

Aged & Community Services
Association of NSW & ACT
Incorporated

Level 1, 391 Liverpool Road
Ashfield NSW 2131
(access via Beatrice Street)

TEL 02 9799 0900 • 1800 424 770

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EMAIL mail@agedservices.asn.au

WEB www.agedservices.asn.au

ABN 13 737 853 254



31st May 2004

The Industrial Registrar
Australian Industrial Registry
Level 8 Terrace Towers
80 William St
East Sydney ,NSW, 2011

Dear Sir,

I wish to apply for the Industrial Registry to arrange for the conduct of an election to fill our Board positions as required under Sect 214 of the Workplace Relations Act . In accordance with Reg 61 the following information is provided.

61.(1)(a) The positions requiring election are:
6 Directors.

61(1)(b)(i) The reason for the election is that elected term of office of these positions expires this year.

All financial members are entitled to vote.

61 (1)(f)(i) The voting system to be employed in the conduct of the election is direct voting (standard preferential voting system).

We have developed the timeframe below, which should be acceptable.

- | | |
|-----------------------|---------------------------------------|
| 1. Invite nominations | 30 July 2004 Friday |
| 2. Close nominations | 20 August 2004 Friday |
| 3. Post Ballot Papers | 3 Sept. 2004 Friday |
| 4. Close Ballot | 24 Sept. 2004 Friday |
| 5. Result to ACS | 5 th October. 2004 Tuesday |
| 6. ACS AGM | 26 th October 2004 Tuesday |

I draw your attention to some minor changes to the First Schedule of the Association's rules, which deals with the conduct of elections and the closing of the voting rolls.

Please note that this timing has been developed to allow the election result to be announced prior to our AGM on Tuesday October 26th 2004. October as set out in our rules. I trust this meets with your approval.

If you require any further information please contact Robin Smith
Administration Manager of the Aged & Community Services Association of
NSW & ACT Inc.

Yours faithfully,

A handwritten signature in cursive script that reads "Paul Sadler".

Paul Sadler
Chief Executive Officer



Australian Government
Australian Industrial Registry

Level 8, Terrace Towers
80 William Street, East Sydney, NSW 2011
Telephone: (02) 8374 6666
Fax: (02) 9380 6990

FACSIMILE

TO	Paul Sadler		
Organisation	Aged & Community Services Association of NSW & ACT Incorporated		
Phone No.	(02) 9799 0900	Fax No.	(02) 9799 0800
FROM	Dean Superina		
Location	Australian Industrial Registry		
Phone No.	(02) 8374 6506	Fax No.	(02) 9380 6990
No of Pages (including cover)	7	Date	1 June 2004
Please notify sender if not all pages were received.		Time	1:30 PM

Any information about individuals contained in this fax is **CONFIDENTIAL** and may **NOT** be used or disclosed further. If you are **NOT** the intended recipient, please contact the sender **IMMEDIATELY**.

MESSAGE:

Dear Mr Sadler


I refer to your letter of 31 May 2004 in which you seek the Industrial Registrar arrange for the conduct of an election for the members of your Board.

Please note that requests of this nature must be lodged pursuant to s189 of the Registration and Accountability of Organisations Schedule (the RAO Schedule) to the *Workplace Relations Act 1996*. The attached Fact Sheet on the RAO Schedule provisions includes a sample "Statement and Notice of Prescribed Information" required to be lodged under Regulation 136 of the Workplace Relations (Registration and Accountability of Organisations) Regulations which you wish to use as a "checklist" to ensure your organisation's notice is complete.

Once your organisation lodges the prescribed information, I will arrange to place the matter before the Deputy Industrial Registrar for his consideration.

If you have any queries, please contact me on 8374 6506.

Yours sincerely



Dean Superina

Registration and Accountability of Organisations Legislation Fact Sheet

Elections in Organisations and their Branches

The Registration and Accountability of Organisations Schedule (Schedule 1B to the *Workplace Relations Act 1996*) [the RAO Schedule], generally comes into operation on 12 May 2003. The RAO Schedule contains most of the matters previously dealt with in the body of the *Workplace Relations Act 1996* [the Act], which relate to the registration and functioning of organisations of employers and employees under the Act. The *Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002* [the RAOCP Act], deals with various transitional provisions arising from the introduction of the Schedule.

Main Changes

New provisions concerning elections take effect from 12 May 2003. These new provisions are set out in sections 182 to 199 of the RAO Schedule, and regulations 131 to 146 of the workplace Relations (Registrations and Accountability of Organisations) Regulations (the RAO Regulations).

The statutory scheme for elections in organisations, which has existed since 1989, continues. The Registrar is still required to arrange for the conduct of elections for offices by the Australian Electoral Commission (AEC), with provision being made for exemptions, however there have been some important changes.

The main changes are as follows:

Notification of elections

The AEC is now formally authorised to conduct elections for *non-office* positions in organisations and branches (ss182(3) and 187).

Election notifications now require *more detailed reasons* for the election to be stated as well as *the closing day for the roll of voters*¹ as provided for under the rules of the organisation².

**Note concerning exemptions:* the existing exemption provisions have been retained at s183 and exemptions issued under the previous legislation will continue.

Conduct of elections

Secret postal ballots for an office must use a *prescribed declaration envelope* (s188)

The *Register of members* must be supplied to Returning Officer (on demand) (s191)

Organisations and branches are prohibited from using their property and resources to *favour* one candidate over another candidate in an election (s190)

Post-election reports by AEC (*this is a new requirement*)

AEC must provide a *post-election report* to the Industrial Registrar and the organisation (or branch) for which the election was conducted (s197)

An organisation (or branch) must *respond* to adverse post-election reports and *make available* relevant information to members (s198)

Organisation's rules concerning elections

Provision has now been made for the adoption of *model election rules* (s147)

Rules of organisations must now provide the *closing day for the roll of voters* - being a day no earlier than 30 days and no later than 7 days before the day nominations open (s143(3)).

