



Fair Work
Commission

DECISION

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

Australian Nursing and Midwifery Federation
(E2025/82)

MR STEENSON

SYDNEY, 21 AUGUST 2025

Arrangement for conduct of election.

[1] On 13 August 2025 the Western Australian Branch (the **Branch**) of the Australian Nursing and Midwifery Federation (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:

Branch President	(1)
Branch Executive Members	(2)
Branch Councillors	(9)

Late lodgement of prescribed information

[2] The *Fair Work (Registered Organisations) Act* (**the Act**) sets out requirements for when prescribed information must be lodged – namely, when an election is required to be held under the rules of the organisation – and it specifies the timeframe in which it must be lodged. Section 189(2) of the Act and regulation 138(3) of the *Fair Work (Registered Organisations) Regulations 2009* specify that it must be lodged by a ‘prescribed day’, which is at least two months before the day on which nominations are due to open under the organisation’s rules.

[3] The Branch did not lodge the prescribed information in the required timeframe. Rule 85.1.7 of the organisation’s rules relevantly states that elections for the Branch officers ‘*shall be conducted between the 1st day of September and the 30th day of October every fourth year, provided that the Returning Officer may call for nominations prior to the first of September in the year of elections.*’

[4] It is a well-established proposition that an election commences not later than the opening date of the period during which nominations of candidates may be lodged¹. That is, an election period commences the day that nominations open.

¹ *Egan v Maher* (No 1) (1978) 35 FLR 197, Evatt J at 229-330

[5] Rule 85.1.7 of the organisation's rules provides that the default position is for Branch elections to commence on 1 September in an election year, but that the Returning Officer has the discretion to call for nominations to open on a date before 1 September. Therefore, the *latest date* for prescribed information to be lodged for the 2025 Branch election was 1 July 2025. The 13 August 2025 lodgement was considerably later than that.

[6] Each organisation has rules setting out which elected officers it has, what their terms of office are, and when their elections are due. Using information such as this, the Commission has established a system of reminders to organisations and their branches about their compliance obligations, including elections. In the case of election-related obligations, this includes sending a reminder to the organisation or branch where it appears that an election will soon be due under their rules.

[7] A review of the Commission's records shows that such a reminder was sent to the Branch on 30 May 2025, drawing its attention to the apparent upcoming election, including a prompt to 'work out the nominations open date ...' and to lodge prescribed information 'at least 2 months before the nominations open date'. By the beginning of August, no prescribed information had been lodged in response which prompted Commission staff to contact the Branch on 6 and 7 August 2025 to follow up further. The Branch lodged prescribed information soon after, albeit already late.

[8] The prescribed information indicated a preference for nominations to open on 25 August 2025. However, that would appear to be logistically impossible since the prescribed information was only lodged with the Commission 12 days before the date that the Branch preferred for nominations to open, and would have required both the issuing of an election decision by this Commission and considerable work by the Australian Electoral Commission (AEC) during that short period (rather than the two months that lodging by the prescribed day would have given).

Request for an extension of time

[9] On 13 August 2025 (the date that the prescribed information was lodged), the Branch formally requested that the Commission permit a later date for lodgement of prescribed information. In effect, the Branch sought to have the Commission allow the 13 August lodgement as an on-time lodgement when this was later than the prescribed day (being 1 July 2025). The Branch's request set out the reasons for the delay.

[10] In summary, the Branch indicated that the prescribed information was lodged late because the Branch currently has a casual vacancy election (**E2025/11**), which has yet to commence, to fill the office of Branch Secretary for the remainder of its term of office. This Commission issued a decision earlier this year to arrange for the AEC to conduct the casual vacancy election.² The Branch notes that the casual vacancy election was delayed (apparently at the Branch's request) while it conducted an audit of its register of members which would likely affect the roll of voters.

[11] The keeping of an accurate register of members is a serious obligation for organisations and branches under the RO Act.³ The Branch is to be commended for undertaking an audit to ensure its accuracy. However, the Branch is also required to meet its obligation to have elections, to ensure the democratic control of the organisation, and it does this by lodging prescribed information. The requirement for on-time lodgement of prescribed information remains. The Commission notes that a thorough audit of a membership register of

² [2025] FWCD 13, issued 24 January 2025 in matter E2025/11

³ *Registered Organisations Commissioner v Transport Workers' Union of Australia* [2018] FCA 32,

approximately 42,000 members⁴ is hardly a small task, however the Commission understands that this task began some months ago.

