



23 October 2017

Mr Peter Middleton
President
Civil Contractors Federation-Australian Capital Territory Branch
peter@wodens.com.au

Cc: ccfnat@civilcontractors.com

Dear Mr Middleton

Organisation must respond to the post-election report of the Australian Electoral Commission: E2017/93

On 17/10/2017 the Registered Organisations Commission (the ROC) received a post election report from the Australian Electoral Commission (AEC) for election E2017/93 dated 16/10/2017. 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 29(h) and 51(g). 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 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)).

A written response must be provided to the AEC

A written response must be 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)).

Extract of report 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.

Written response must be made available to members

A copy of the organisation's response to the AEC 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 ROC 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 ROC for assistance by email to regorgs@roc.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 ROC is NOT able to provide advice and assistance regarding draft alterations or the processes required to make the alterations. Rule alterations remain a function of the Fair Work Commission.

Yours faithfully

Christine Hibberd

Registered Organisations Commission

16 October 2017

Post-Election Report

Civil Contractors Federation – Australian Capital
Territory Branch – E2017/93

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Election(s) Covered in this Report

Election Decision No/s: E2017/93

Rules

Rules used for the election:	[267V: Incorporates alternations of 01/01/2014] [R2013/109]
Rules difficult to apply/interpret:	Rule 29 (h) and 51 (g) Recall provision at AGM - Nominations called at AGM and if Ballot if required, conducted from those members present. The Fair Work (Registered Organisations) Act 2009 provides for elections for office to be by a Direct Voting System conducted by a secret postal ballot, refer Section 143 (1) (a) (i) and Section 144 (1) and (2). CCF's rules should be varied to comply with the requirements of the Act.
Model Rule reference (if any)	N/A

Roll of Voters

As there were no contested offices, no Roll of Voters was required.

Irregularities

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

Other Matters

Refer Model Rules - AEC website – Elections/Industrial Elections www.aec.gov.au

Part 2 Paragraph 10 of the Model Rule. Withdrawal of Nomination: An organisations' Rules should clearly identify the closing date for the acceptance by the returning officer of withdrawal of nominations

Attachments

- 1). Declaration of Results for Uncontested Offices – ACT Branch

A handwritten signature in black ink that reads "K. Montgomery". The signature is written in a cursive, flowing style.

Kathryn Montgomery
Returning Officer
16 October 2017



16 October 2017

Mr Peter Middleton
President
Civil Contractors Federation-Australian Capital Territory Branch
Sent via email: peter@wodens.com.au

Dear Mr Middleton,

cc: ccfnat@civilcontractors.com

Reminder of actions required when persons elected to office

The Australian Electoral Commission has provided the Registered Organisations Commission (the ROC) a declaration of results for the election of uncontested for the Australian Capital Territory Branch [E2017/93]. This letter is a reminder of certain obligations imposed on organisations and on persons elected to office.

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 regulation 141 of the Fair Work (Registered Organisations) Regulations 2009).

Holders of office required to undertake approved training

Section 293K of the *Fair Work (Registered Organisations) Act 2009* (the RO Act) requires 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 are provided for in the RO Act.

Organisation must notify the Commission of changes

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 Civil Contractors Federation-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. A template notification of changes, which may assist you, is attached. If any change does not apply until a date in the future, you do not 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

Sam Gallichio
Registered Organisations Commission

**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 operation:
 1. [include name of each new branch]
 2. ...
 - CEASED operation:
 1. [include name of each closed branch]

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)

2. ...

Signed: [SECRETARY OR OTHER AUTHORISED OFFICER]

Dated: [DATE]

*[PLEASE NOTE: This declaration must be submitted to the Registered Organisations Commission within **35 days** of the change. It can be submitted to regorgs@roc.gov.au.]*

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	Name of <u>New</u> Office Holder	Postal Address of <u>New</u> Office Holder	Occupation of <u>New</u> Office Holder
National	1.1.2014	Secretary	Full Name	Full Name	c/- the Registered Organisation, postal address of Registered Organisation	Paid official
	25.12.2013	President	vacant	Full Name	As above	mechanic
...						
NSW	1.1.2014 (resigned) 7.1.2014 (appointed)	President	Full Name	Full Name	c/- the Branch, postal address of the Branch	mechanic
		Committee of Management Member	Full Name	Full Name	As above	mechanic
		Treasurer	Full Name	vacant	vacant	vacant
...						

