

MOUTEVELIS, Michael

From: Jim Leane [Jim.Lean@aec.gov.au]
Sent: Wednesday, 21 January 2015 11:53 AM
To: Orgs
Cc: Peter Verkerk
Subject: FOR INFORMATION - AIMPS (SA Branch) E2014/221 [DLM=For-Official-Use-Only]
Attachments: Post Election Report.doc; Uncontested Declaration.pdf

For-Official-Use-Only

Hi

Please find attached the Post-Election Report for the above matter. Also attached is the Declaration.

Regards

Jim Leane | Divisional Returning Officer
Division of Barker
Australian Electoral Commission
T: (08) 8723 1366 | M: 0413 457 587 | F: (08) 8723 0401



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Fair Work (Registered Organisations) Act 2009

POST ELECTION REPORT

Australian Institute of Marine and Power Engineers

SA Branch Elections

ELECTION COVERED IN THIS REPORT

Election Decision No: E2014/221

RULES

Rules used for the election: National & SA Branch: 009V: Incorporates alterations of 26 September 2013 [R2013/333]
Rules difficult to apply/interpret: None
Model Rule reference (if any): N/A

ROLL OF VOTERS

Total number of voters on the Roll for the Contested Ballot: Not applicable – no ballot
Number of apparent workplaces addresses: Na
Number of non-current addresses: Na
Other matters pertaining to the roll of voters: Na

ALLEGATIONS OF IRREGULARITIES RECEIVED

Details of written allegations of irregularities and action taken by AEC: Nil
Other irregularities identified and action taken: Nil

ATTACHMENTS

Declaration of Results Report – Uncontested Offices

Jim Leane
Returning Officer
20 January 2015

- The Australian Institute of Marine and Power Engineers Scheduled Vacancy SA Branch Election

Declaration of Results for Uncontested Offices

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.

South Australian Branch

Branch President

Candidates

MERE, Peter

Branch Treasurer

Candidates

NOBLE, Robert William

Ordinary Member of Federal Council

Candidates

No nomination was received

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


Jim Leane
Returning Officer

20 January 2015



DECISION

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

The Australian Institute of Marine and Power Engineers (E2014/221)

MR ENRIGHT

MELBOURNE, 31 OCTOBER 2014

Arrangement for conduct of election.

[1] On 22 October 2014, the South Australia Branch (the Branch) of The Australian Institute of Marine and Power Engineers (the organisation) lodged with the Fair Work Commission (the Commission) prescribed information in relation to an election.

[2] On 29 October 2014, the Branch of the abovenamed organisation lodged with the Commission amended prescribed information in relation to an election for the following offices:

Branch President	(1)
Branch Treasurer	(1)
Ordinary Member of Federal Council	(1)

[3] On 9 October 2014, the Commission wrote to the Branch of the abovenamed organisation reminding it of its requirement to lodge prescribed information for a scheduled election and stating that a request for an extension of time to lodge the prescribed information should also be made as it appeared that the prescribed information should have been lodged in September 2014. On 21 October 2014, the Commission again wrote to the Branch of the abovenamed organisation stating that the Commission had not yet received the prescribed information and stating that it appeared the Branch could be in breach of section 189(2) of the *Fair Work (Registered Organisations) Act 2009* (the Act).

[4] On 22 and 29 October 2014, the Branch of the abovenamed organisation requested an extension of time to lodge the prescribed information and stated that the reason for the delay in the lodgement of the prescribed information was due to a misunderstanding over the length of the term of the offices above.

[5] I have considered the circumstances and the reasons provided by the Branch of the abovenamed organisation and have decided to extend the time for lodgement of the prescribed information until 22 October 2014, in accordance with section 189(2) of the Act. I have taken this step so as to prevent any further delay in the conduct of the scheduled election.

[6] 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 Australian Electoral Commission.

[7] However, having regard to the fact that two reminder letters were provided to the Branch of the abovenamed organisation, and having regard to the requirements of the Act, I do not accept the reasons provided satisfactorily explains the failure referred to above. In particular, the application does not make clear the basis upon which the Branch Secretary had held a misunderstanding over the length of the term of the offices above.

[8] The Branch of the abovenamed organisation is urged to carefully consider its compliance obligations with respect to its scheduled elections. Although arrangements are being made for the conduct of an election for the above offices, this does not exclude the possibility of action being undertaken under section 305 of the Act.