Inquiries into elections by Federal Court of Australia

The AEC has new responsibilities to apply for inquiries, by the Federal Court of Australia, into alleged irregularities in elections for offices of organisations (s200).

The two issues that most directly involve the obligations of the Industrial Registry concerning elections, being Notification of elections and Post-election reports are discussed in more detail below. A sample notice of prescribed information, set out according to the new provisions, is also provided.

NOTIFICATION OF ELECTIONS

The general requirement that all elections for office holders of organisations and branches be conducted by the AEC through arrangements made by the Registrar continues to apply under the RAO Schedule (s182(1)). The expense of conducting such elections is borne by the Commonwealth.

Section 189 of the RAO Schedule requires the Registrar to arrange for the conduct of an election by the AEC once the prescribed information has been lodged. Before arranging for the conduct of the election, ***the Registrar must be satisfied that an election is required to be held under the rules of the organisation***. This criteria reflects the terms of the previous legislation. Where the election is for a 'non-office' position, the Registrar must also be satisfied that the organisation (or branch) has made a request under s187.

Note: further information concerning elections for non-office positions is provided below.

Organisations to notify Registrar of prescribed information

The prescribed information required to be lodged in the Registry to trigger the arrangements for the AEC to conduct an election has been modified to include notification of the following:

- *non-office positions,*
- *the reason for the election being:*
 - the term of the office or position has expired or is due to expire in the normal course of events; or
 - a casual vacancy in the office or position has occurred or will occur imminently; or
 - a new office or position has been created; or
 - the office or position was not filled at the previous election. (see Reg 136(1)(b)),
- *the day provided for in the rules, being the day on which the roll of voters is to be closed.*³

The above information is in addition to the existing requirement that the name and numbers of each office or position be provided as well as the identification of the electorate, the dates and times for the opening and closing of nominations and specification of the voting system to be used (whether by a direct voting system or a collegiate electoral system).

A sample notification of prescribed information is attached at the end of this facts sheet

Elections for 'non-office' positions

A new provision has been introduced to formalise arrangements for the ***AEC to conduct elections for non-office positions***.

Prior to the commencement of the RAO Schedule there was no formal mechanism to make arrangements for the AEC to conduct non-office elections, even though it may have been a requirement of an organisation's rules.

Under subsection 182(3) and section 187 of the RAO Schedule, organisations and branches can now request elections to be conducted by the AEC for positions in the organisation and branches that are not the holders of an office as defined under section 9 of the RAO Schedule. In such circumstances, as long as proper notice is given to the AEC and lodged with the Industrial Registrar, and the rules of the organisation require such an election, then the AEC must conduct the election.

It should be noted that an election for non-office positions will remain exempt from the Federal Court's jurisdiction relating to inquiries into election irregularities (s200).

Exemption from using AEC

The provisions for exempting organisations or branches from the requirement to use the AEC for the conduct of elections has been replicated at ss182(2), 183, 184, 185 and 186 of the RAO Schedule.

Exemptions previously granted remain in force

Exemptions previously granted under section 213 of the *Workplace Relations Act 1996* are preserved by operation of the transitional provisions⁴.

POST-ELECTION REPORTS

Section 197 of the RAO Schedule requires the AEC to provide a written *post-election report* on the conduct of the election to the Industrial Registrar and to the organisation or branch for whom the election was conducted.

Contents of post-election report

If the AEC is *of the opinion* that the register of members made available to it for the purposes of a postal ballot contained an unduly large proportion of members' addresses that were not current or comprised workplace addresses, then the AEC must state that in the report (s197(3)).

Similarly, if the AEC is *of the opinion* that a particular rule was *difficult to interpret or apply* it must note that fact and must also refer to any relevant model rules, which in the opinion of the AEC, could assist the organisation or branch to address the matter (s197(4)).

Certain other details that must be included in the *post-election report* are:

- the declaration of the result of the election
- the number of written allegations (if any) of irregularities made to the AEC during the election
- action taken by the AEC in relation to those allegations
- any other irregularities identified by the AEC and action taken by the AEC in relation to those other irregularities (reg 141)

Post-election report to be given to Industrial Registrar and organisation (or branch)

The *post-election report* is to be given to the Industrial Registrar and the organisation or branch for whom the election was conducted within 30 days of the completion of the election (reg 141).

The *AEC must publish a notice on its website* advising that a copy of the report can be obtained on the request of a member who was eligible to vote in the election (reg 141).

Post-election reports will not apply to an election that commenced (i.e. nominations opened) prior to the commencement of the RAO Schedule (that is, prior to 12 May 2003)⁵.

Availability of post-election reports

In the case of elections which require a ballot, the AEC must advise each voting member of an organisation of the availability of a post-election report from the organisation or branch, or from the AEC, on the request of a member (reg 139). In addition, an organisation or branch that has a website must, as soon as practicable after receiving the post-election report, publish on its website a notice of the availability of a copy of such report (reg 141(4)).

Organisation or branch to respond to adverse post-election reports

An organisation or branch must provide a written response to the AEC within 30 days of receipt in the case of a post-election report which identified **rules that were difficult to interpret or apply**. (s198). If the report does identify such rules, this part of the report is referred to as the **relevant extract** (s198(3)).

Organisation or branch only required to respond if post-election report identifies difficult rules

If the post-election report of the AEC is not adverse and does not contain a *relevant extract* that refers to difficult rules then the organisation (or branch) is not required to take any further action.