GALLICHIO, Sam

From: Kathryn Montgomery <Kathryn.Montgomery@aec.gov.au>
Sent: Thursday, 21 September 2017 8:51 AM
To: Cameron Spence
Cc: ROC - Registered Org Commission
Subject: E2017/93 CCF ACT Declaration of Result [SEC=UNCLASSIFIED]
Attachments: Declaration Result Uncontested Offices E2017-93.pdf

Civil Contractors Federation – ACT Branch
Scheduled Election E2017/93

Attention Cameron Spence and all candidates

Please find attached the Declaration of Result for Uncontested Offices for the above election which is now complete.

Regards,
Kathryn Montgomery | Returning Officer
Industrial & Commercial Elections | NSW State Office
Australian Electoral Commission
T: (02) 9375 6375 | F: (02) 6215 9910



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Civil Contractors Federation Scheduled Election ACT Branch - E2017/93

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.

Civil Contractors Federation, ACT Branch

Branch President

Candidates

MIDDLETON, Peter

Branch Vice-President

Candidates

BOYD, Martin Francis

Branch Honorary Treasurer

Candidates

FORDE, Nigel Patrick

Branch Board Member (4)

Candidates

GOODSELL, Rory
MACOR, Paul
RITCHIE, Stuart
SACHDEVA, Anisha

National Board Member

Candidates

ZARDO, Nick

Alternate National Board Member

Candidates

MIDDLETON, Peter

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



Kathryn Montgomery
Returning Officer

20 September 2017



DECISION

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

Civil Contractors Federation (E2017/93)

MR ENRIGHT

MELBOURNE, 24 AUGUST 2017

Arrangement for conduct of election.

[1] On 4 April 2017, the Australian Capital Territory Branch (**the Branch**) of the Civil Contractors Federation Branch was provided with a regulatory courtesy reminder letter from the Regulatory Compliance Branch (**RCB**) of the Fair Work Commission (**FWC**) which included the following:

This is a courtesy letter to remind you of your obligation to lodge information about the election (known as prescribed information) pursuant to sub-sections 189(1) and (2) of the Fair Work (Registered Organisations) Act 2009 within the month.

[2] This type of reminder letter is provided to assist registered organisations to comply with their statutory obligations under relevant provisions of the RO Act.

[3] On 1 May 2017 the Registered Organisations Commission (**the Commission**) commenced its operations and a number of previous functions of the FWC were transferred to the Commission under Schedule 1 of the Fair Work (Registered Organisations) Amendment Act 2016, including functions related to elections of office holders of registered organisations.

[4] On 10 May 2017 the Commission wrote to the Branch, referred to the previous courtesy letter dated 4 April 2017 and pointed out that the prescribed information required by the Act had not been lodged nor had any later date been requested. This second letter again required compliance with the Act and advised the Branch that it was exposing itself to the civil penalties available in the Act.

[5] On 7 July and 23 August 2017, the Branch lodged prescribed information with the Commission for a scheduled election to fill the following offices:

Branch President
Branch Vice-President
Branch Honorary Treasurer
Branch Board Members (4)
National Board Member
Alternate National Board Member

[6] The Branch did not lodge the prescribed information before the prescribed day as required by regulation 138(3) of the *Fair Work (Registered Organisations) Regulations 2009*. The prescribed information should have been lodged by 30 June 2017.

[7] The prescribed information lodged on 7 July 2017 stated that the reason for not lodging on time was due to ‘administrative delay.’ The prescribed information lodged on 23 August 2017 did not provide a reason for not lodging on time, but stated that ‘this information is not lodged 2 months prior to nominations opening.’

[8] It is apparent from the information lodged by the Branch that its officials were aware that the prescribed information had not been lodged in accordance with the relevant statutory obligation. Notwithstanding that awareness, no request for an extension of time to mitigate the potential commencement of civil proceedings for a contravention of the RO Act was made.

[9] A reference to ‘administrative delay’ in response to contravening statutory obligations, (after having been reminded and warned) and exposing the Branch to civil penalties falls significantly short, in my view, of the objects of the Act which, among other things, aim to ensure that organisations are efficiently managed and provide high standards of accountability to members.