DELEGATE OF THE GENERAL MANAGER

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MOUTEVELIS, Michael

From: derek maclucas [derekmacl@hotmail.com]
Sent: Wednesday, 29 October 2014 4:30 PM
To: Orgs
Cc: martin byrne; Henning Christiansen, Federal Secretary AIMPE
Subject: RE: Election E2014/221
Attachments: AIMPE FWC notice of election 2.docx

Dear Michael

As discussed earlier today please find attached the lodgement of the prescribed information concerning the forthcoming election for office holders of the SA branch of the AIMPE

Regards

Derek Maclucas

From: orgs@fwc.gov.au
To: derekmacl@hotmail.com
Subject: Election E2014/221
Date: Mon, 27 Oct 2014 00:34:42 +0000

Dear Mr Maclucas

As discussed on Thursday please find attached information regarding above election.

Regards

MICHAEL MOUTEVELIS
Assistant Adviser
Regulatory Compliance Branch

Fair Work Commission
Tel: (02) 8374 6614
Fax: (02) 9380 6990
Email: michael.moutevelis@fwc.gov.au

Level 10, Terrace Tower, 80 William Street, East Sydney NSW 2011

www.fwc.gov.au

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Australian Institute of Marine & Power Engineers

SOUTH AUSTRALIA BRANCH

ADELAIDE DISTRICT & NORTHERN TERRITORY SUB-BRANCH
22 DIVETT ST PORT ADELAIDE 5014

To Michael Moutevelis
Fair Work Commission
Assistant Advisor
Regulatory Compliance Branch
C/O Terrace Towers
80 William St
East Sydney
NSW 2011

Date; 29/10/14

Dear Sir

Fair Work (Registered Organisations) Act
ELECTION
of SA Branch offices

I, Derek Maclucas, am the elected Branch Secretary of the South Australia Branch of the Australian Institute of Marine and Power Engineers.

I am authorised to lodge the following prescribed information concerning the forthcoming election of the following offices of the **South Australian Branch** Australian Institute of Marine and Power Engineers,

I can confirm that the following information is being lodged under sub section 189[1] of the Fair Work [Registered Organisations] Act 2009

I am also requesting an extension of time to lodge the prescribed information. The delay in lodgement was due a misunderstanding over the length of the term of office for the office positions listed below.

OFFICES

- | | | |
|----|--|------------------------|
| A. | BRANCH PRESIDENT (1) | [Direct Voting System] |
| B | BRANCH TREASURER [1] | [Direct Voting System] |
| C | ORDINARY MEMBER OF FEDERAL COUNCIL [1] | [Direct Voting System] |

Reasons for election:

- Election for above offices 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 the whole of the Branch (rule 33B(i)).

Nominations open:

- For offices to elected by direct voting system – 29/12/14

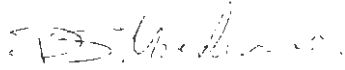
Nominations close:

- For offices to be elected by direct voting system – 12/1/15

Cut off date for roll:

In all cases - 7 days prior to the opening date for nominations (rule 33B(xii

Sincerely



Derek MacLucas
BRANCH & DISTRICT SECRETARY

Email derekmacl@hotmail.com



FAIR WORK
COMMISSION

27 October 2014

Mr Derek Maclucas
Branch Secretary
South Australia Branch
The Australian Institute of Marine and Power Engineers
22 Divett Street
PORT ADELAIDE SA 5015

Also by email: derekmacl@hotmail.com

Dear Mr Maclucas

Arrangements for the conduct of an Election (E2014/221)

I refer to the prescribed information dated 22 October 2014, which was lodged with the Fair Work Commission (**FWC**) on same day for the conduct of an election for the offices of Branch President and Branch Treasurer of the South Australian Branch of The Australian Institute of Marine and Power Engineers.

There are several deficiencies in the prescribed information that will need to be rectified including;

- (1) The prescribed information does not include the office of Ordinary Member of Federal Council as provided for by rule 7(ii)(3) of your rulebook.
- (2) The prescribed information does not provide dates for when nominations are to open. Regulation 138(1)(e) of the *Fair Work (Registered Organisations) Regulations 2009* (the regulations) requires this information.
- (3) The prescribed information you lodged on 22 October 2014 was unsigned
- (4) Your extension of time request did not set out the reason for the delay in lodgement of your prescribed information.

Could you please provide the FWC with amended prescribed information which rectifies the above deficiencies. Please also ensure you sign any amended prescribed information.

For your convenience I have attached a sample prescribed information that you may wish to use a guide by filling out the appropriate sections.