Publication of "relevant extract" of AEC post-election report and publication of organisation or branch response to such extract - by journal or newspaper or website

An organisation or branch in receipt of an adverse post-election report concerning difficult rules must make available to its members the *relevant extract* of the AEC report and a copy of its *response*.

Section 198 and regulations 141 and 142 provide for the ways in which the availability of the AEC's relevant extract and the organisation's response is to be publicised to the membership. The general requirement is that the material is to be made available within 30 days of receiving the report from the AEC or by publishing the material in the next edition of the organisation or branch journal where it is reasonably practicable to do so. Without limiting the ways in which an organisation or branch complies with the publication requirements of subsection 198(3) an organisation or branch will comply if it does all of the following:-

- the organisation or branch is to publish the relevant extract and its response in the next edition of the organisation or branch journal that it is reasonably practicable to do so, and
- within 30 days give notice that free copies of the relevant extract and response is available to members who were eligible to vote in the election - this notice is to be published either in the next edition of the organisation or branch journal where it is reasonable practicable to do so or in an appropriate newspaper that covers the relevant geographic area, and
- the organisation or branch is to publish its response to the AEC report on its website (if it has one) within 14 days of giving this response to the AEC (reg 142(2)).

Relevant extract and response to be lodged in Registry

An organisation or branch must also lodge in the Industrial Registry a copy of the relevant extract and its response together with a *declaration* undertaking to provide a copy of the relevant extract and the response to any member on request (s198(6)).

Increased security of ballot material and new offences

The powers of electoral officials conducting elections have been strengthened to help ensure the security of ballot papers and so reduce the scope for irregularities or procedural defects (s193).

New Offences

The RAO Schedule introduces several new offences in relation to elections.

* Bribery and interference - it is an offence to interfere with ballot papers, bribe a person, or threaten a person with violence or loss, for example to withdraw a nomination to stand for office or to vote in a particular way (s185).

* Use of violence - it is an offence to use violence or cause injury or loss to a person who has objected to an organisation's application for an exemption from the requirement that its elections be conducted by the AEC (s185).

* Assistance of candidates - it is an offence for an organisation's property to be used to help one candidate against another candidate in an election for office or other position (s190).

This material has been prepared by the Australian Industrial Registry as a general guide to the Workplace Relations (Registration and Accountability of Organisations) legislation. This material should not be treated as advice on the circumstances of any particular case. This material does not have any legal status; the relevant law is set out in Schedule 1B to the Workplace Relations Act 1996 (the RAO Schedule), the RAO Schedule Regulations, and the Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002.

SAMPLE

Statement and Notice of Prescribed Information under Regulation 138

I, John Smith, Victorian Branch Secretary of the Australasian Workers Union, make the following statement:

I am the Victorian Branch Secretary of the Australasian Workers Union,

I am authorised to lodge the following prescribed information concerning forthcoming elections in the Victorian Branch of the Australasian Workers Union, and

I confirm that the following information is being lodged under subsection 189(1) of the RAO Schedule.

Signed: John Smith, Victorian Branch Secretary of the Australasian Workers Union

Dated: 15 May 2003

Offices/Positions

A	Branch President (Direct voting system)
	Branch Vice-Presidents (2) (DVS)
	Branch Secretary (DVS)
	Branch Treasurer (DVS)
	Branch Executive Committee Members (15) (DVS)
	Branch Delegates to National Council (5 together with Branch Secretary who is ex officio a member of National Council) (Collegiate election)
B	Branch Councillors (2) (DVS)
C	Branch Assistant Secretary (DVS)
D	Branch Representatives to Trades Council (2) (Collegiate)
	Branch Representative to ACTU (Collegiate)

Reasons for election:

election for offices and positions marked A and D respectively is required as the terms of office are due to expire in the normal course of events under the rules of the organisation.

election for offices marked B is required to fill casual vacancies that have recently occurred (documentary information relating to the resignation of the persons holding the offices of Branch Councillor is enclosed)

election for the office marked C is required because this is a new position that has been created under the rules.

Elected by:

The electorate for the direct voting system is the whole of the Branch.

The electorate for collegiate electoral system is by and from the Branch Committee (totalling 21 persons)

Nominations open:

For offices to be elected by direct voting system - the first Monday in June

For offices to be elected by collegiate election - at the AGM in September

Nominations close:

For offices to be elected by direct voting system - 12 noon, first Friday in July

For offices to be elected by collegiate election - at the AGM in September

Cut off date for roll: in all cases: 7 days prior to the opening date for nominations - rule 22(g).

[The above sample Notice and Statement would satisfy each of the particulars required under s189(1) and subregulations 138(1)(a)-(g). The Notice and Statement are required to be lodged at least 2 months before the first day of nominations as set out in the rules of the organisation - a Registrar may allow for a later day - see subsection 189(2) and subregulations 138(2) and (3). The requirement to lodge election information under s189(2) is a civil penalty provision - s305 refers.]

1 Section 143(1)(e)(i) makes a new requirement, that for all direct voting system elections, the rules must make provision for the day on which the roll of voters closes. That day must be between 7 and 30 days before nominations open [s143(3)].

2 Item 26 of the relevant transitional provisions (the RAOCP Act) prevents the Industrial Registrar from reviewing the rules of organisations for any new requirements imposed by the RAO Schedule for a period of 6 months from the commencement of the RAO Schedule (that is, by 12 November 2003).

3 See footnotes 1 and 2 above

4 Item 2 of Part 1 of Schedule 1 of the *Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002* provides:

"An authorisation, certificate, decision, declaration, determination, direction, exemption, injunction, order, notice or permission that:

(a) was made, given or granted under a repealed provision; and

(b) was in force immediately before commencement;

continues in force on and after commencement as if it had been made, given or granted under the corresponding provision of the RAO Schedule."