[10] I am not satisfied that the reason given for the failure to comply with a statutory obligation is justified. Having regard to the normal and reasonable expectation that registered organisations take steps to ensure they comply with the time-frame requirements set out not only in the Act but also in instruments or references pertaining to their own governance formulated by the organisations themselves, I decline on this occasion to allow, under section 189(2) of the Act, a later day for lodgement. As I have made clear above, the failure to lodge the prescribed information before the prescribed day therefore renders the organisation liable to a civil penalty pursuant to section 189(2) of the Act.

[11] I propose to write separately to the Branch to provide an opportunity for it to make submissions about why the Commission should not commence civil proceedings concerning the contravention I have referred to above although that does not affect determination of an election notification matter for the purposes of section 189(3) of the Act.

[12] 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.



DELEGATE OF THE COMMISSIONER

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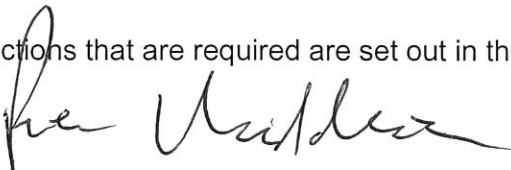
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PRESCRIBED INFORMATION FOR ELECTIONS in accordance with Section 189 *Fair Work (Registered Organisations) Act 2009* and Regulation 138 *Fair Work (Registered Organisations) Regulations 2009*

I, Peter Middleton being the President of the Civil Contractors Federation of the ACT, make the following statement:

1. I am authorised to sign this statement containing prescribed information for the Civil Contractors Federation of the ACT.
2. The following information is lodged under subsection 189(1) of the Fair Work (Registered Organisations) Act 2009 (the RO Act).
3. This information is not lodged not lodged 2 months prior to nominations opening.
4. The elections that are required are set out in the table in Annexure A.

Signed:



Dated: 23 August 2017

[PLEASE NOTE: This statement should be lodged with the Fair Work Commission at least 2 months prior to nominations opening. It can be submitted to orgs@fwc.gov.au.]

ANNEXURE A

- Elections that are required:

Branch	Name of Office	Number required	Voting System <i>Direct voting system; Collegiate electoral system</i>	Reason for Election <i>Scheduled; Casual vacancy; New office created; Insufficient nominations</i>	Electorate
ACT	Branch President	1	Direct	Scheduled	Rule 42(c) – Voting Members of the ACT Branch of the Civil Contractors Federation whose names are recorded in the Branch Register.
ACT	Branch Vice-President	1	Direct	Scheduled	Rule 42(c) – Voting Members of the ACT Branch of the Civil Contractors Federation whose names are recorded in the Branch Register.
ACT	Branch Honorary Treasurer	1	Direct	Scheduled	Rule 42(c) – Voting Members of the ACT Branch of the Civil Contractors Federation whose names are recorded in the Branch Register.
ACT	Branch Board Member	4	Direct	Scheduled	Rule 42(c) – Voting Members of the ACT Branch of the Civil Contractors Federation whose names are recorded in the Branch Register.
ACT	National Board Member	1	Direct	Scheduled	Rules 25 and 42(c) - Voting Members of the ACT Branch of the Civil Contractors Federation whose names are recorded in the Branch Register.
ACT	Alternate National Board Member	1	Direct	Scheduled	Rules 25 and 42(c) - Voting Members of the ACT Branch of the Civil Contractors Federation whose names are recorded in the Branch Register.

- Important dates:
For National Board Member and Alternate National Board Member

	Direct Voting System
Nominations OPEN	Rules 48, 29(c) - Not less than 50 days in advance of the date fixed for the Annual General Meeting (18 th October 2017). This would bring the latest date to 30 August 2017.

Nominations CLOSE	Rule 29(d) – Not less than 30 days before the date fixed for the Annual General Meeting (18 June 2017). This would bring the latest date to 19 September 2017.
Roll of Voters cut off date	Rule 28 - Seven days before the day on which the nominations for the election open i.e. 22 nd August 2017.

For the Branch President, Branch Vice-President, Branch Honorary-Treasurer and Branch Board Members

	Direct Voting System
Nominations OPEN	Rules 48 and 50(b)(i). Not less than 50 days in advance of the date fixed for the Annual General Meeting (18 th October 2017). This would bring the latest date to 30 August 2017.
Nominations CLOSE	Rule 50(b)(i) - Not less than 30 days before the date fixed for the Annual General Meeting (18 June 2017). This would bring the latest date to 19 September 2017.
Roll of Voters cut off date	Rule 28 - Seven days before the day on which the nominations for the election open i.e. 22 nd August 2017.