sup> Section 189(2), RO Act.

kind of timeline for its provision, notwithstanding multiple further attempts by Commission staff, via both phone and email in each of November and December 2024, and February 2025.

[10] In May 2025, Commission staff contacted the Acting National Secretary of the AEU, and the Branch Secretary, to arrange for a meeting to discuss, among other things, the long-overdue prescribed information for the Branch elections.

[11] An online meeting was held on 14 May 2025. During the meeting, the Branch Secretary acknowledged that the deadline for the lodgement of the prescribed information should have been met and attributed the failure to staffing issues (including new employees and staff absences) and various communication issues between staff members and officers within the Branch. The Branch Secretary undertook to arrange for the lodgement of prescribed information by the end of the following week. The prescribed information was ultimately lodged on 26 May 2025.

[12] I am not satisfied that the reasons provided by the Branch are a sufficient ground to justify the failure to comply with a statutory obligation. 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 the rules formulated by the organisation themselves, I decline on this occasion to allow, under section 189(2) of the Act, a later day for lodgement. The failure to lodge the prescribed information before the prescribed day therefore renders the AEU liable for a civil penalty provision pursuant to section 189(2) of the Act.

[13] In reaching my decision I have reviewed the history of the Commission's interactions with the Branch relating to this matter, noting the Commission's many attempts to contact the Branch across a ten-month period, by email and telephone, about the outstanding prescribed information (in addition to the two courtesy letters and phone consultation in 2023). Commission staff had also offered to review any draft materials and drew the attention of Branch staff to the Commission's registered organisation education program, including a tailored Governance to You program which could have been adapted to cover election requirements. I further note that the delay (some nineteen (19) months) in lodging the prescribed information has resulted in what I consider significant extensions of incumbent officers' terms of office – with Branch Executive officers elected in 2023 having their single-year terms extended by at least fifteen (15) months – i.e. in practical terms, more doubling the length of their terms – and Branch Councillors (normally offices of two-years' duration) having their terms extended by at least seventeen (17) months.

[14] I further note that the Branch has yet not outlined its proposed steps to ensure future compliance. The Commission therefore intends to communicate further with both the Branch and the AEU in relation to this.

[15] In similar election decisions, the Delegate has emphasised that the normal and reasonable expectation is that registered organisations and their branches take steps to ensure that they comply with the timeframe requirements set out not only in the RO Act but also in the rules of their own organisation (which the organisation itself has formulated.) It could reasonably be expected that, following multiple contacts and correspondence from the Commission, the Branch would be prompted to take steps to prepare and lodge prescribed information for Branch elections, even if that information was somewhat delayed. Unfortunately, it appears that deficiencies in the Branch's systems and processes compounded delays for the already-late lodgement. This had the flow-on effect of extending current officers' terms of office far beyond that which was comprehended by the rules.

[16] As already stated, I am not satisfied that the reasons provided regarding late lodgement are sufficient grounds to justify the failure to comply with a statutory obligation. I decline on this occasion to allow, under section 189(2) of the Act, a later day for lodgement. I again draw attention to the fact that the failure to lodge before the prescribed day exposes the AEU to liability under a civil penalty provision, pursuant to section 189(2) of the Act. Such failure can also serve to undermine the object of democratic control of organisations as set out in the objects of the Act.

[17] I also draw attention to the matter of *Registered Organisations Commission v Australian Hotels Association* [2019] FCA 1516, civil penalty proceedings arising from non-lodgement and late lodgement of prescribed information such the Australian Hotels Association's Queensland Branch, which resulted in elections not being held when they were required to be.<sup>5</sup>

[18] The refusal of an extension of time under section 189(2) of the Act does not, however, affect a determination of an election notification matter for the purposes of section 189(3) of the Act.

[19] I am satisfied that an election for the abovenamed offices is required to be held under the rules of the organisation (in fact, it is overdue in relation to two sets of offices) 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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<sup>5</sup> <https://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/single/2019/2019fca1516>.

## **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, Kate Julie Ruttiman, being the Branch Secretary of the Australian Education Union Queensland Branch make the following statement:

1. I am authorised to sign this statement containing prescribed information for Australian Education Union Queensland Branch.
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.
  - A. The reason it is lodged after the prescribed time is:
    - a. Reasons as discussed with [REDACTED] on 14 May 2025.
    - b. A commitment to submit this information by 23 May 2025 was provided during the above mentioned discussion.

**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:**

Kate Julie Ruttiman

Branch Secretary – Australian Education Union Queensland Branch

Dated: 26 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](mailto: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
Queensland	Branch Councillor	Thirty-four (34)	Direct Voting System	Scheduled	Financial members of the Australian Education Union (Queensland Branch) as at the close of the roll – Federal Branch Rule 2(2).
Queensland	Branch Executive	Nine (9)	Collegiate electoral system	Scheduled	Financial members of the AEU (Queensland Branch) Branch Council as at the close of the roll – Federal Branch Rule 6(1)(b).
Queensland	Branch President	One (1)	Collegiate electoral system	Scheduled	Financial members of the AEU (Queensland Branch) Branch Council as at the close of the roll – Federal Branch Rule 6(1)(a).
Queensland	Branch Deputy President	One (1)	Collegiate electoral system	Scheduled	Financial members of the AEU (Queensland Branch) Branch Council as at the close of the roll – Federal Branch Rule 6(1)(a).
Queensland	Branch Secretary	One (1)	Collegiate electoral system	Scheduled	Financial members of the AEU (Queensland Branch) Branch Council as at the close of the roll – Federal Branch Rule 6(1)(a).
Queensland	Branch Deputy Secretary	One (1)	Collegiate electoral system	Scheduled	Financial members of the AEU (Queensland Branch) Branch Council as at the close of the roll – Federal Branch Rule 6(1)(a).

- Important dates:

	<b>Direct Voting System</b>	<b>Collegiate Electoral System</b>
<b>Nominations OPEN</b>	To be determined by the Returning Officer – Federal Branch Rule 9(3)	At least seven (7) days prior to the date on which nominations close – Federal Branch Rule 9(2).
<b>Nominations CLOSE</b>	14 days after nominations open – Federal Branch Rule 9(1).	Between 20 January and 1 March 2026 – Federal Branch Rule 6(2). Alternatively – to be determined by returning officer
<b>Roll of Voters cut off date</b>	7 days prior to nominations opening – Queensland branch Rule 13(9A)	Seven (7) days before the day on which nominations are opened – Queensland Branch Rule 13(9A).

**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](#)