5 Item 34 of Part 1 of Schedule 1 of *Workplace Relations Legislation Amendment (Registration and Accountability of Organisations) (Consequential Provisions) Act 2002*.

AIRC SYDNEY 61 2 93806990

(AUTO)

THE FOLLOWING FILE(S) ERASED

FILE	FILE TYPE	OPTION	TEL NO.	PAGE	RESULT
066	MEMORY TX		97990900	07/07	OK

ERRORS

1) HANG UP OR LINE FAIL 2) BUSY 3) NO ANSWER 4) NO FACSIMILE CONNECTION



Australian Government

Australian Industrial Registry

Level 8, Terrace Towers
80 William Street, East Sydney, NSW 2011
Telephone: (02) 8374 6666
Fax: (02) 9380 6990

FACSIMILE

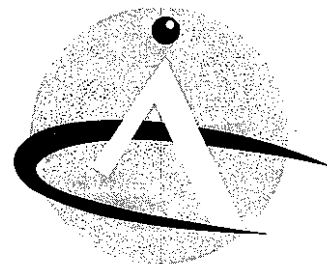
TO	Paul Sadler		
Organisation	Aged & Community Services Association of NSW & ACT Incorporated		
Phone No.	(02) 9799 0900	Fax No.	(02) 9799 0800
FROM	Dean Superina		
Location	Australian Industrial Registry		
Phone No.	(02) 8374 6506	Fax No.	(02) 9380 6990
No of Pages (including cover)	7	Date	1 June 2004
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MESSAGE:

Dear Mr Sadler

I refer to your letter of 31 May 2004 in which you seek the Industrial Registrar arrange for the conduct of an election for the members of your Board.



Aged & Community Services
Association of NSW & ACT
Incorporated

Level 1, 391 Liverpool Road
Ashfield NSW 2131
(access via Beatrice Street)

TEL 02 9799 0900 • 1800 424 770

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WEB www.agedservices.asn.au

ABN 13 737 853 254

Mr Dean Superina,
Australian Industrial Registry
Level 8, Terrace Towers
80 William Street
East Sydney NSW 2011

Dear Dean,

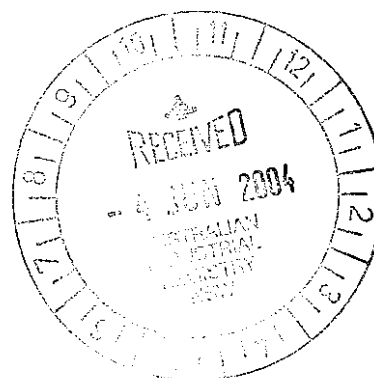
Elections for Board Positions(6)
Lodgement of Prescribed Information

Thank you for your fax of 1st June 2004 providing guidance to enable our Association to lodge the prescribed information pursuant to S 189 of the Workplace Relations Act 1996.

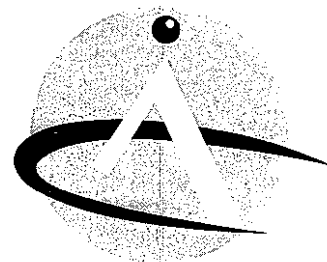
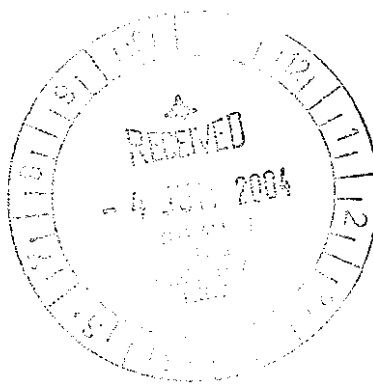
The Statement and Notice of Prescribed Information under Regulation 138 is now lodged.

Yours sincerely,

Robin Smith
Administration Manager
3 June 2004



Elections of Office Bearers



**Aged & Community Services
Association of NSW & ACT
Incorporated**

Level 1, 391 Liverpool Road
Ashfield NSW 2131
(access via Beatrice Street)

TEL 02 9799 0900 • 1800 424 770

FAX 02 9799 0800

EMAIL mail@agedservices.asn.au

WEB www.agedservices.asn.au

ABN 13 737 853 254

Statement and Notice of Prescribed Information under Regulation 138

I, Paul Sadler, Chief Executive Officer of the Aged & Community Services Association of NSW & ACT Inc. make the following statement:

I am the Chief Executive Officer of the Aged & Community Services Association of NSW & ACT Inc.

I am authorised to lodge the following prescribed information concerning forthcoming elections for the Aged and Community Services Association of NSW & ACT Inc.

I confirm that the following information is being lodged under subsection 189(1) of the RAO Schedule.

Signed:

Paul Sadler

Paul Sadler, Chief Executive Officer of the Aged and Community Services Association of NSW & ACT Inc.

Dated 3 June 2004

Offices/ Positions

Directors (6)

Reasons for election:

Election for all offices/ positions listed above is required as the terms of office are due to expire in the normal course of events under the rules of the organisation.

Elected by:

The electorate for the direct voting system is for all of the 6 Directors.

Nominations Open:

For officers to be elected by direct voting system – Friday 30th July 2004

Nominations Close:

For officers to be elected by direct voting system – Friday 20th August 2004.

Cut off date for roll: in all cases: 7 days prior to the opening date for nominations – per Rule 24.12, part 1.1 of First Schedule.

Superina, Dean
From: Superina, Dean
Sent: Friday, 4 June 2004 10:45 AM
To: 'industrial.elections@aec.gov.au'
Subject: Election - Aged & Community Services Association

See attached PI and rulebook for the abovementioned election.



