



*Australian Principals Federation*  
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Dear Ms Dugan,

**Post-Election Reports: Election E2015/167; Election E2015/174; Election E2015/208.**

I refer to the Post Election Reports dated 23 February 2016 for the following elections:

Election 2015/167  
Election 2015/174  
Election 2015/208

In those reports the following rules were identified as difficult to apply or interpret:

Rule 10(e)  
Rule 11 (b)  
Rule 21 (e) (ix)(B)  
Rule 21 (e) (i)  
Rule 21 (e) (iii)  
Rule 21 (e)( xii)  
Rule 47 (10) (h) (x) B  
Rule 47 (10)(b)  
Rule 47(10) (h) (i)  
Rule 47 (10)(h)(iv)  
Rule 47 (10)(h)(xiii)  
Rule 47 (15)(h)

The Federation has reviewed the Post-Election Reports and has noted the concerns raised.

The matters raised and the Federation's responses are as follows:

- (a) Incorrect cross-references to other rules (rules 10 (e), 47(10)(b), 47(15)(h)).

The Federation officers propose to recommend to the Council that it correct these reference errors by Rule alteration. It is noted that the correct references were readily apparent.

- (b) References in the Rules to the former Act or Regulations (e.g. Rules 11(b), 21(e)( ix )B, 47(10)(h) (x)B)

The Federation does not accept that the Rules concerned were difficult to apply or interpret within the meaning of section 197(4). Nonetheless, as part of the exercise of correcting references referred to above, the Federation officers propose to recommend to

Council that it update references to be the names of the current Act and Regulations by Rule alteration.

- (c) There are references in the rules to the requirement that in the event of a tied vote the result in some circumstances is to be determined by the Returning Officer drawing lots in the presence of the tied candidates. It is suggested in the Reports that the presence of the candidates appears not to be appropriate in a postal election and it may result in a delay to the declaration of the polls (Rules 21(e)(xii), Rule 47 (10)(h)(xiii))

The Federation does not accept that these rules were difficult to apply or interpret within the meaning of Section 197(4). Nonetheless, the Federation officers propose recommending to Council that it alter the Rule to provide for tied candidates (in the relevant circumstances) to be provided with an opportunity to be present in person or by scrutineer at the drawing of the lots.

- (d) There are references in the rules to the calling of nominations to be by circular posted to members with nominations to be lodged at the postal address of the Returning Officer. The issue identified by the Returning Officer is a concern about the cost and frequency of Australia Post's new delivery schedule in respect of the posting of notices of election and the lodgement of nominations at the postal address of the Returning Officer. (Rules 21(e)(i), 21(e) (iii), 47(10)(h)(i), 47(10)(h)(iv).

The Reports propose that the Returning Office should be able to determine the means of publication of an election notice and the means of lodgement and the receipt of nominations.

The Federation does not accept that these Rules were difficult to apply or interpret within the meaning of section 197(4). Further, the Federation does not propose to alter these rules by omitting reference to the means by which election notices are to be distributed or nominations are to be lodged. The Federation considers it inappropriate for these matters to be left to the discretion of the Returning Officer from time to time.

Finally, I invite the AEC's attention to the terms of section 197(4) of the Act. The provision is not an invitation to the AEC/Returning Officer to comment generally on the rules. Rather, it is confined to rules that are difficult to interpret or apply "in relation to the conduct of the election". In circumstances where an organisation is required to take numerous steps consequent upon a difficult rules report, under threat of civil penalty, it is submitted that such reports should be appropriately confined. In the present case it is clear that at least some of the matters identified could not have arisen in relation to the election concerned. In the event that a Returning Officer wishes to make suggestion about the rules, then it would be open to them to do so, without the threat of civil penalty in relation to the organisation's dealing with the suggestion.

Yours sincerely,



Ron Bamford  
Federal President  
15/03/2016



2 March 2016

Mr David Finnerty  
Federal President  
Australian Principals Federation

[apf@apf.net.au](mailto:apf@apf.net.au)

Dear Mr Finnerty,

**Organisation must respond to the post-election report of the Australian Electoral Commission: E2015/167**

On 29 February 2016 the Fair Work Commission (the Commission) received a post election report from the Australian Electoral Commission (AEC) for election E2015/167 dated 22 February 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 rules 10 (e), 11 (b) and 47 (10). 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

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GPO Box 1994  
Melbourne VIC 3001

Telephone: (03) 8656 4693  
Email : [orgs@fwc.gov.au](mailto:orgs@fwc.gov.au)  
Internet : [www.fwc.gov.au](http://www.fwc.gov.au)

- 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](mailto:orgs@fwc.gov.au).

Yours sincerely

Nick Salzberg  
Regulatory Compliance Branch



1 March 2016

Mr David Finnerty  
Federal President  
Australian Principals Federation

apf@apf.net.au

Dear Mr Finnerty,

**Reminder of actions required when persons elected to office**

The Australian Electoral Commission has provided the Commission a declaration of results for the election [E2015/167]. 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 Fair Work Commission (the Commission) within 35 days of any changes to the holders of office in the organisation. If the election has resulted in any changes to the holders of office, the Australian Principals Federation 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

Nick Salzberg  
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].<sup>1</sup>
- On [DATE] the name and/or address of a branch[es] of the organisation changed to:<sup>2</sup>
  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]:<sup>3</sup>
  - 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](mailto:orgs@fwc.gov.au).]**

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<sup>1</sup> s.230(1)(d); reg.147(d)

<sup>2</sup> s.230(1)(d); reg.147(a) & (d)

<sup>3</sup> 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>
...							