[12] The normal and reasonable expectation is that registered organisations and their branches will take steps to ensure that they comply with the timeframe requirements set out in the Act and also in their own rules. Having considered all relevant matters, I decline on this occasion to allow, under section 189(2) of the Act, a later day for lodgement.

[13] The refusal of an extension of time under section 189(2) of the Act does not, however, affect the determination of an election notification matter for the purposes of section 189(3) of the Act, i.e. determining whether an election is required to be conducted.

[14] 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.

Request for elections E2025/11 and E2025/82 to be conducted concurrently

[15] The Branch has also requested that election **E2025/11** be conducted concurrently with this election **E2025/82**. I encourage the AEC to accommodate this request and to use its best endeavours to commence the conduct of both elections as soon as possible.

[16] The Branch should note that a roll of voters will need to be made available to the AEC for the conduct of the election.



DELEGATE OF THE GENERAL MANAGER

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PR790734

⁴ Based on the number of members listed in the Operating Report which forms part of the Branch's Financial Report [FR2024/137](#)



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**Australian
Nursing &
Midwifery
Federation**

13 August 2025

[REDACTED]
Senior Advisor
Governance and Protected Disclosures
Registered Organisations Services Branch
Fair Work Commission

By email: [REDACTED]
CC: *regorgs@fwc.gov.au*

Dear [REDACTED]

RE: Elections for certain ANMF, WA Branch offices

I refer to your emails dated 6 and 7 August 2025.

Please see **enclosed** Prescribed Information for Elections for the following offices in the Western Australia Branch of the Australian Nursing and Midwifery Federation:

- Branch President (1);
- Branch Executive Members (2);
- Branch Councillors (9).

As outlined in the Prescribed Information (see paragraphs 4A(a) to (b)), there is also presently an election planned for the office of Branch Secretary (1) which was delayed earlier this year while the WA Branch conducted an audit of its roll of members: E2025/11.

It would be efficient for the outstanding election for the office of Branch Secretary to now also be held at the same time as the other elections for office identified above, and it may be appropriate for this to be drawn to the attention of the Australian Electoral Commission.

Yours faithfully

[REDACTED]
Romina Raschilla
State Secretary
ANMF WA Branch

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

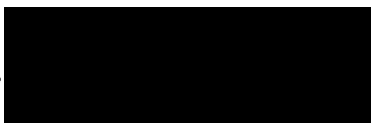
I, Romina Raschilla, being the Secretary of the Western Australia Branch of the Australian Nursing and Midwifery Federation make the following statement:

1. I am authorised to sign this statement containing prescribed information for the Western Australia Branch of the Australian Nursing and Midwifery 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.
4. 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. There is presently an election planned for the office of Branch Secretary (1): E2025/11.
 - b. E2025/11 was delayed earlier in 2025 while the WA Branch conducted an audit of its roll of members.
 - c. On about 6 and 7 August 2025, [REDACTED], Senior Advisor, Governance and Protected Disclosures, Registered Organisations Services Branch, contacted me to draw my attention to ANMF WA Branch Transitional subrules 92.1.2, 92.1.4 and 92.1.7 that required the elections for offices set out in the table in Annexure A to be conducted between 1 September and 30 October this year, and that the prescribed information in relation to these elections was overdue.
 - d. The audit referred to in sub-paragraph 4A(b) above has been continuing and I had not appreciated that the prescribed information drawn to my attention by [REDACTED] was overdue.
 - e. An extension of time request was not lodged for this election, but an extension of time to today's date is now requested.

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: 13 August 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 [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
WA	Branch President	1	Direct Voting System	Scheduled	All financial members of the WA Branch (Rule 85.4.1)
WA	Branch Executive Members	2	Direct Voting System	Scheduled	All financial members of the WA Branch (Rule 85.4.1)
WA	Branch Councillors	9	Direct Voting System	Scheduled	All financial members of the WA Branch (Rule 85.4.1)

- Important dates:

	Direct Voting System	Collegiate Electoral System
Nominations OPEN	To be determined by the Returning Officer (Rule 85.1.7), preference 25 August 2025	Insert date and reference the relevant rule; or 'To be determined by returning officer' if the rules provide
Nominations CLOSE	To be determined by the Returning Officer (85.1.7), preference 8 September 2025	Insert date and reference the relevant rule; or 'To be determined by returning officer' if the rules provide
Roll of Voters cut off date	7 days prior to nominations opening (Rule 85.4.1)	Insert date and reference the relevant rule

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*](#).