Revised PI ASA Aged &
E2004-196.pdfunity Services 2

Dean Superina
NSW RIA Branch
Australian Industrial Registry
Ph: 02 8374 6506
Fax: 02 9380 6990
Email: Dean.Superina@air.gov.au



Australian Government

Australian Industrial Registry

Level 8, Terrace Towers
80 William Street, East Sydney NSW 2011
Telephone: (02) 8374 6666
Fax: (02) 9380 6990

Mr Paul Saddler
Chief Executive Officer
Aged Care Association of NSW & ACT
Level 1, 391 Liverpool Road
ASHFIELD NSW 2131

Dear Mr Sadler

**Re: Arrangements for the conduct of an Election
(E2004/196)**

A copy of the Registrar's decision in relation to the above matter is enclosed.

The Registrar is making arrangements, under subsection 189(3) of Schedule 1B of the *Workplace Relations Act 1996*, with the Electoral Commissioner for the conduct of the subject election by a member of staff of the Australian Electoral Commission, who will contact you in the near future about the election.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Alana', with a long horizontal flourish extending to the right.

Alana Paterson
for Deputy Industrial Registrar

10 June 2004



Australian Government
Australian Industrial Registry

Level 8, Terrace Towers
80 William Street, East Sydney NSW 2011
Telephone: (02) 8374 8666
Fax: (02) 9380 6990

Electoral Commissioner Through
Australian Electoral Officer (industrial.elections@aec.gov.au)

Under subsection 189 of Schedule 1B of the Workplace Relations Act 1996, please arrange for the conduct of the following election by the Australian Electoral Commission:

E No 2004/196

Aged Care & Community Services Association of NSW & ACT

Positions:

Board Positions (6)

Relevant Information: Direct postal ballot

Contact: Robin Smith
Administration Manager

Phone: (02) 8799 0900

A copy of the decision is enclosed.

I further request that you arrange for this office to be notified that arrangements for the conduct of this election have been made, by email transmission at industrial.elections@air.gov.au

A handwritten signature in black ink, appearing to read 'Alana Paterson', followed by a horizontal line.

Alana Paterson
for Deputy Industrial Registrar

10 June 2004

✓ **PATERSON, Alana**

From: PATERSON, Alana
Sent: Thursday, 10 June 2004 9:03 AM
To: 'industrial.elections@aec.gov.au'
Subject: E2004 196 ACCSA

Please find attached a letter and decision regarding the above election,

Regards,

Alana Paterson



ACSA E2004
196.pdf

Workplace Relations Act 1996
s.189 of Schedule 1B - arrangement for conduct of an election

Aged & Community Services Association of NSW & ACT Incorporated
(E2004/196)

BARRY JENKINS
INDUSTRIAL REGISTRAR

SYDNEY, 9 JUNE 2004

Arrangement for conduct of election.

DECISION

[1] On 1 June 2004 the abovenamed organisation lodged in the Industrial Registry prescribed information in relation to the conduct of an election to fill the following vacancies:

Director (6)

[2] 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 Schedule 1B of the Workplace Relations Act 1996, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



Workplace Relations Act 1996 – Schedule 1B

RETURNING OFFICER - POST ELECTION REPORT

<u>Client:</u>	Aged & Community Services Association of NSW & ACT Incorporated		
<u>Contact details:</u>	Paul Sadler Chief Executive Officer ASA Level 1, 391 Liverpool Rd Ashfield NSW 2131	<u>Email:</u>	mail@agedservices.asn.au
		<u>Tel:</u>	(02) 9799 0900
<u>AIR contact officer:</u>	Dean Superine	<u>Email:</u>	industrial.elections@air.gov.au
		<u>Tel:</u>	(02) 8374 6506

ELECTIONS COVERED IN THIS REPORT

<u>Election Decision No/s:</u>	E2004/196
<u>Election:</u>	Directors (6)
<u>Returning Officer:</u>	Rhys Richards

RULES

<u>Rules used for elections Rule ID</u>	[133:N]: Incorporates alterations of 24 May 2004] [R2004/253]
<u>Rule/s re eligibility to vote</u>	Nil
<u>Rules difficult to apply/interpret</u>	1.1 Of the first schedule (page 29 of 36) Advertisement of election in ASA Gazette. This Journal no longer in circulation. 3.1 Of the first schedule (page 30 of 36) This rule does not allow sufficient time to rectify defective nominations between closing of nominations and posting out of ballot papers.
<u>Action taken under section 193 of RAO Schedule</u>	3.1 Of the first schedule (page 30 of 36) Increased the number of days from 10 to 14. To allow sufficient time to rectify defective nominations and arrange ballot papers.

ROLL OF VOTERS

As a Ballot was not required, therefore a Roll of Voters was not requested
--

ALLEGATIONS OF IRREGULARITIES RECEIVED

There were no written complaints or allegations of irregularities

ATTACHMENTS

Declaration of Result for Uncontested Offices

Rhys Richards
Returning Officer
30 August 2004

**Aged & Community Services Association of NSW & ACT
Incorporated
Directors (6)**

DECLARATION OF RESULTS FOR UNCONTESTED OFFICES

Results of the election for the following offices conducted in accordance with the provisions of the Workplace Relations Act 1996 and the rules of the organisation

E2004/196

Aged & Community Services of NSW & ACT Incorporated

Directors (6)

Candidates

ALCORN, Bruce
BAREMANS, John
BYRON, Denis
CURRAN, Errol
TOWNSEND, Elwyn George

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

Rhys Richards
Returning Officer

30 August 2004

**Aged & Community Services Association of NSW & ACT
Incorporated
Directors (6)**

DECLARATION OF RESULTS FOR UNCONTESTED OFFICES

Results of the election for the following offices conducted in accordance with the provisions of the Workplace Relations Act 1996 and the rules of the organisation