## DECISION

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

### **Australian Principals Federation** (E2015/167)

MR ENRIGHT

MELBOURNE, 23 JULY 2015

*Arrangement for conduct of election.*

[1] On 14 May and 17 June 2015 the Victorian Branch of the Australian Principals Federation lodged with the Fair Work Commission the prescribed information in relation to an election to fill casual vacancies in the following offices:

Branch Councillors comprising:

Primary Sector Representative from the following regions:

North Western (1)  
Statewide (1)

[2] On the same dates the branch lodged the prescribed information in relation to an election for the following offices due to insufficient nominations in E2014/100:

Branch Councillors comprising:

Secondary Sector Representative from the following regions:

North Western (1)  
Statewide (1)

Comprehensive Sector Representative from the following regions:

North Eastern (1)  
Statewide (1)



[3] 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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<Price code A, PR568477>



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### **Victorian Branch**

17<sup>th</sup> June 2015

Prescribed Information for Election – Sec 189 (1) – *Fair Work (Registered Organisations) Regulations 2009 (as amended)*

I, John Handley, of the Australian Principals Federation Victorian Branch make the following statement:

I am an Executive Member of the Australian Principals' Federation Victoria Branch.

I am authorized to lodge the following prescribed information concerning a forthcoming election of the Australian Principals' Federation. (See attached authorization)

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

John Handley  
Australian Principals Federation -Victorian Branch

*Pursuant to Regulation 138 Prescribed Information for election, Fair Work (registered Organisations) Regulations 2009, the following is provided:*

(a) The name of each office or position for which an election is required;

Victorian Branch Council

Six positions as follows:

Primary Sector Representatives for the APF Victorian Branch Council in the following regions

- Statewide 1 position
- North Western Primary 1 position

Secondary Sector Representatives for the APF Victorian Branch Council in the following regions:

- North Western Secondary 1 position
- Statewide 1 position

Comprehensive Sector Representative for the APF Victorian Branch Council in the following regions:

- North Eastern 1 position

- Statewide 1 position

(b) The reasons for the election are:

1. Casual vacancies arising from no nominations having been received at the close of nominations for the Victorian State Branch Council Casual Vacancies Victorian Branch 5th June 2014. Consistent with Australian Principals Federation Rule 47 (23) (b) where the unexpired portion of a vacant term of office is greater than 12 months the vacancy shall be filled by election. Since the Term of office for each of the above expires December 2016 Rules 47 (23) (b) applies.
2. Casual vacancies arising from the resignation of Chris Cotching from the Statewide position on 28<sup>th</sup> January 2015 and John Scobie as Branch Councillor Primary Sector North Western Victoria Region on 18<sup>th</sup> July 2014. (Attached)

**Elected by**

The financial members of the Australian Principals Federation from the sectors of the Regions / Branch as designated.

**Nominations Open**

As soon as possible and to be arranged by the Australian Electoral Commission.

**Nominations close**

At 5.00pm, twenty one days after the opening of nominations.

**Cut-off date for Roll:**

Seven days prior to the opening date for nominations.

**Voting System**

Direct Voting System



*Australian Principals Federation*

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13<sup>th</sup> May 2015

*Prescribed Information for Election – (Sec 189 (1)) – Fair Work (Registered Organisations) Regulations 2009*

I, Ronald Bamford, President of the Australian Principals' Federation, Federal Office, make the following statement:

I am president of the Australian Principals' Federation – Federal Office.

I am authorised to lodge the following prescribed information concerning a forthcoming by-election of the Australian Principals' Federation.

I confirm that the following information is being lodged under subsection 189 (1) of the Fair Work (Registered Organisations) Act 2009 and Regulation 138 of the Regulations.

President – Federal Office  
Australian Principals' Federation

*Pursuant to Regulation 138 Prescribed Information for Election, Fair Work (Registered Organisations) Regulations 2009, the following is provided:*

(a) The name of each office or position for which an election is required;

**Australian Principals' Federation, Federal Council**

Three positions as follows

1. Federal Officer

Senior Vice President: 1 position

2. Federal Councillors

Primary Sector Representatives from WA: 1 position

Primary sector representative from Victoria: 1 position

- (b) The reason for the election is that:
- (i) Chris Cotching, Senior Vice President and Federal Councillor from the Primary Sector in Victoria resigned as a member on 28<sup>th</sup> January 2015.
  - (ii) Noel Strickland, Federal Councillor from the Primary Sector in Western Australia resigned as a member on the 31<sup>st</sup> December 2014.
  - (iii) Rule 17(a) states that there shall be no fewer than 3 Federal Councillors elected by and from the membership of each branch with one extra Federal Councillor for each 500 financial members of each branch. There are current 2 Federal Councillors from WA rather than a minimum of 3. There are only 3 Federal Councillors from Victoria rather than a minimum of 4.

**Elected by**

The financial members of the Australian Principals Federation from the sectors of the Regions / Branch as designated.

**Nominations Open**

As soon as possible and to be arranged by the Australian Electoral Commission.

**Nominations close**

At 5.00pm, twenty one days after the opening of nominations.

**Cut-off date for Roll:**

Seven days prior to the opening date for nominations.