Yours sincerely

Michael Moutevelis
Assistant Adviser
Regulatory Compliance Branch
Fair Work Commission

Notice and Statement of Prescribed Information for an Election¹

I, **Derek Maclucas**, being the **Branch Secretary** of the **South Australian Branch of The Australian Institute of Marine and Power Engineers**, make the following statement:

I am the **Branch Secretary** of the **South Australian Branch of The Australian Institute of Marine and Power Engineers**,

I am authorised to lodge the following prescribed information concerning forthcoming elections in the **South Australian Branch** of the **The Australian Institute of Marine and Power Engineers**, and

I confirm that the following information is being lodged under subsection 189(1) of the *Fair Work (Registered Organisations) Act 2009*.

I am also requesting an extension of time to lodge the prescribed information. The delay in lodgement was due to;

Signed: *[signature]*

Dated: *[27/10/2014]*

Offices

Branch President (1) (Direct Voting System)
Branch Treasurer (1) (Direct Voting System)
Ordinary Member of Federal Council (1) (Direct Voting System)

¹ Adjust declaration as appropriate to reflect the facts.

Reasons for election:

- Election for above offices 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 the whole of the Branch (rule 33B(i)).

Nominations open:

- For offices to elected by direct voting system - _____

Nominations close:

- For offices to be elected by direct voting system - _____

Cut off date for roll:

- In all cases - 7 days prior to the opening date for nominations (rule 33B(xii))

Note:

The above sample Notice and Statement would satisfy each of the particulars required under s.189(1) and the relevant regulations.

Make sure the declaration is adjusted as appropriate to reflect the facts.

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 – the General Manager of the Fair Work Commission may allow for a later day (see subsection 189(2) and regulations).

The requirement to lodge election information under s.189(2) is a civil penalty provision (see s.305).



Copy of Prescribed Information

Title of Matter: Application/Notification by Australian Institute of Marine and Power Engineers, The-South Australia Branch
Section: s.189(1) RO Act - Notification of elections for office
Subject: Regular election for President, Treasurer and Ordinary Member of Federal Council
Matter Number(s): E2014/221

Attn: Electoral Officer

A copy of the Prescribed Information in relation to the above matter is attached for your information.

The election decision will be forwarded to your office in due course.

Inquiries:

Any inquiries relating to this are to be directed to: orgs@fwc.gov.au.

23 OCTOBER 2014

MOUTEVELIS, Michael

From: PFEIFFER, Robert
Sent: Wednesday, 22 October 2014 11:16 AM
To: 'derek maclucas'
Subject: RE: Conduct of Election - Outstanding

Hi Derek,

Further to my earlier email of today, should not the prescribed information include the office of Ordinary Member of Federal Council?

Regards,

ROBERT PFEIFFER
Senior Adviser
Regulatory Compliance Branch

Fair Work Commission
Tel: 03 8661 7936
Fax: 03 9655 0410
robert.pfeiffer@fwc.gov.au

11 Exhibition Street, Melbourne Victoria 3000
GPO Box 1994, Melbourne Victoria 3001

www.fwc.gov.au

From: derek maclucas [<mailto:derekmacl@hotmail.com>]
Sent: Wednesday, 22 October 2014 9:18 AM
To: PFEIFFER, Robert
Cc: martin byrne; bob noble; peter mere; Henning Christiansen, Federal Secretary AIMPE
Subject: RE: Conduct of Election - Outstanding

Good Morning Robert

Please find attached a notification to hold an election for the positions of Treasurer and President of the SA branch of the AIMPE

yours sincerely

Derek Maclucas
AIMPE SA Branch
State Secretary

Date: Tue, 21 Oct 2014 16:18:09 +1100
From: robert.pfeiffer@fwc.gov.au
To: derekmacl@hotmail.com
Subject: Conduct of Election - Outstanding

Please find attached correspondence regarding the matter **E2014/221 - Application/Notification by Australian Institute of Marine and Power Engineers, The-South Australia Branch**

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Australian Institute of Marine & Power Engineers

SOUTH AUSTRALIA BRANCH

ADELAIDE DISTRICT & NORTHERN TERRITORY SUB-BRANCH
22 DIVETT ST PORT ADELAIDE 5014

To Robert Pfeiffer
Senior Adviser
Regulatory Compliance Branch
Regulatory Compliance Branch
C/O GPO box 1994
Melbourne
Victoria
3001

Date; 22/10/14

Dear Sir

Fair Work (Registered Organisations) Act
ELECTION
of SA Branch offices

I, Derek MaLucas, am the elected Branch Secretary of the South Australia Branch of the Australian Institute of Marine and Power Engineers.