E2004/196

Aged & Community Services of NSW & ACT Incorporated

Directors (6)

Candidates

ALCORN, Bruce
BAREMANS, John
BYRON, Denis
CURRAN, Errol
TOWNSEND, Elwyn George

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

Rhys Richards
Returning Officer

30 August 2004

Workplace Relations Act 1996 – Schedule 1B

RETURNING OFFICER - POST ELECTION REPORT

<u>Client:</u>	Aged & Community Services Association of NSW & ACT Incorporated		
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ELECTIONS COVERED IN THIS REPORT

<u>Election Decision No/s:</u>	E2004/196
<u>Election:</u>	Directors (6)
<u>Returning Officer:</u>	Rhys Richards

RULES

<u>Rules used for elections Rule ID</u>	[133:N]: Incorporates alterations of 24 May 2004] [R2004/253]
<u>Rule/s re eligibility to vote</u>	Nil
<u>Rules difficult to apply/interpret</u>	1.1 Of the first schedule (page 29 of 36) Advertisement of election in ASA Gazette. This Journal no longer in circulation. 3.1 Of the first schedule (page 30 of 36) This rule does not allow sufficient time to rectify defective nominations between closing of nominations and posting out of ballot papers.
<u>Action taken under section 193 of RAO Schedule</u>	3.1 Of the first schedule (page 30 of 36) Increased the number of days from 10 to 14. To allow sufficient time to rectify defective nominations and arrange ballot papers.

ROLL OF VOTERS

As a Ballot was not required, therefore a Roll of Voters was not requested
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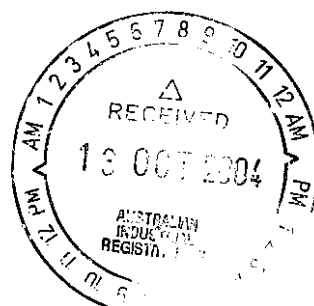
ALLEGATIONS OF IRREGULARITIES RECEIVED

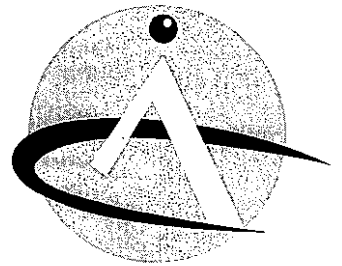
There were no written complaints or allegations of irregularities

ATTACHMENTS

Declaration of Result for Uncontested Offices

Rhys Richards
Returning Officer
30 August 2004





Aged & Community Services
Association of NSW & ACT
Incorporated

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East Sydney

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Dear Sir

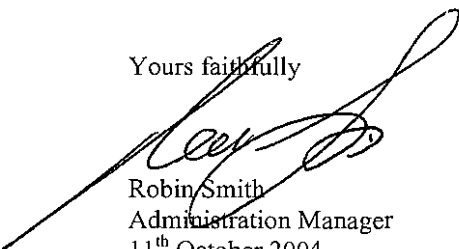
ACS Elections

Response to Post Election Report: Australian Election Commission

We attach the AEC Post Election Report together with our response to this report.

Advise of the Post Election Report, the ACS response and notice that free copies of these documents are available to members was published in our fortnightly newsletter ("Brief Update") sent to all members on 11/10/2004. This newsletter also advised that the documents were posted to the ACS website on 11/10/2004.

Yours faithfully


Robin Smith
Administration Manager
11th October 2004





Mr Rhys Richards
Returning Officer
Australian Electoral Commission
P.O. Box 529
Haymarket, NSW 1239

Aged & Community Services
Association of NSW & ACT
Incorporated

Dear Rhys

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Post Election Report
Decision No E2004/196 Six Directors September 2004

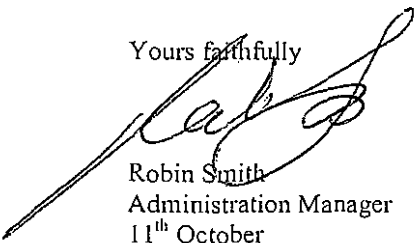
We are in receipt of your election Report, forwarded to us by the Australian Industrial Registrar, and now reply to that report.

1. Rules difficult to apply

The ACS Rules, First Schedule Clauses 1.1 and 3.3 were changed to delete all reference to the now defunct "ACS Gazette" and replaced with reference to other forms of communication with our members. Matter R 2004/161 is our reference. We attach a copy of the current rule.

2. We consider clause 3.1 of the First Schedule provides adequate time (10 days) to correct defective nominations between the closing of nominations and the posting out of ballot papers. However, your concerns will be discussed by management and change of rules will be considered to be put forward at the 2005 AGM.

Yours faithfully


Robin Smith
Administration Manager
11th October

FIRST SCHEDULE
CONDUCT OF ELECTIONS
(Rule 24.12)

1. Advertising and Inviting Nominations

1.1 Whenever, pursuant to Rule 24.6, the Honorary Secretary/Treasurer notifies the need for an election to fill any vacancy in office, the Returning Officer, who shall be appointed by the Australian Electoral Commission, shall notify each member at least 40 days prior to the date of the Annual General Meeting, or the day fixed for declaration of the poll, as the case may be and invite nominations. The roll of voters shall be closed 7 days before the opening of nominations.

1.2 Only Life Members and duly authorised representatives of financial members of the Association as recorded in the Membership Register at the date of certification provided by the Honorary Secretary/Treasurer in accordance with Rule 24.7 shall be eligible to vote and or nominate for election.

