

Superina, Dean

From: CARNEY, Mary Jo
Sent: Wednesday, 2 June 2004 1:28 PM
To: McKERROW, Peter
Subject: FW: CMA - E153/2004

-----Original Message-----

From: Robert.Buchanan@aec.gov.au [mailto:Robert.Buchanan@aec.gov.au]
Sent: Wednesday, 2 June 2004 1:00 PM
To: industrial.elections@air.gov.au
Subject: CMA - E153/2004

Please find attached the declaration for decision number E2004/153.

Regards,

Robert Buchanan
Returning Officer
Australian Electoral Commission
Phone: 02 9375 6326

**Club Managers Association, Australia
Division D, Inner Western Suburbs**

DECLARATION OF RESULTS FOR UNCONTESTED OFFICES

Results of the election for the following office conducted in accordance with Schedule 1B of the Workplace Relations Act 1996 and the rules of the organisation

E No. 153 of 2004

Federal Councillor: 1

Candidates

No nomination was received

No nomination was received for the above office. I declare the election complete.

Robert Buchanan
Returning Officer

4 June 2004

PR 945034

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

Workplace Relations Act 1996

s.189 RAO Schedule - arrangement for conduct of an election

Club Managers' Association, Australia
(C2004/153)

B JENKINS
DEPUTY INDUSTRIAL REGISTRAR

SYDNEY, 25 MARCH 2004

DECISION

On 23 March 2004 the abovenamed organisation lodged in the Industrial Registry prescribed information in relation to an election to fill the following casual vacancy:

Federal Councillor, Division D, Inner Western Suburbs Zone

I am satisfied that an election for the abovenamed office 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.



DEPUTY INDUSTRIAL REGISTRAR

Printed by authority of the Commonwealth Government Printer

<Price code A>

PATERSON, Alana

From: PATERSON, Alana
Sent: Friday, 26 March 2004 10:32 AM
To: 'industrial.elections@aec.gov.au'
Subject: E2004/153 Club Managers' Association, Australia

Please refer to the attached letter and decision regarding the above election.

Regards,

Alana Paterson
Australian Industrial Registry
Ph (02) 8374 6620



E2004 153
LETTER AND D



AUSTRALIAN INDUSTRIAL REGISTRY

Level 8, Terrace Towers
80 William Street, East Sydney, NSW 2011
Telephone: (02) 8374 6666
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 2004/153

Re: Club Managers' Association Australia

POSITIONS:

See Decision

Relevant Information:

Contact: Terry Condon
Phone: (02) 9643 2300

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

for Deputy Industrial Registrar

26 March 2004



AUSTRALIAN INDUSTRIAL REGISTRY

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

Mr Terry Condon
Executive Officer
Club Managers' Association, Australia
PO Box 845
AUBURN NSW 2144

Dear Mr Condon,

RE: CLUB MANAGERS' ASSOCIATION, AUSTRALIA

**Re: Arrangements for the conduct of an Election
(E2004/153)**

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.

You will be aware that the *Workplace Relations Act 1996* has been amended so that The Registration and Accountability of Organisations Schedule (Schedule 1B to the *Workplace Relations Act 1996*) [**the RAO Schedule**], which generally came into operation on 12 May 2003 now contains most of the matters which relate to the registration and functioning of organisations of employers and employees under the Act. I would draw your attention to RAO Fact Sheets on the AIRC home page http://www.airc.gov.au/fact_sheets/factsheets.html

Yours Sincerely

for Deputy Industrial Registrar

26 March 2004

PATERSON, Alana

From: PATERSON, Alana
Sent: Thursday, 25 March 2004 8:58 AM
To: 'industrial.elections@aec.gov.au'
Subject: E 2004/153 Club Managers' Association Australia

Please find attached the prescribed information and current rule book for the abovementioned election.

Regards,

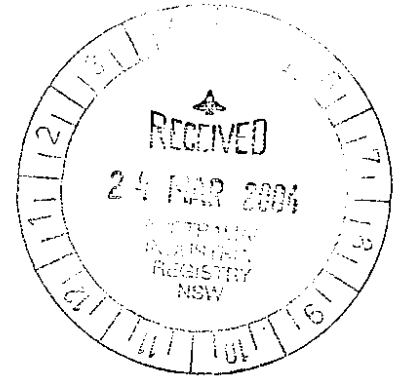
Alana Paterson
Australian Industrial Registry
Ph (02) 8374 6620



E2004 153
CMAA.pdf



Club Managers
8N (17-7-2000)



24 March 2004

The Registrar
Organisation Section
Australian Industrial Registry
Level 8 Terrace Towers
80 William Street
EAST SYDNEY 2000

ATT: ALANA PATERSON - 2x PAGES

Fax: 9380 6990

Dear Sir

Re: Request for Conduct of Election Pursuant to Section 214 of
The Workplace Relations Act 1996

The Club Managers' Association Australia hereby request that steps be taken to organise for the conduct of election by the Australian Electoral Commission in respect of officer to be elected with the Association as contained herein in the attached 'Information Pursuant to Regulation 61(1)'.

In accordance with section 214 of the Workplace Relations Act 1996, the information prescribed by regulation 61 together with a 'Statement as required by Regulation 61 (2) of the Act is enclosed herewith.

Thank you for your assistance.

Yours faithfully

A handwritten signature in black ink, appearing to be 'Allan Peter'.

