

From: ACA-A National <nat@aca.org.au>
Sent: Monday, 4 July 2016 10:32 AM
To: industrial.elections@aec.gov.au
Cc: Steve Kennedy; BALL, Debbie
Subject: Association of Consulting Architects - NSW/ACT E2016/93 Post Election Report from the AEC

The ACA thanks Lee Jones and the Australian Electoral Commission for the Post Election Report and for the direction to clarify Rule 36(6) of its Constitution.

Rules 36(6) states:

36 - ELECTION OF BRANCH COMMITTEE MEMBERS

(6) If, at the closing of nominations, at least 5 nominations have been received for Branch Committee members, the Returning Officer may declare those persons elected without inviting further nominations for those offices.

ADD an additional sub rule to Rule 36 to clarify what is to happen should less than 5 nominations are received:

(7) If there are less than five (5) valid nominations received, the Returning Officer shall declare the successful candidates elected and then proceed to immediately call for further nominations for the remaining unfilled offices. The election for the unfilled offices is conducted in accordance with Rule 36.

The ACA will consult with the Fair Work Commission on the Rule change and look to put the Rule change to a vote of the membership at the Annual General Meeting scheduled in December 2016.

The ACA will publish a notice in its July 2016 newsletter advising members that a copy of the post-election report is available upon request by contacting nat@aca.org.au

Should you wish to discuss or clarify any aspect of the proposed Rule change, please do not hesitate to contact me.

Regards



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Association of Consulting Architects

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27 June 2016

Mr Steve Kennedy
President
Association of Consulting Architects - Australia-New South Wales/Australian
Capital Territory Branch
nsw@aca.org.au

Dear Mr Kennedy

Organisation must respond to the post-election report of the Australian Electoral Commission: E2016/93

On 22 June 2016 the Fair Work Commission (the Commission) received a post election report from the Australian Electoral Commission (AEC) for election E2016/93 dated 22 June 2016. The AEC will have also provided the report to the organisation under section 197 of the *Fair Work (Registered Organisations) Act 2009* (the RO Act).

The report identifies rules that were difficult to interpret or apply, in particular rule 36(6). This letter serves as a reminder of the obligations imposed on the organisation or branch as a consequence of the AEC's report. If a response has already been sent to the AEC and made available to all members please disregard this letter.

A written response must be provided to the AEC

Section 198 of the RO Act requires that a written response is provided to the AEC within 30 days of receipt of the report. The organisation's response must include whether the organisation or branch intends to take action and if so what action the organisation or branch intends to take (s198(2)).

A notice must be published on the organisation's website

The organisation or branch must publish on its website a notice that a copy of the report is available from the organisation, branch or the AEC on request. The notice must be kept on the website for a period of at least 3 months (see regs 141(4) and (5)).

Extract of report and written response must be made available to members

The organisation or branch must make the section of the report relating to the difficult rules available to its members (s198(3)). This extract from the report must be made available to the members before or at the same time as the organisation's response is made available to members.

A copy of the organisation's response must be made available to members either:

- within 30 days after the response is given to the AEC, or
- published in the next edition of the organisation or branch journal (s198(5))

Subsection 198(6) and regulation 142 prescribe ways in which the relevant extract and the copy of the response can be made available to members. These do not limit the ways in which they can be made available to members. The organisation will comply if it does all of the following:-

- publish the report extract and the copy of the response in the next edition of the organisation or branch's journal; and

- within 30 days of giving the response to the AEC:
 - lodges with the Commission a copy of the relevant extract and response, together with a declaration that a copy will be provided to any member who so requests; and
 - give notice in the next edition of the organisation or branch's journal, or an appropriate newspaper, that a copy of the relevant extract and response are available on request to each member free of charge; and
- publish the relevant extract on the website within 14 days after receiving the report, and publish the response on the website within 14 days of giving the response to the AEC (reg 142(2)).

Penalties may apply

If the organisation or branch does not:

- respond to the AEC within 30 days,
- make the extract of the report relating to the rules available to members no later than the organisation's response is made available to members, or
- make the organisation's response available to members within 30 days or in the next edition of the journal,

the organisation may face penalties under the RO Act. Each requirement listed above is a civil penalty provision that may result in fines for the organisation

As noted above, if the response and report have already been made available to members and the AEC, please disregard this letter. If you have any questions in relation to these obligations please contact the Commission for assistance by email to orgs@fwc.gov.au.

If the organisation or branch decides to alter its rules in response to the AEC's report

If the organisation or branch decides to alter its rules in response to the AEC's report, the Regulatory Compliance Branch of the Commission is able to provide advice and assistance regarding draft alterations, as well as about the processes required to make the alterations. We encourage the organisation or branch to forward drafts of proposed alterations to orgs@fwc.gov.au

Yours sincerely

Debbie Ball

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Regulatory Compliance Branch

The Fair Work Commission

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23 June 2016

Mr Steve Kennedy
President

Association of Consulting Architects - Australia-New South Wales/Australian Capital Territory
Branch

nsw@aca.org.au

Dear Mr Kennedy,

Reminder of actions required when persons elected to office

The Australian Electoral Commission has provided the Fair Work Commission (the Commission) a declaration of results for the election [E2016/93]. This letter is a reminder of certain obligations imposed on organisations and persons elected to office.