Provided that each member may only nominate one representative to the Board.

1.3 The Returning Officer shall forward by post, to each member entitled to vote at the election, a nomination form which shall include, or be accompanied by, notification of the closing date for nominations which he/she shall fix and which shall be not less than 14 days from the date on which he/she posts the nomination forms nor later than 4.00 p.m. on the 21st day prior to the day fixed for declaration of the poll.

1.4 The aforesaid notification shall also state:

- (a) that nominations will not be received by the Returning Officer after the closing date so fixed;
- (b) that a nomination will not be valid unless a signed consent of the nominee is received by the Returning Officer before the closing date; and
- (c) the address to which the nominations and consents are to be forwarded.

1.5 A nomination shall in every case be in writing, shall be signed by the proposer and seconder and shall be assented to in writing by the nominee.

1.6 Nominations and consents shall be forwarded so as to reach the Returning Officer not later than 4.00 p.m. on the date fixed by him/her pursuant to paragraph 1.3 above.

1.7 The Returning Officer shall inspect the nominations and consents received and satisfy himself/herself, as far as he/she reasonably can, that each of them is in order.

1.8 If only the required number of valid nominations is received, the Returning Officer shall certify to the Honorary Secretary/Treasurer that the said candidate/s have been elected unopposed.

1.9 If less than the required number of nominations is received, the Returning Officer shall, as soon as possible thereafter, furnish the Honorary Secretary/Treasurer in writing with particulars of such valid nominations and his declaration of the election of such candidates.

1.10 If more than the number of valid nominations required to fill any vacant position or positions is received, the Returning Officer shall conduct a secret postal ballot, under standard preferential voting, to fill such vacancy or vacancies as the case may be.

2. Preparation of Ballot Papers and Roll of Voters

- 2.1 In the event of a postal ballot being required in accordance with these rules, the Returning Officer shall cause to be prepared a sufficient number of ballot papers on which shall appear the names of the candidates and directions for voting.
- 2.2 The Honorary Secretary/Treasurer shall, prior to the dispatch of ballot papers to voters, furnish the Returning officer with a certificate to the effect that the accompanying list of eligible voters represents members of the Association who were financial at the date of the closing of the roll of voters.
- 2.3 The order in which the names of candidates for a particular position are to appear on the ballot paper shall be determined by lot as drawn by the Returning Officer.
- 2.4 The directions for voting shall instruct the voter to mark an order of preference for all candidates for a particular position by using the numbers 1,2,3 and so on up to the number of candidates. Provided that, the Returning Officer shall not treat as invalid a ballot paper on which the voter has voted for at least the number of candidates to be elected.

3. Forwarding and Return of Ballot Papers

- 3.1 The Returning Officer shall, within ten (10) days after the closing date for nominations, forward to every member entitled to vote in the election/s a ballot paper or ballot papers initialled by the Returning Officer, together with a declaration envelope with a removable flap or label and a prepaid envelope addressed to the Returning Officer at an address arranged by him/her for the return of ballot papers as set out in paragraph 3.4 below. Both envelopes must comply with the forms prescribed by the Workplace Relations (Registration and Accountability of Organisations) Regulations 2003.
- 3.2 If the Returning Officer is satisfied that any such ballot paper has been destroyed, lost, damaged or misused and, in the case of a damaged or misused ballot paper, on receipt thereof, he/she shall supply to the person to whom the original ballot paper was supplied a substitute ballot paper which he/she shall have initialled and which shall be marked "substitute ballot paper".
- 3.3 The Returning Officer shall advise all voters of the closing date for the receipt of returned ballot papers which he/she shall fix and which shall be not less than 14 days from the date he/she posts such ballot papers, nor later than noon on the second day before the date fixed for the Annual General Meeting in the case of an annual election. Such notice shall also be forwarded to members together with the details of the candidate's personal profile to be furnished with every candidate's nomination.
- 3.4 The Returning Officer shall arrange for the use of a post office box or other receptacle to which ballot papers may be returned and shall arrange for such ballot papers not to be opened by any person other than himself/herself or his/her deputy.
- 3.5 A voter shall not mark a ballot paper or any unaddressed envelope containing the same with his/her name or otherwise disclose his/her identity thereon or therein, except for the purpose of completing the removable flap or label on the declaration envelope.

4. Scrutiny of Ballot Papers

- 4.1 The Returning Officer shall, on the day following the closing date for the receipt of returned ballot papers, collect the same from the box or receptacle referred to in paragraph 3.4 above and, at the place fixed by him/her for the conduct of the election, prepare the prepaid envelopes for opening.
- 4.2 In the presence of such scrutineers as may be present pursuant to paragraph 7.1 below, the Returning Officer shall place the envelopes face down, open the prepaid envelopes and withdraw the declaration envelopes containing the ballot papers.

- 4.3 The Returning Officer shall remove the flap or label from the declaration envelopes and then open the envelopes and withdraw the ballot papers therefrom and mix the ballot papers so that separate identification becomes impossible.
- 4.4 Each ballot paper shall be scrutinised by the Returning Officer. Any ballot paper which:
- (a) does not carry the initials of the Returning Officer; or
 - (b) does not indicate a vote for at least the number of candidates to be elected; or
 - (c) carries any mark or writing which could identify the voter;

shall be declared informal and shall be set aside as finally dealt with and not admitted to the count.