Allan Peter ACCM
Federal Secretary

INFORMATION PURSUANT TO REGULATION 61(1)

(a) The name of the office of which election is required is:

(1) FEDERAL COUNCIL MEMBER (1) TO REPRESENT THE FOLLOWING:

Division (D) Inner Western Suburbs Zone

(b) The reason for the election is the candidate elected to the position in the recently held elections was also elected to the higher position of Executive Member of the Club Managers' Association Australia. This candidate is not permitted to hold two positions.

(c) The electorate to fill the office in (a)(1) above shall be in accordance with Rule 22.

The time and date for the opening and closing of nominations for such election shall be in accordance with the rules of the Association pursuant to the conduct of the election of offices.

Proposed Timetable.

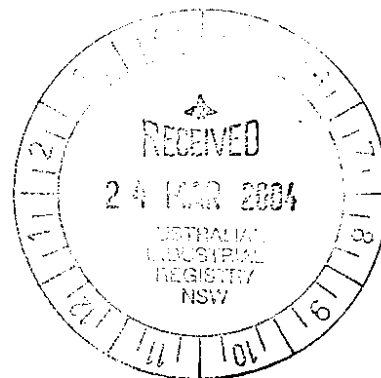
Nominations may be made at any time from Monday 19 April 2004 and must be received by 5.00pm on Monday 10 May 2004.

Nominations cannot be withdrawn after 5.00pm on 10 May 2004.

If a ballot is necessary voting material will be posted on Monday 24 May 2004.

The ballot will close at 5.00pm on Monday 14 June 2004

(d) A direct voting system of our members in accordance with (c) above





**AUSTRALIAN INDUSTRIAL REGISTRY
NSW REGISTRY**

*Level 8, Terrace Towers, 80 William Street,
East Sydney, NSW 2011*

Telephone: 8374 6666
Fax: 9380 6990

FACSIMILE

TO

Mr Terry Condon

Organisation

Club Managers' Association Australia

Fax Number

(02) 9643 2400

Phone

(02) 9643 2300

Number

FROM

Alana Paterson Ph (02) 8374 6620

No of Pages

8

Time

9:40am

Date

24/3/04

(including cover)

(Please notify sender if not all pages were received)

Urgent

Routine Transmission

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:

Please Refer to attached letter

THE FOLLOWING FILE(S) ERASED

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098	MEMORY TX		96432400	08/08	OK

ERRORS

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- 2) BUSY
- 3) NO ANSWER
- 4) NO FACSIMILE CONNECTION



**AUSTRALIAN INDUSTRIAL REGISTRY
NSW REGISTRY**

*Level 8, Terrace Towers, 80 William Street,
East Sydney, NSW 2011*

Telephone: 8374 6666
Fax: 9380 6990

FACSIMILE

TO

Mr Terry Condon

Organisation

Club Managers' Association Australia

Fax Number

(02) 9643 2400

Phone Number

(02) 9643 2300

FROM

[Redacted]



AUSTRALIAN INDUSTRIAL REGISTRY

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

Mr Terry Condon
Executive Officer
Club Managers' Association Australia
PO Box 845
AUBURN NSW 2144

Dear Mr Condon

Election (E2004/153)

I refer to your letter of 23 March 2004 received by facsimile in the NSW Registry of the Australian Commission on the same date.

I note your organisation wishes an election to be conducted for the position of Federal Councillor, Division D, Inner Western Suburbs Zone described in your letter.

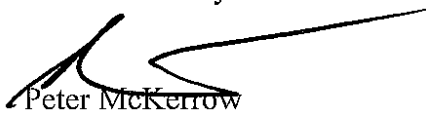
An organisation registered under the Workplace Relations Act 1996 seeking to conduct an election must lodge with the Registrar certain information (formally called "prescribed information"). If, after considering that information the Registrar is satisfied an election is required to be held under the organisation's rules, they may arrange for the Australian Electoral Commission to conduct it.

Your letter does not contain all the prescribed information. You will note that the regulations also require the prescribed information contain a statement that the information is being lodged under subsection 189(1) of the RAO Schedule. You may find it useful to use the sample Notice and Statement set out in the enclosure as a "checklist" for the purposes of providing the prescribed information.

Once you lodge the prescribed information, I will endeavour to place the matter before the Registrar for his consideration.

Please contact me on (02) 8374 6509 if you have any queries.

Yours sincerely



Peter McKerrow
Assistant Manager
NSW Registry

24 March 2004

Fact Sheet No. 04/2003 7 May 2003, Australian Industrial Registry

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 136

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

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*.



23 March 2004

The Registrar
Organisation Section
Australian Industrial Registry
Level 8 Terrace Towers
80 William Street
EAST SYDNEY 2000

Fax: 9380 6990

Dear Sir

Re: Request for Conduct of Election Pursuant to Section 214 of
The Workplace Relations Act 1996

The Club Managers' Association Australia hereby request that steps be taken to organise for the conduct of election by the Australian Electoral Commission in respect of Officer (1) for the position of Federal Councillor, Division D, Inner Western Suburbs Zone.

The officer recently elected to the position, Mr Daniel Munk was also elected to the position of Federal Executive Member of the Association. Mr Munk is not permitted to hold both positions.

We look forward to hearing from you in due course.

Yours faithfully

Terry Condon CCM
Executive Officer.