Section 154D(1) of the *Fair Work (Registered Organisations) Act 2009* (the RO Act) requires the rules of organisations (and branches of organisations) to require each officer with financial management duties to undertake approved training that covers those duties within 6 months after the person begins to hold office. Please ensure that relevant officers undertake approved training within the required timeframe.

Please also ensure that all new holders of office are advised of their obligations to make disclosures regarding remuneration, non-cash benefits and material personal interests, the details of which should be provided for in your organisation's rules.

Also, section 233(2) of the RO Act requires that an organisation must notify the Commission **within 35 days of any changes** to the holders of office in the organisation. **If there are no changes a notification is not required.** If the election has resulted in **any changes** to the holders of office, the Association of Consulting Architects - Australia-New South Wales/Australian Capital Territory Branch must notify the Commission of these changes. In particular, please advise:

1. Person(s) who have ceased to hold office:
 - the name of the office vacated;
 - the date of the change of office holder; and
 - the name of the person vacating the office.
2. Person(s) who have commenced to hold office:
 - the name of the office now held;
 - the date of the change of office holder;
 - the name of the person now holding the office;
 - the postal address of the person (generally the postal address of the organisation); and
 - the occupation of the person now holding the office.

The notification must include a declaration by the Secretary (or other prescribed officer) that the information is a correct statement of the changes made. I have attached a template notification of changes which may assist you. If any change does not apply until a specific date, you don't need to notify until then (e.g. AGM, 1 January, 2nd Monday in March). If you have already lodged this information, please disregard this reminder.

Regards

Debbie Ball
Regulatory Compliance Branch

NOTIFICATION OF CHANGES TO RECORDS (Changes to Records in the Annual Return) required to be kept in accordance with section 230 *Fair Work (Registered Organisations) Act 2009* and regulation 147 *Fair Work (Registered Organisations) Regulations 2009*

I, [NAME], being the [OFFICER] of the [ORGANISATION NAME], declare the following:

1. I am authorised to make this declaration.
2. The following is a correct statement of the changes made to the information contained in the records required to be kept by the organisation in accordance with s.230(1)(b), (c), and (d) of the *Fair Work (Registered Organisations) Act 2009*:

[delete all that do not apply]

- On [DATE] the address of the organisation changed to [STREET ADDRESS].¹
- On [DATE] the name and/or address of a branch[es] of the organisation changed to:²
 1. [include OLD name and address and NEW name and address of every branch that has changed]
 2. ...
- A list of changes to offices and the names, postal addresses and occupations of persons holding those offices is attached to this declaration at Annexure A and forms part of this declaration.
- On [DATE] the following branch[es]:³
 - COMMENCED/CEASED operation:
 1. [include name of each new branch]
 2. ...

Signed: [SECRETARY OR OTHER AUTHORISED OFFICER]

Dated: [DATE]

[PLEASE NOTE: This declaration must be submitted to the Fair Work Commission within 35 days of the change. It can be submitted to orgs@fwc.gov.au.]

¹ s.230(1)(d); reg.147(d)

² s.230(1)(d); reg.147(a) & (d)

³ s.230(1)(d); reg.147(b) & (c)

ANNEXURE A

- Changes to Offices and Office Holders in the Organisation and its Branches [*insert as many pages as required*]:

Please note the 35 days begins at the earliest event (for instance when the officer retires) and an organisation may need to notify the events separately if the appointment or election process will take longer than 35 days.

Branch	Date of Change	Name of Office that has changed	Name of <u>Outgoing</u> Office Holder	Reason for change	Name of <u>New</u> Office Holder	Postal Address of <u>New</u> Office Holder (for privacy reasons, we recommend NOT a private address)	Occupation of <u>New</u> Office Holder
<i>National</i>	<i>1.1.2014</i>	<i>Secretary</i>	<i>Full Name</i>	<i>Retiring</i>	<i>Full Name</i>	<i>c/- the Registered Organisation, postal address of Registered Organisation</i>	<i>Paid official</i>
	<i>25.12.2013</i>	<i>President</i>	<i>vacant</i>	<i>Scheduled Election</i>	<i>Full Name</i>	<i>As above</i>	<i>mechanic</i>
...							
<i>NSW</i>	<i>1.1.2014 (resigned) 7.1.2014 (appointed)</i>	<i>President</i>	<i>Full Name</i>	<i>Resignation</i>	<i>Full Name</i>	<i>c/- the Branch, postal address of the Branch</i>	<i>mechanic</i>
		<i>Committee of Management Member</i>	<i>Full Name</i>	<i>Scheduled Election</i>	<i>Full Name</i>	<i>As above</i>	<i>mechanic</i>
		<i>Treasurer</i>	<i>Full Name</i>	<i>Scheduled Election</i>	<i>vacant</i>	<i>vacant</i>	<i>vacant</i>
...							