5. Counting of Votes

- 5.1 The whole of the valid ballot papers admitted to the count by the Returning Officer shall be arranged in such a manner as will facilitate the counting of votes under standard preferential voting.
- 5.2 In the case of an election of one candidate to fill a single vacancy, the procedure for the counting of votes shall be as follows:
- (a) A candidate must poll an absolute majority (that is, in excess of 50 percent) of all formal votes to be elected.
 - (b) In the event of a person who has already been elected to a more senior office also being a candidate for a less senior office, such candidate shall be treated as the first exclusion from the election for the lower office and the second preference votes appearing on ballot papers showing a first preference for that candidate in respect of the lower office shall be distributed and regarded as first preference votes and included as such in the initial count of first preference votes.
 - (c) If after all first preference votes are counted, no candidate has obtained an absolute majority of all formal votes, then the candidate with the fewest number of first preference votes shall be excluded. That excluded candidate's second preference votes shall then be distributed to the remaining candidates.
 - (d) If after that exclusion no candidate has obtained an absolute majority of formal votes, the next remaining candidate with the fewest votes shall be excluded and all of his or her votes (that is, first preference votes plus any votes received from the first excluded candidate) distributed to the remaining candidates according to that candidate's second preferences.
 - (e) The above process shall be continued until one candidate obtains an absolute majority of formal votes and is thereby elected.
 - (f) If at any exclusion, the next available preference is for a previously excluded candidate, then that preference shall be disregarded and the vote distributed to the next continuing candidate for whom the next available preference is shown.
- 5.3 Where the election of more than one candidate is required, the first successful candidate shall be elected in accordance with the procedure set out in section 5.2 above and the election of additional candidates shall proceed as follows:
- (a) Following the election of the first candidate, all ballot papers shall be sorted back to first preference votes (including those to be treated as such in accordance with paragraph 5.2(b) above) and all ballot papers containing a first preference vote for the

first elected candidate shall then be distributed to the remaining candidates according to the second preference votes on such ballot papers and any candidate thus obtaining an absolute majority of votes is thereby elected.

- (b) If no candidate has then received an absolute majority, the candidate with the fewest votes shall be excluded and his or her votes (that is, first preference votes plus any votes received from the previously elected candidate) distributed to the next available preference among the remaining candidates.

This process shall be continued until a candidate has obtained an absolute majority of votes and is thereby elected as the second successful candidate.

- (c) Following the election of the first and second candidates, all ballot papers shall be sorted back to first preference votes as described in paragraph (a) of this section and ~~all ballot papers showing a first preference for the two elected candidates shall be~~ sorted to the next available preference and shall be distributed among the remaining non-elected candidates and a candidate thus obtaining an absolute majority of votes shall be the third elected candidate.

- (d) If no candidate has received an absolute majority, the candidate with the fewest votes shall be excluded and his or her votes (that is, first preference votes plus any votes received from the previously elected candidates) shall be distributed to the next available preference among the remaining non-elected candidates.

This process shall be continued until a candidate has obtained an absolute majority and is thereby elected.

- (e) If there are more than three candidates to be elected, the above process shall be repeated until the required number of candidates have been elected.

6. Declaration of the Poll

- 6.1 On completion of the counting of votes, the Returning Officer shall advise the Honorary Secretary/Treasurer in writing of the results of the election.
- 6.2 The Honorary Secretary/Treasurer shall cause the Returning Officer's declaration of the poll to be submitted to the Annual General Meeting in the case of an annual election or, to the next ensuing meeting of the Board in any other case.

7. Appointment and Duties of Scrutineers

- 7.1 In any such election each duly nominated candidate shall be entitled to appoint, by writing under his or her signature, any member or registered authorised representative of a member of the Association (other than another candidate) to act as scrutineer on his or her behalf at the election and the candidate may so appoint any member or registered authorised representative of a member of the Association in substitution for or in place of such person.
- 7.2 Scrutineers shall, so far as is possible having regard to the time of their appointment, be entitled to observe the admission and counting of votes and the conduct of the election and the declaration of the poll.
- 7.3 In every case the scrutineer shall observe any direction given by the Returning Officer and the Returning Officer shall take all reasonable steps, by notification or otherwise, to enable each scrutineer to exercise his or her rights, but no election shall be vitiated by reason of the fact that a scrutineer does not in fact exercise any or all of such rights if he or she has had reasonable opportunity to do so.
- 7.4 A scrutineer shall do all things necessary so that the conduct of the election shall conform to the Rules and so that the secrecy of the ballot shall be preserved.



Australian Government
Australian Industrial Registry

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Mr Robin Smith
Administration Manager
Aged & Community Services Association of NSW & ACT Incorporated
Level 1, 391 Liverpool Road
ASHFIELD NSW 2131

Dear Mr Smith

Re Post-Election Report and Alterations to Rules (R2004/161)

I refer to your letter dated 11 October 2004 enclosing the organisation's response to the Australian Electoral Commission's Post-Election Report.

In your response you advise the Australian Electoral Commission that sub-clause 1.1 of the First Schedule had been altered in matter R2004/161.

A closer examination of the rules certified on 14 April 2004 shows, however, that this is not the case. At Item 17 on the second page of the '**Particulars of Alterations**' document lodged on 11 March 2004 (see copy attached) the resolution states that the words "*published in the ASA Gazette*" are to be deleted from "*clause 3.3*" only. As the Registrar had regard only to the particulars (see also correspondence attached), the rule alterations that were certified did not include an alteration to sub-clause 1.1. This reflected the omission of a reference to sub-clause 1.1 in the particulars.

In view of the situation, the Registry suggests that the organisation makes the appropriate rule alteration (if not already made) and lodges an application under s159 of Schedule 1B of the *Workplace Relations Act 1996* at its earliest convenience, or prior to the next election.

I look forward to receiving your reply at your earliest convenience. If you have any queries, please contact me on 8374 6607.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Stephen Kellett', followed by a horizontal line.

Stephen Kellett
for Deputy Industrial Registrar

25 October 2004