I am authorised to lodge the following prescribed information concerning the forthcoming election of the following offices of the **South Australian Branch** Australian Institute of Marine and Power Engineers, and I am requesting that you arrange for the conduct of an election by the Australian Electoral Commission in accordance with s.182 of the Fair Work [Registered Organisations] Act 2009

I am also requesting an extension of time to lodge the prescribed information, in accordance with section 189[2] of the fair work [registered Organisations]Act 2009[the Act] and regulation 138[3][2] of the regulations

OFFICES

- A. BRANCH PRESIDENT (1) (direct election by members of the Branch)
B. BRANCH TREASURER [1] [direct election by members of the Branch]

Sincerely

Derek MacLucas
BRANCH & DISTRICT SECRETARY

Email derekmacl@hotmail.com
Phone 0422523198

Yours Sincerely
Derek MacLucas
AIMPE SA Branch
State Secretary



21 October 2014

Mr Derek MacLucas
Branch Secretary
The Australian Institute of Marine and Power Engineers-South Australia Branch
Sent via email: derekmacl@hotmail.com

Dear Mr MacLucas,

Election Overdue (E2014/221)

I refer to our courtesy letter dated 9 October 2014 which reminded you of your obligation to lodge the prescribed information in relation to the impending election for offices within the South Australia branch. According to the rules of the branch, and from information gathered from our records, the calling of nominations for the next election appeared to commence in the month of September 2014.

On 10 October 2014, I wrote to you and provided a sample copy of the 2012 election prescribed information for your assistance in this matter. It is noted that the prescribed information for your branch's election has not been lodged with the Fair Work Commission as at the date of this letter. Neither has an application been made to the General Manager seeking a later date for lodgement of your branch's prescribed information under the *Fair Work (Registered Organisations) Act 2009* (the 'Act') and the *Fair Work (Registered Organisations) Regulations 2009*. It therefore appears that your branch may now be in breach of s.189(2) of the Act.

Accordingly, it is requested that your branch lodge the required prescribed information for election of President, Treasurer and Ordinary Member of Federal Council within seven (7) days of the date of this letter. Should the relevant prescribed information not be received within this time, the matter will be referred to the General Manager for determination of the further action to be undertaken. This may include applying under s.310(1) of the Act to the Federal Court of Australia for a pecuniary penalty order.

We strongly encourage you to lodge the required information electronically to orgs@fwc.gov.au. An extension of time outlining the reason for the delay is requested with the lodgement of the prescribed information.

Should you seek any clarification in relation to the above, please contact me on (03) 8661 7936 or via email at robert.pfeiffer@fwc.gov.au.

Yours sincerely,

Robert Pfeiffer
Senior Adviser
Regulatory Compliance Branch



9 October 2014

Mr Derek MacLucas
Branch Secretary
The Australian Institute of Marine and Power Engineers - South Australia Branch

Sent via email derekmacl@hotmail.com

Dear Mr MacLucas,

Courtesy Letter - Election for offices [E2014/221]

A perusal of the rules of The Australian Institute of Marine and Power Engineers discloses that an election notice for offices within the South Australia Branch of the organisation is now overdue. It appears from information gathered from the rules of your organisation, and from records held by this office, that an election notice should have been lodged with the Fair Work Commission by now. Our records show that the calling of nominations for the election should occur in November.

This is a courtesy letter to remind you of the obligation to lodge information about the election (known as the 'prescribed information') pursuant to sections 189(1) and (2) of the *Fair Work (Registered Organisations) Act 2009* (the 'Act'). While we endeavour to provide a courtesy letter to every organisation or branch in sufficient time so that the prescribed information can be lodged on time, the obligation to do so ultimately rests with the organisation or branch. Please note that the prescribed information must be lodged with the Fair Work Commission two months before a person may, under the rules, become a candidate in an election.

If you have a different interpretation for the commencement of the election under your rules please let me know, otherwise, the prescribed information should contain details of the election as required by regulation 138(1) of the *Fair Work (Registered Organisations) Regulations 2009* (the 'Regulations'), and should include any subsequent elections such as an election for offices under the collegiate electoral system, if that is relevant. A sample of the prescribed information can be found on our website at www.fwc.gov.au/sample_documents.

The prescribed information can be emailed to orgs@fwc.gov.au and should be done so at your earliest opportunity. Further, when lodging the prescribed information you will need to apply to the General Manager for an extension of time given the lateness of the election notice. Such request will need to set out the reason why your organisation was unable to comply with the requirement.

It should be noted Section 189(2) is a civil penalty provision. Failure to comply may result in legal proceedings being issued with the possibility of a pecuniary penalty being imposed upon an officer and/or your organisation.

When lodging the prescribed information, please quote [E2014/221]

Should you seek any clarification in relation to the above, please contact me on (03) 8661 7936 or via email at robert.pfeiffer@fwc.gov.au.

Yours sincerely,

Robert Pfeiffer
Senior Adviser
Regulatory Compliance Branch