Association of Consulting Architects- Australia

NSW/ACT Branch

Declaration of Results for Uncontested Offices

E2016/93/94/95

Below are the results of the election for the following offices, conducted in accordance with the provisions of the *Fair Work (Registered Organisations) Act 2009* and the rules of the organisation.

Stage 1

Branch Committee Members (7)

No nominations were accepted, therefore I declare that no person is elected.

Stage 2

Branch President
Branch Vice President
Branch Secretary
Branch Treasurer

Rule 35 of the organisation's registered rules requires that Branch office-holders be elected in accordance with the procedure described in sub-rule 19(3).

Rule 19(3)(a) provides that the Returning Officer shall send by prepaid post to each of the newly elected representatives a list of the names and postal addresses of all the newly elected representatives and shall invite each of them to nominate in writing for any one or more of the offices.

Rule 19(3)(b) indicates that every newly elected representative whose duly completed and signed nomination form is received by the Returning Officer on or before the closing date specified by him shall be a candidate for the office nominated in the form.

As there were no newly elected Committee Members, I am unable to conduct the election for the above Branch office-holders.

I declare that no person is elected.



Lee Jones
Returning Officer

22 June 2016



Fair Work (Registered Organisations) Act 2009
POST ELECTION REPORT

Client: **Association of Consulting Architects- Australia
NSW/ACT Branch**

ELECTIONS COVERED IN THIS REPORT

Election Decision No/s: E2016/93-94-95

RULES

Rules used for elections Rule ID: [131N: Incorporates alterations of 29/2/2016
[R2015/282]]
(Replaces 31/12/2014 [R2014/296] version)

Rules difficult to apply/interpret: Rule 36(6) requires "If, at the closing of nominations, at least 5 nominations have been received for Branch Committee members, the Returning Officer may declare those persons elected without inviting further nominations for those offices." The intention of this rule is unclear and therefore given no effect by the Returning Officer. It's suggested that the rule be amended to clarify/ensure it reflects the requirements of the organisation.

Model Rule reference (if any):

ROLL OF VOTERS

Total number of voters on the roll N/A

Number of apparent workplace addresses

Number of non-current addresses

Other Matters Nil

ALLEGATIONS OF IRREGULARITIES RECEIVED

Details of written allegations of irregularities, and action taken by AEC: None

Other irregularities identified, and action taken: None

ATTACHMENTS

A: Uncontested Declaration Stage 1 & 2 ACAA NSW-ACT E2016-93-94-95

Lee Jones
Returning Officer
22 June 2016



DECISION

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

Association of Consulting Architects - Australia
(E2016/93, E2016/94, E2016/95)

MR ENRIGHT

MELBOURNE, 20 APRIL 2016

Arrangement for conduct of election.

[1] On 1 March 2016 the New South Wales/Australian Capital Territory Branch, the Western Australia Branch and the Queensland/Northern Territory Branch of the Association of Consulting Architects - Australia lodged with the Fair Work Commission the prescribed information in relation to an election for the following offices:

New South Wales/Australian Capital Territory Branch

Branch Committee Members (7)

Branch President
Branch Vice President
Branch Secretary
Branch Treasurer

Western Australia Branch

Branch Committee Members (8)

Branch President
Branch Vice President
Branch Secretary
Branch Treasurer

Queensland/Northern Territory Branch

Branch Committee Members (Maximum of 9)

Branch President
Branch Vice President
Branch Secretary
Branch Treasurer

[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 the *Fair Work (Registered Organisations) Act 2009*, I am making arrangements for the conduct of the election by the Australian Electoral Commission.



DELEGATE OF THE GENERAL MANAGER

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**PRESCRIBED INFORMATION IN RESPECT OF ELECTION
SECTION 189(1) OF THE FAIR WORK ACT 2009**

I am an officer of the Association of Consulting Architects – Association of Consulting Architects – NSW/ACT and am authorized to sign this statement which is lodged in accordance with subsection 189(1) of the Fair Work Act 2009:

1. The offices in respect of which the elections are required are:

Branch President
Branch Vice President
Branch Secretary
Branch Treasurer

Branch Committee Members 7

- **that branch committee member numbers be not less than 5 nominations and no more than 15 nominations**

2. The reason for which the elections are required are:

Term of office due to expire.

3. The electorate for the election is:

Direct Voting System all members.
Collegiate Election Branch Committee Members.

4. The dates and times that nominations open and close are:

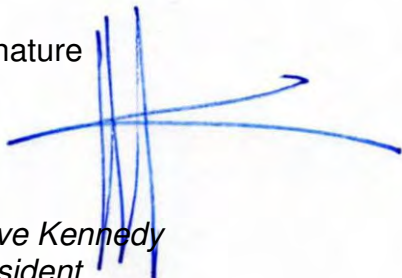
This will be in consultation with the Australian Electoral Commission.

5. The voting systems to be used in the conduct of the election are:

Direct Voting System and Collegiate Election for President, Vice President, Secretary and Treasurer.

6. In accordance with the ACA Constitution Rules 19(3)(f) and 31(2) the roll of voters is to be closed 7 days before the day on which nominations for election open.

Signature



*Steve Kennedy
President*

22 February 2016